all deportable and excludable aliens convicted by State and local governments will be transferred to a Federal facility to serve their sentences until they can be deported. If the Federal Government can't hold them, then they will pay for the costs of keeping them in State or local facilities. Yes, this will impose real costs on the Federal Government, but costs it should be responsible for. Maybe when faced with these serious costs, the Federal Government will pursue a serious border policy to control future costs.

In addition, my bill provides much needed assistance to those State and local governments heavily impacted by criminal aliens. It calls on the Commissioner of the INS to designate up to 3 States and 10 local jurisdictions as high intensity criminal alien population areas. These areas will receive increased manpower and financial resource assistance to speed up the identification process and lower the enormous costs imposed on State and local criminal justice systems.

The real question this bill answers is: Who will bear the responsibility for criminal aliens? Immigration is solely a Federal responsibility, and that includes fiscal responsibility. Federal fiscal responsibility doesn't just mean balancing our budgets, it means accepting all our fiscal responsibilities, rather than passing them on to State and local governments and their taxpayers.

Mr. President, if any of my colleagues were to travel to the San Diego sector, and witness firsthand the overwhelming challenges faced by the dedicated men and women of our Border Patrol, they will be quick to conclude that our current border policy is not working. If any of my colleagues were to visit and talk to law enforcement leaders and law-abiding citizens in San Diego, Orange County, or Los Angeles, they will see and hear from those who are paying for the cost of our current border policy.

It's easy to conclude our border policy is not working, but I'm offering the Senate a plan of action. It's time we devote our energies toward solving this vexing problem. Though it is late in the year, I offer this legislation to my colleagues now so that we can begin the process of developing a responsible, bipartisan strategy to protect our borders and crack down on the criminal alien crisis that's draining the resources of State and local governments.

Mr. President, I send the legislation to the desk and ask that it be referred to the appropriate committee. Furthermore, Mr. President, I ask unanimous consent that the text of the Criminal Aliens Impact and Removal Act be printed in the RECORD, along with a section-by-section analysis of the legislation.

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

S. 3264

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 "Criminal Aliens Impact and Removal Act of 1992".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the number of aliens who come into this country illegally continue to be at enormously high levels;

(2) a greater proportion of aliens who come into this country illegally do so for the purpose of participating in organized drug trafficking or other criminal operations, or engaging in criminal activity within the United States;

(3) the number of aliens arrested for criminal activity and the number of convicted criminal aliens in State prisons and local jails continues to be at significant levels in many jurisdictions;

(4) in some jurisdictions in California, it is estimated that between 10 and 20 percent of the inmates in local jails are criminal-aliens;

(5) the continued presence of criminal aliens places enormous costs on State and local governments and the taxpayers in heavily impacted areas; and

(6) policies and programs that result in the expeditious deportation of criminal aliens from the United States are needed.

(b) PURPOSE.—It is the purpose of this Act to—

(1) ensure the prompt removal from the United States of criminal aliens who are subject to exclusion or deportation;

(2) provide sufficient resources to prevent the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and removed from the United States; and

(3) relieve State and local governments from the burden of incarcerating criminal aliens who are subject to exclusion or deportation.

TITLE I—DEPORTATION

SEC. 101. TRANSFER OF FUNDS TO MEET DEPORTATION TRANSCRIPT AND CASE BACKLOG.

(a) IN GENERAL.—In each of fiscal years 1993, 1994, and 1995, the Attorney General shall transfer from the Immigration Examinations Fee Account to funds available for the salaries and expenses of the Executive Office for Immigration Review in the Department of Justice such sums as may be necessary to remove the backlogs in the preparation and disposition of deportation proceedings.

(b) IMMIGRATION JUDGES AND PERSONNEL.—Sums transferred pursuant to this section may be used to employ immigration judges and support personnel as authorized in section 512 of the Immigration Act of 1990.

SEC. 102. CRIMINAL ALIEN TRACKING SYSTEM.

(a) IN GENERAL.—The Attorney General is authorized to implement a nationwide criminal alien tracking system u 'lizing electronic fingerprint and photoimaging system technology.

(b) ESTABLISHMENT OF STATE AND LOCAL GRANTS.—

(1) IN GENERAL.—The Attorney General shall make grants to State and local governments to carry out programs—

(A) to compile and input records for inclusion in the tracking system described in subsection (a);

(B) to implement identification procedures and electronic conviction document systems; and

(C) to enable full utilization of the tracking system described in subsection (a).

(2) APPLICATION FOR GRANTS AND CONTRACTS.—Any State or local government shall submit to the Attorney General an application at such time, in such manner, and containing or accompanied by such information, as the Attorney General may require. Each application for assistance under this subsection shall—

(A) set forth the project to be carried out with funds paid under this part;

(B) contain an estimate of the cost for the establishment and operation of such project or activity;

(C) provide for the proper and efficient administration of such project or activity;

(D) provide such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this section;

(E) provide that regular reports on such project or activity shall be submitted to the Attorney General; and

(F) include such other information and assurances that the Attorney General reasonably determines to be necessary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General $10,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995, for the purpose of carrying out this section.

SEC. 103. NEGOTIATIONS FOR INTERNATIONAL AGREEMENTS.

(a) NEGOTIATIONS WITH OTHER COUNTRIES.—The Secretary of State, together with the Attorney General, may enter into an agreement with any foreign country providing for the incarceration in that country of any individual who—

(1) is a national of that country; and

(2) is an alien who—

(A) is not in lawful immigration status in the United States, or

(B) on the basis of conviction of a criminal offense under Federal or State law, or on any other basis, is subject to deportation under the Immigration and Nationality Act,

for the duration of the prison term to which the individual was sentenced for the offense referred to in subparagraph (B). Any such agreement may provide for the release of such individual pursuant to parole procedures of that country.

(b) PRIORITY.—In carrying out subsection (a), the Secretary of State should give priority to concluding an agreement with a country for which the President determines that the number of individuals described in paragraphs (1) and (2) of subsection (a) who are nationals of that country represents a significant percentage of all such individuals.

(c) CONTRIBUTION OF FUNDS.—(1) Any agreement entered into under subsection (a) with a country shall not preclude the contribution of funds by the United States to that country for the construction of facilities for individuals transferred from the United States pursuant to such agreement or for other expenses incurred in imprisoning such individuals in such country.

(2) The amount of such contributions may not exceed the amount determined by the President to be required to continue to incarcerate the individuals involved in the United States.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 104. AMENDMENTS PERTAINING TO AGGRAVATED FELONS.

(a) INELIGIBILITY FOR SUSPENSION OF DEPORTATION.—Section 244 of the Immigration and Nationality Act is amended by adding at the end the following new subsection:

"(g) Suspension of deportation and adjustment of status under subsection (a)(2) shall not be available to any alien who has been convicted of an aggravated felony.".

(b) APPLICATION OF EXCLUSION FOR DRUG OFFENSES.—Section 212(h) of the Immigration and Nationality Act is amended in the second sentence by inserting "or any other aggravated felony" after "torture".

(c) ADJUSTMENT OF STATUS; CHANGE OF NONIMMIGRANT CLASSIFICATION.—(1) Section 245 of the Immigration and Nationality Act is amended—

(A) by striking "or" after "section 212(d)(4)(C)"; and

(B) by inserting "; or (5) an alien who has been convicted of an aggravated felony" immediately after "section 217".

(2) Section 249 of such Act is amended—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(5) an alien convicted of an aggravated felony.".

SEC. 105. REPORT ON FIVE-STATE CRIMINAL ALIEN MODEL.

(a) IN GENERAL.—Not later than six months after the date of enactment of this Act, the Attorney General shall submit to the appropriate committees of the Congress a report concerning the effectiveness of the Five State Criminal Alien model, together with any comments and recommendations for new regulations and legislation.

(b) IMPLEMENTATION.—Not later than 30 days after the submission of the report described in subsection (a), the Attorney General shall implement any administrative and regulatory recommendations as described in such report.

SEC. 106. PRISONER TRANSFER TREATY STUDY.

(a) IN GENERAL.—Not later than six months after the date of enactment of this Act, the Secretary of State and the Attorney General shall submit to the appropriate committees of the Congress a report that describes the use and effectiveness of the Prisoner Transfer Treaty (hereafter in this section referred to as the "Treaty") with Mexico to remove from the United States aliens who have been convicted of crimes in the United States.

(b) USE OF TREATY.—Such report shall include a statement of—

(1) the number of aliens convicted of a criminal offense in the United States since November 30, 1977 who would have been or are eligible for transfer pursuant to the Treaty, and, of such number, the number of aliens who have been transferred pursuant to the Treaty, and, of such number, the number of aliens transferred and incarcerated in full compliance with the Treaty; and

(2) the number of aliens in the United States who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the Treaty, and, of such number, the number of aliens incarcerated in State and local penal institutions.

(c) EFFECTIVENESS OF TREATY.—Such report may include a list of recommendations to increase the effectiveness and use of, and ensure full compliance with, the Treaty, as well as transfer programs initiated by State and local governments. Such recommendations may include—

(1) changes and additions to Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(2) changes and additions to State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(3) methods for preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the Treaty;

(4) a statement by officials of the Mexican Government on programs to achieve the goals of and ensure full compliance with the Treaty;

(5) a statement as to whether recommendation would require the renegotiation of the Treaty; and

(6) a statement of additional funds that would be required to implement the recommendations.

Such recommendations in paragraphs (1) through (3) may be made after consultation with State and local officials in areas disproportionately impacted by aliens who have been convicted of criminal offenses.

(d) IMPLEMENTATION.—Not later than 30 days after the submission of the report required by this section, the Attorney General and the Secretary of State shall implement any administrative and regulatory recommendations as described in subsection (c)(1).

SEC. 107. ANNUAL REPORT.

Not later than 12 months after the date of enactment of this Act, and for each year thereafter, the Attorney General shall submit to the appropriate committees of the Congress a report detailing—

(1) programs and plans underway in the Department of Justice to ensure the prompt removal from the United States of criminal aliens subject to exclusion or deportation;

(2) methods for identifying and preventing the unlawful re-entry of aliens who have been convicted of criminal offenses in the United States and removed from the United States; and

(3) comments and recommendations for legislation to achieve those programs described in paragraphs (1) and (2).

TITLE II—ENFORCEMENT

SEC. 201. FORFEITURE.

(a) FAILURE TO SUBMIT TO DEPORTATION.—Any alien who—

(1) is subject to a deportation order, and

(2) refuses or fails without good cause to turn himself over for deportation at the scheduled time,

shall, under court order, forfeit his property to the United States in accordance with the provisions of section 1963 of title 18, United States Code, or section 413 of the Comprehensive Drug Abuse and Control Act of 1970.

(b) SMUGGLING OR FALSIFICATION OF DOCUMENTS.—Any person who is convicted of an offense under section 274, 277, or 278 of the Immigration and Nationality Act or of producing counterfeit immigration identification documents shall forfeit to the United States the person's interest in—

(1) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

(2) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense.

(c) TRANSFER OF FUNDS.—(1) The Attorney General shall liquidate all assets forfeited to the United States pursuant to this section as expeditiously as possible.

(2) The Attorney General shall deposit as offsetting receipts into the Criminal Alien Identification, Incarceration, and Removal Fund, established in section 205, the funds derived from the liquidation of assets forfeited to the United States under this section, to be available in the amounts or to the extent provided in appropriations Acts.

SEC. 202. AUTHORIZING REGISTRATION OF ALIENS ON CRIMINAL PROBATION OR CRIMINAL PAROLE.

(a) IN GENERAL.—Section 265 of the Immigration and Nationality Act (8 U.S.C. 1302) is amended by adding at the end thereof the following new subsection:

"(d) Each alien—

"(1) convicted of a felony who is released on parole, or

"(2) charged with a felony but determined to be not mentally competent to stand trial or not guilty by reason of insanity who is released from the custody of State or Federal officials,

shall provide the Attorney General (in a form and manner and at such time and frequency as the Attorney General specifies) with information on the alien's current address and the crime and sentence for which the alien was convicted. Any alien who fails to provide information required under this subsection is subject to a civil fine of not to exceed $1,000 and is subject to deportation under section 241(a)(3)(A).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992, and shall apply to aliens released on parole before, on, or after such date.

SEC. 203. EXPLOITATION OF ALIENS.

(a) INDUCEMENT OF ALIENS.—A person who is 18 years of age or older who voluntarily solicits, counsels, encourages, commands, intimidates, or procures any alien with the intent that the alien commit an aggravated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

(b) COMMISSION OF CRIME BY ALIEN.—An alien who is induced by another person to commit and subsequently commits an aggravated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

(c) CONSIDERATIONS.—In imposing a fine under subsection (a) or (b), the court shall consider the severity of the offense sought or committed by the offender as a circumstance in aggravation.

(d) ENFORCEMENT.—(1) A proceeding for assessment of a civil fine under subsection (a) or (b) may be brought in a civil action before a United States district court.

(2) A person affected by a final order under this subsection may, not later than 45 days after the date on which the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(3)(A) If a person found in violation of subsection (a) or (b) fails to comply with a final order issued by a circuit court or administrative law judge, the Attorney General may bring a civil action to seek compliance with the order in any appropriate district court of the United States.

(B) In a civil action under subparagraph (A), the validity and appropriateness of the final order shall not be subject to review.

SEC. 204. CIVIL FINES FOR UNLAWFUL TRANSPORTATION OF ALIENS.

Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1), by striking "in accordance with title 18, United States Code," and inserting "up to $100,000"; and

(2) in paragraph (2), by striking "in accordance with title 18, United States Code," each of the two places it appears and inserting "up to $100,000".

SEC. 205. CRIMINAL ALIEN IDENTIFICATION AND REMOVAL FUND.

(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States the Criminal Alien Identification, Incarceration, and Removal Fund (hereafter in this section referred to as the "Fund").

(2) All fines and funds collected pursuant to sections 201, 202, 203, and 204 shall be covered into the Fund and shall be used for the purposes of this section.

(b) DISTRIBUTION OF MONEYS IN THE FUND.—Moneys covered into the Fund in any fiscal year may be used by the Attorney General—

(1) to assist the Immigration and Naturalization Service to identify, investigate, apprehend, detain and deport criminal aliens;

(2) to fund any of the 20 additional immigration judge positions authorized by section 512 of the Immigration Act of 1990 which have not been funded;

(3) for the Executive Office of Immigration Review in the Department of Justice for the purpose of removing the backlogs in the preparation of transcripts of deportation proceedings conducted under section 242 of the Immigration and Nationality Act;

(4) to incarcerate criminal aliens transferred pursuant to section 401 of this Act; and

(5) to fund grants to States and local governments for the purposes of—

(A) assisting the States in implementing section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11));

(B) expanding section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)) to identify aliens—

(i) as they are processed for admission into State prisons; and

(ii) when they enter probation programs; and

(C) providing assistance pursuant to sections 102(b) and 403(a)(2) of this Act.

(c) TECHNICAL AMENDMENT.—Section 280(b)(1) of the Immigration and Nationality Act is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

TITLE III—BORDER ENFORCEMENT

SEC. 301. STRENGTHENED ENFORCEMENT OF IMMIGRATION LAWS AT THE BORDER.

(a) INCREASED PERSONNEL LEVELS OF THE BORDER PATROL.—(1) There are authorized to be appropriated such sums as may be necessary to provide for an authorized personnel level of 6,600 full-time positions in the Border Patrol of the Immigration and Naturalization Service of the Department of Justice by not later than October 1, 1994.

(2) In providing for increased Border Patrol personnel for the Immigration and Naturalization Service, the Commissioner of Immigration and Naturalization shall provide for the assignment of at least 1,600 Border Patrol agents to the San Diego Sector by not later than October 1, 1994.

(b) INCREASED PERSONNEL LEVELS OF THE IMMIGRATION AND NATURALIZATION SERVICE ANTISMUGGLING PROGRAM.—There are authorized to be appropriated such sums as may be necessary to provide for an authorized personnel level of 600 full-time positions in the antismuggling program of the Immigration and Naturalization Service of the Department of Justice by not later than October 1, 1994.

(c) INCREASED FUNDING FOR THE BORDER PATROL.—(1) In addition to funds otherwise available for such purposes, there are authorized to be appropriated to the Attorney General $50,000,000 for fiscal year 1993, which amount shall be available only for equipment, vehicles, support services, and initial training for the Border Patrol.

(2) In addition to funds otherwise available for such purposes, there are authorized to be appropriated to the Attorney General, $10,000,000 for fiscal year 1993, which amount shall be available only for maintenance and repair of equipment used by the Border Patrol.

(3) Funds appropriated pursuant to this section are authorized to remain available until expended.

(d) INSERVICE TRAINING FOR THE BORDER PATROL.—(1) Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

"(e)(1) The Attorney General shall provide for such programs of inservice training for full-time and part-time personnel of the Border Patrol in contact with the public as will familiarize the personnel with the rights and varied cultural backgrounds of aliens and citizens in order to ensure and safeguard the constitutional and civil rights, personal safety, and human dignity of all individuals, aliens as well as citizens, within the jurisdiction of the United States with whom they have contact in their work.

"(2) The Attorney General shall provide that the annual report of the Service include a description of steps taken to carry out paragraph (1).".

(2)(A) There are authorized to be appropriated to the Attorney General $1,000,000 for fiscal year 1993 to carry out the inservice training described in section 103(e) of the Immigration and Nationality Act.

(B) Funds appropriated pursuant to subparagraph (A) are authorized to remain available until expended.

SEC. 302. NEGOTIATIONS WITH MEXICO AND CANADA.

It is the sense of the Congress that—

(1) the Attorney General, jointly with the Secretary of State, should initiate discussions with Mexico and Canada to establish formal bilateral programs with those countries to prevent illegal immigration to and from the United States, and to prevent and to prosecute the smuggling of aliens into the United States in violation of law;

(2) not later than the date of enactment of this Act, the Attorney General should report to the Congress concerning the progress made in establishing such programs; and

(3) in any such program, major emphasis should be placed on deterring and prosecuting persons involved in the organized and continued smuggling of undocumented aliens for profit.

SEC. 303. USE OF THE ASSET FORFEITURE FUND.

Section 524(c) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(11) In addition to the purposes specified in paragraph (1), the Fund shall be available to the extent required for an authorized personnel level of 6,600 for the Border Patrol of the Immigration and Naturalization Service.".

TITLE IV—STATE AND LOCAL GOVERNMENT RELIEF

SEC. 401. TRANSFER OF CRIMINAL ALIENS CONVICTED BY STATE AND LOCAL GOVERNMENT.

(a) IN GENERAL.—Except as provided in subsection (b), the Attorney General shall take custody of each excludable and deportable alien convicted by a State or municipal court upon their conviction and shall incarcerate them in a Federal prison until such time as they are deported.

(b) EXCEPTION.—The requirements of subsection (a) shall not apply if the Bureau of Prisons has a contractual arrangement with a State or local government to compensate them for incarcerating such aliens for the duration of their sentences.

SEC. 402. TRANSFER OF CERTAIN CLOSED MILITARY INSTALLATIONS TO THE DEPARTMENT OF JUSTICE.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Defense shall transfer to the jurisdiction of the Department of Justice three military installations that are closed pursuant to a base closure law and that the Attorney General determines, after consultation with appropriate State, local, and community authorities, to be suitable for the detention of excludable aliens and aliens incarcerated in State prisons or local jails.

(b) DEFINITIONS.—As used in subsection (a)—

(1) the term "military installation" has the meaning given such term in section 2687(e)(1) of title 10, United States Code;

(2) the term "base closure law" means—

(A) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 102-510; 10 U.S.C. 2687 note);

(B) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note); and

(C) section 2687 of title 10, United States Code;

(3) the term "aliens incarcerated in State prisons or local jails" means any alien who is excludable, deportable, or without documentation under the United States immigration laws and who is incarcerated in the prison of a State, or a jail of a local government; and

(4) the term "excludable alien" means any alien who is within the United States in violation of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)).

SEC. 403. HIGH INTENSITY CRIMINAL ALIEN POPULATION AREAS.

(a) IN GENERAL.—The Commissioner of Immigration and Naturalization (hereafter in this section referred to as "Commissioner"), upon consultation with the Attorney General, the Governors of the several States, and chief executives of affected local governments, may designate no less than three States and ten local jurisdictions within the United States as "High Intensity Criminal Alien Population Areas". After making such a designation and in order to provide Federal assistance to the area so designated, the Commissioner may—

(1) direct the temporary assignment of Immigration and Naturalization Service and other Federal personnel to such area, subject to the approval of the Attorney General or head of the Department or agency which employs such personnel; and

(2) provide increased Federal assistance to State and local governments in the designated areas for the purposes of—

(A) identifying and detaining undocumented aliens in State prisons or local jails

prior to disposition of criminal charges brought under State or local law;

(B) expanding section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)) to identify aliens as they are processed for admission into State prisons; and

(C) coordinate actions under this paragraph with State and local officials.

(b) CRITERIA FOR CONSIDERATION.—When considering the designation of an area under this subsection as a high intensity criminal alien population area, the Commissioner shall consider, together with other criteria the Commissioner may deem appropriate—

(1) the estimated number of undocumented aliens apprehended and held for violation of State or local criminal laws, and the proportion of that number with the total number of individuals arrested in a State or in a local jurisdiction; and

(2) the extent to which State and local governments have committed resources to apprehend, identify, and prosecute undocumented aliens for violation of State and local criminal laws.

(c) REPORT.—Not later than two years after the date of the enactment of this Act, the Commissioner shall submit a report to the appropriate committees of the Congress concerning the effectiveness of and need for the designation of areas under this subsection as high intensity criminal alien population areas, along with any comments or recommendations for legislation.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General $75,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995, for the purpose of carrying out this section.

SECTION-BY-SECTION ANALYSIS OF S. 3261, THE CRIMINAL ALIENS IMPACT AND REMOVAL ACT

SECTION 1. Short Title. The Act may be cited as the "Criminal Aliens Impact and Removal Act of 1992."

SEC. 2. Findings and Purposes. The number of aliens who come into this country illegally remain at enormously high levels. Many of these aliens do so to traffick drugs or to participate in other organized criminal operations. Local jurisdictions in Southern California recently found that a large number of illegal and legal aliens are arrested for criminal activity, and a significant number of these criminal aliens are repeat offenders. The significant and continued presence of criminal aliens has placed enormous costs on many State and local governments. New policies and programs are needed to deport alien felons expeditiously, prevent criminal aliens from re-entering our country, and to relieve affected State and local criminal justice systems of the fiscal burdens of apprehending, trying and incarcerating criminal aliens.

The first purpose of this Act is to ensure the prompt removal from the United States of criminal aliens who are subject to exclusion and deportation. Deportable aliens should be removed from the United States either when they complete their sentences, or sooner if the United States has an agreement with other nations to incarcerate these aliens for the duration of their sentences.

The second purpose is to provide sufficient resources to prevent the unlawful reentry of aliens, who have been convicted in and removed from the United States. These resources include sufficient personnel, vehicles, and other resources along our nation's borders, and cooperative border agreements with Canada and Mexico.

The third purpose is to relieve State and local governments of the burden of incarcerating criminal aliens who are subject to exclusion or deportation. Ways to relieve the affected governments include the Federal government's assuming responsibility to criminal aliens once found deportable, and providing resources in jurisdictions found to be impacted heavily by the presence of criminal aliens.

TITLE I—DEPORTATION

SEC. 101. Transfer of Funds to Meet Deportation Transcript and Case Backlog. This section requires the Attorney General, in fiscal years 1993-95, to transfer from the Immigration Fees Account to funds available for the salaries and expenses of the Executive Office for Immigration Review in the Department of Justice the funds necessary to remove the backlogs in the preparation and disposition of deportation proceedings.

The funds transferred may be used to pay for the salaries of twenty additional immigration judges and support personnel that were authorized in section 512 of the Immigration Act of 1990.

SEC. 102. Criminal Alien Tracking System. This section authorizes the Attorney General to implement a nationwide criminal alien tracking system utilizing electronic fingerprinting and photo-imaging system technology. To enable State and local governments to participate in the tracking system, the Attorney General is authorized under this section to award grants to State and local governments to compile and input criminal records for inclusion in the tracking system, to implement identification procedures and electronic conviction document systems, and to enable full utilization of the tracking system. $10 million is authorized for fiscal year 1993, and such sums as may be necessary for fiscal years 1994 and 1995.

SEC. 103. Negotiations for International Agreements. This section calls on the Secretary of State and the Attorney General to enter into agreements with foreign countries that provide for the incarceration of a national of that country who has entered the United States illegally or is a lawful resident, and because of a conviction of a criminal offense under Federal or State law, is subject to deportation under the Immigration and Nationality Act.

The Secretary of State should give priority to concluding agreements with countries if the President determines the number of individuals who are nationals of that country represent a significant percentage of all such individuals. Any agreement shall not preclude the contribution of funds by the United States to that country for the construction of facilities for incarcerating individuals transferred from the United States as part of that agreement, or for other expenses incurred in incarcerating such individuals in their home country. However, the amount of these contributions may not exceed the cost of incarcerating such individuals in the United States.

SEC. 104. Amendments Pertaining to Aggravated Felons. (a) Ineligibility for Suspension of Deportation. Section 244 of the Immigration and Nationality Act (8 U.S.C. 1254) provides the Attorney General with the discretionary authority to suspend a deportation order. This subsection amends section 244 to prohibit the suspension of deportation and adjustment of status of any alien who has been convicted of an aggravated felony. As defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), the term "aggravated felony" means murder, illegal drug trafficking, money laundering, and violent crimes for which the term of imprisonment is at least 5 years, or any attempt or conspiracy to commit any such act. The term applies to violations of Federal and State laws.

(b) Application of Exclusion for Drug Offenses. Section 212(h) of the Immigration and Nationality Act provides the Attorney General with the discretionary authority to admit otherwise excludable aliens. This subsection amends section 212(h) to prohibit the Attorney General to exercise his discretion to admit an excludable alien convicted of any aggravated felony.

(c) Adjustment of Status; Change of Nonimmigrant Classification. Section 245 of the Immigration and Nationality Act provides the Attorney General with the discretionary authority to adjust the status of an alien inspected and admitted or paroled into the United States to that of permanent resident. This subsection amends section 245 to prohibit the Attorney General to exercise his discretionary authority with respect to any alien convicted of an aggravated felony.

For an alien who entered the United States prior to January 1, 1972, section 249 is amended by this subsection to prohibit a convicted aggravated felon from registering for lawful residency.

SEC. 105. Report on Five-State Criminal Alien Model. Not later than six months after the enactment of the Act, the Attorney General is to submit to Congress a report concerning the Five-State Criminal Alien model, which is a program underway in five states (California, New York, Texas, and Florida) designed to expedite the identification process through cooperative efforts with state criminal justice agencies. The report is to include comments and recommendations for new regulations and legislation. Any new administrative and regulatory recommendations are to be implemented not later than 30 days after the report is submitted to the Congress.

SEC. 106. Prisoner Transfer Treaty Study. Not later than six months after the enactment of the Act, the Secretary of State and the Attorney General shall submit to the Congress a report on the use and effectiveness of the current Prisoner Transfer Treaty (Treaty) with Mexico.

The report is to include the number of criminal aliens eligible for transfer under the Treaty since November 30, 1977, and the number of aliens transferred and incarcerated in full compliance with the Treaty; and the number of aliens currently incarcerated in penal institutions in the United States, including the number of those aliens incarcerated in State and local penal institutions.

The report is to include a list of recommendations to increase the effectiveness and use of the Treaty. The recommendations may include:

Changes in Federal, State and local laws, regulations and policies affecting the identification, prosecution, and deportation of criminal aliens;

Methods that prevent the unlawful reentry of criminal aliens transferred pursuant to the Treaty;

Statements by Mexican Government on programs that will improve the effectiveness and use of the Treaty;

A statement as to whether any recommendations would require the renegotiation of the Treaty, and a statement of the additional funds needed to implement the recommendations; and

Comments from State and local officials in areas heavily impacted by the presence of criminal aliens.

SEC. 107. Annual Report. Beginning not later than 12 months after the enactment of the Act, the Attorney General is to submit to the Congress an annual report that details:

Department of Justice programs that are designed to ensure the prompt removal of deportable or excludable aliens from the United States;

Methods for identifying and preventing the unlawful re-entry of criminal aliens removed from the United States; and

Comments and recommendations for legislation to achieve the programs and goals of this section.

TITLE II—ENFORCEMENT

SEC. 201. Forfeiture. (a) Failure to Submit to Deportation. Any alien who is subject to a deportation order and refuses, or fails without good cause, to turn himself or herself over at a scheduled deportation time will forfeit his property to the United States as with accordance of section 1963 of title 18, United States Code, or section 413 of the Comprehensive Drug Abuse and Control Act of 1970.

(b) Smuggling or Falsification of Documents. Any person who is convicted of the alien smuggling offense under Sections 274, 277, or 278 of the Immigration and Nationality Act, or of producing counterfeit immigration documents shall forfeit to the United States that person's interest in:

Property constituting or traceable to the proceeds obtained from the above offenses; and

Property used or intended to be used to commit or promote the commission of the above offenses.

(c) Transfer of Funds. The Attorney General is to liquidate all assets forfeited pursuant to this section, and the funds derived from the liquidation will be deposited to the Criminal Alien Identification, Incarceration, and Removal Fund established in Section 205 of the Act.

SEC. 202. Authorizing Registration of Aliens on Criminal Probation or Criminal Parole. This section amends Section 265 of the Immigration and Nationality Act to require the registration of any alien convicted of a felony who is released on parole, or any alien charged with a felony but determined to be not mentally competent to stand trial or not guilty by reason of insanity who is released from the custody of State and Federal officials.

The registration is to consist of information on the alien's current address and the crime and sentence for which the alien was convicted. Failure to provide the information required under this section is subject to a civil fine not to exceed $1,000 and is subject to deportation under Section 241(a)(3)(A) of the Immigration and Nationality Act.

The amendment to Section 265 is to take effect on October 1, 1992 and will apply to aliens released on parole before, on, or after such date.

SEC. 203. Exploitation of Aliens. This section establishes a civil fine of up to $100,000 for any person 18 years or older who voluntarily solicits, encourages, intimidates or procures any alien with the intent that the alien commit an aggravated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act.

The alien induced to commit an aggravated felony is also subject to a civil fine of not more than $100,000.

The court will consider the severity of the offense sought or committed as a circumstance in aggravation.

This section also establishes that the proceedings for assessment of a civil fine under this section may be brought in a civil action before a United States district court. A person affected by a final order under this section has no later than 45 days after the date of the issuance of the final order to file a petition in the appropriate Court of Appeals for review of the final order.

The Attorney General may bring a civil action if the person found in violation of this section fails to comply with a final order, and the validity and appropriateness of the final order is not subject to review.

SEC. 204. Civil Fines for Unlawful Transportation of Aliens. This section amends Section 274(a) of the Immigration and Nationality Act to allow for civil fines of up to $100,000 for illegally bringing in or harboring aliens.

SEC. 205. Criminal Alien Identification and Removal Fund. This section establishes the Criminal Alien Identification, Incarceration, and Removal Fund (Fund) in the Treasury of the United States. All fines and funds collected pursuant to sections 201, 202, 203, and 204 of the Act shall be converted into other Funds and shall be used for the purposes of this section.

The moneys in the Fund may be used by the Attorney General:

To assist the Immigration and Naturalization Service to identify, investigate, apprehend, detain and deport criminal aliens;

To fund any of the 20 additional immigration judge positions, which have not been funded but are authorized by section 512 of the Immigration Act of 1990;

For the Executive Office of Immigration Review in the Department of Justice for the purpose of removing backlogs in the preparation of transcripts of deportation proceedings conducted under section 242 of the Immigration and Nationality Act;

To incarcerate deportable and excludable aliens transferred pursuant to section 401 of this Act; and

To fund grants to States and local governments for programs to identify aliens as they are processed for admission into state prisons or enter probation programs, and assistance pursuant to sections 102 and 403 of this Act.

TITLE III—BORDER ENFORCEMENT

SEC. 301. Strengthened Enforcement of Immigration Laws at the Border. This section authorizes funds for additional resources and personnel for the United States Border regions.

Specifically, this section:

Authorizes such sums as are necessary to provide for an authorized Border Patrol personnel level of 6,600 full-time positions by no later than October 1, 1994. Of this number, at least 1,600 of these positions shall be assigned to the San Diego Sector by not later than October 1, 1994;

Authorizes such sums as are necessary to provide for an authorized personnel level of 600 full-time positions in the Immigration and Naturalization Service's anti-smuggling program by not later than October 1, 1994;

Authorizes $50 million for fiscal year 1993, which shall be available only for equipment, vehicles, support services, and initial training for the Border Patrol; and

Authorizes $10 million for fiscal year 1993, which shall be used only for maintenance and repair of equipment used by the Border Patrol.

This section also amends section 103 of the Immigration and Nationality Act to require the Attorney General to provide in-service training programs for full- and part-time Border Patrol personnel. These programs are designed to familiarize Border Patrol personnel with the rights and cultural backgrounds of aliens and citizens in order to ensure and safeguard the rights, personal safety and human dignity of all individuals within the United States. The Attorney General is to include a description of the in-service training programs in the annual report of the Immigration and Naturalization Service. The section authorizes $1 million for fiscal year 1993 to carry out the inservice training programs.

All funds appropriated pursuant to this section are to remain available until expended.

SEC. 302. Negotiations with Mexico and Canada. This section is a sense of the Congress resolution, which states that the Attorney General, jointly with the Secretary of State should initiate discussions with Mexico and Canada to establish programs to prevent illegal immigration to and from the United States, and to prevent and prosecute the smuggling of aliens into the United States.

SEC. 303. Use of the Asset Forfeiture Fund. This section amends Section 524(c) of title 28 to authorize the use of moneys in the Federal Asset Forfeiture Fund to meet the authorized personnel level of 6,600 Border Patrol personnel.

TITLE IV—STATE AND LOCAL GOVERNMENT RELIEF

SEC. 401. Transfer of Criminal Aliens Convicted by State and Local Government. This section requires the Attorney General to take custody of excludable and deportable alien convicted by a State or local court upon their conviction and shall incarcerate them in a Federal prison until such time as they are deported. The only exception to this requirement is if the Bureau of Prisons has a contractual agreement with a State or local government to compensate them for incarcerating such aliens for the duration of their sentences.

SEC. 402. Transfer of Certain Closed Military Installations to the Department of Justice. This section requires that the Secretary of Defense transfer three military installations closed pursuant to a base closure law to the Department of Justice. This transfer is to occur after the Attorney General determines, after consultation with State and local officials, which facilities are suitable for the detention of excludable aliens and aliens incarcerated in State prisons or local jails.

This section defines the term "military installation" to mean the same as it is defined in section 2687(e)(1) of title 10, United States Code.

This section defines the term "base closure law" to mean:

The Defense Base Closure and Realignment Act of 1990 (part A of Title XXIX of Public Law 105-510; 10 U.S.C. 2687 note; and

Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note); and

Section 2667 of title 10, United States Code.

This section defines the term "aliens incarcerated in State prisons and local jails to mean any alien who is excludable, deportable, or without documentation under United States immigration laws and who is incarcerated in a State prison, or local jail or facility.

This section defines the term "excludable alien" to mean any alien who is within the United States in violation of section 221(a) of the Immigration and Nationality Act.

SEC. 403. High Intensity Criminal Alien Population Areas. This section establishes

the High Intensity Criminal Alien Population Areas (HICAPA) program. The Commissioner of the Immigration and Naturalization Service (Commissioner) may designate no less than 3 states and 10 local jurisdictions within the United States as HICAPAs. The designations will occur after consultation with the Attorney General, the Governors of the several states, and the chief executives of affected local governments. After making the designations, the Commissioner may:

Direct assignment of appropriate Federal personnel to the HICAPAs, subject to the approval of the head of the Department of agency that employs such personnel; and

Provide increased Federal assistance to the HICAPAs for the purposes of identifying and detaining undocumented aliens in State prisons or local jails prior to disposition of criminal charges brought under State or local law, and expanding programs to identify aliens as they are processed for admission into State prisons.

This section establishes the criteria the Commissioner is to use to select the HICAPAs. The criteria include the number of undocumented aliens apprehended and held in violation of State or local laws, the proportion of that number with the total number of individuals arrested in a State or local jurisdiction, and the amount of resources State and local governments have committed to apprehend, identify, and prosecute undocumented aliens.

Not later than two years after the enactment of this Act, the Commissioner is to report to Congress concerning the effectiveness of the HICAPA program, and recommendations to improve its effectiveness.

This section authorizes $75 million for fiscal year 1993, and such sums as are necessary in fiscal years 1994 and 1995 to carry out the HICAPA program.•

By Mr. CRAIG (for himself, Mr. DOLE, Mr. HATCH, Mr. SIMPSON, Mr. COCHRAN, Mr. STEVENS, Mr. DOMENICI, Mr. GORTON, Mr. GRASSLEY, Mr. LOTT, Mr. SEYMOUR, Mr. SYMMS, Mr. WARNER, Mr. BURNS, Mr. MCCAIN, and Mr. MCCONNELL):

S. 3265. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the adoption of flexible family leave policies by employers; to the Committee on Finance.

FAMILY LEAVE TAX CREDIT ACT OF 1992

Mr. DOLE. Mr. President, I am pleased to be an original cosponsor of the Family Leave Tax Credit Act of 1992, which provides for refundable tax credits for businesses that establish nondiscriminatory parental leave policies.

FAMILY LEAVE TAX CREDIT

This credit would be available for all businesses with under 500 employees covering 6 million businesses and almost 50 million workers.

The amount of the credit would be for 20 percent of total employee compensation of up to $2,000 per month for a period of up to 12 weeks. In other words, the credit would amount to $100/week or a maximum of $1,200 per employee to cover agreed-upon benefits during the period of absence.

An employee would be eligible to take leave in the event of the birth of a child, the placement of a child with the employee for adoption or foster care, or for a child, parent or spouse with a serious health condition, or a serious health condition that prevents the employee from performing his or her job.

ADVANTAGES OF LEGISLATION

The advantages of this approach over S. 5 are considerable.

First and foremost, this legislation provides an incentive for businesses to establish family and medical leave programs. S. 5 is a mandate; it is a hidden tax; it is Washington, DC, reaching out into every community, every office, and every factory telling the American people what is best for them.

It is an approach that for all its good intentions to help families—will ultimately cause more harm than good. It demands an offset and will force employers to cut jobs or other more desirable employee benefits to pay for the hidden tax.

Another important advantage of this legislation is that it provides flexibility in the establishment of such programs. S. 5 is a one-size-fits-all mandate. Everyone gets 12 weeks; everyone gets the continuation of health insurance benefits. That's it—no less, no more.

Under the approach contained in this legislation, employers and employees can design the program that best meets their needs. The $1,200 credit could be used to cover any variety of benefits for the absent employee—such as continued health coverage, pension or 401K contributions, partial pay, or any other component of a flexible benefits package that an employer may offer.

A third significant advantage of this legislation over the conference report is that it provides incentives for most small and medium-sized employers, where the need is greatest and the costs are more burdensome. S. 5 excludes businesses with under 50 employees in a weak attempt to limit the acknowledged economic damage their legislation would do to smaller businesses. And in so doing, it covers 5.7 million fewer businesses and 15 million fewer employees.

We all support family and medical leave. There has never been a debate on the need and value of such programs. Rather, the debate has always been how you go about doing it and there the difference of opinion could not be greater.

S. 5 is nothing more than a "in kind" tax on business—a clumsy, harmful one-size-fits-all mandate.

The President's plan takes the positive approach of helping employers set these programs up for their workers. It provides the necessary incentives to do so and allows business and its work force to design a program that works for them based on individual choice—and not the choice of beltway insiders.

AN ISSUE OR A BILL?

I urge each of my colleagues to carefully review this important legislation.

While there isn't much time left before we adjourn sine die, I challenge my colleagues to pass this legislation to protect American families. Unfortunately, I fear that the Democrats want an issue far more than they want a bill.

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. 3265

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 "Family Leave Tax Credit Act of 1992".

SEC. 2. FAMILY LEAVE CREDIT.

Chapter 1 of the Internal Revenue Code of 1986 (relating to normal taxes and surtaxes) is amended by adding a new section 51A to read as follows:

"SEC. 51A. FAMILY LEAVE CREDIT.

"(a) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the amount of the family leave credit for any employer for any taxable year is 20 percent of the qualified compensation with respect to an employee who is on family leave.

"(2) LIMITATIONS ON AVAILABILITY AND AMOUNT OF CREDIT.—

"(A) 500 OR FEWER EMPLOYEES.—An employer is not entitled to a family leave credit for any taxable year unless—

"(i) in the case of an employer that is in its first taxable year, the employer had fewer than 500 employees at the close of that year, and

"(ii) in the case of other employers, the employer averaged fewer than 500 employees for its preceding taxable year. An employer is considered to average fewer than 500 employees for a taxable year if the sum of its employees on the last day of each quarter in that year divided by the number of quarters is fewer than 500.

"(B) DOLLAR CAP ON QUALIFIED COMPENSATION.—The amount of qualified compensation that may be taken into account with respect to an employee may not exceed $100 per business day.

"(C) MAXIMUM PERIOD OF FAMILY LEAVE.—No family leave credit will be available to the extent that the period of family leave for an employee exceeds 12 weeks, defined as 60 business days, in any 12-month period.

"(D) ADDITIONAL LIMITATIONS ON LEAVE FOR PERSONAL SERIOUS HEALTH CONDITIONS.—Leave from an employer in connection with a qualified purpose described in subsection (b)(1)(D) will qualify as family leave only—

(i) if the employee on leave has no unused sick, disability or similar leave, and

(ii) with respect to a single uninterrupted period of leave in any 12-month period.

"(b) FAMILY LEAVE.—Except as otherwise provided in this section, an employee is considered to be on "family leave" if the employee is on leave from the employer in connection with any qualified purpose.

"(1) Qualified purposes.—The term "qualified purpose" means—

"(A) the birth of a child,

"(B) the placement of a child with the employee for adoption or foster care,

"(C) the care of a child, parent or spouse with a serious health condition, or

"(D) the treatment of a serious health condition which makes the employee unable to perform the functions of his or her position.

"(A) CHILD.—The term "child" means an individual who is a son, stepson, daughter, stepdaughter, eligible foster child as described in sections 32(c)(3)(B)(iii)(I) and (II), or legal ward of the employee or employee's spouse and who either has not reach the age of 19 by the commencement of the period of family leave or is physically or mentally incapable of caring for himself or herself.

"(B) PARENT.—The term "parent" means an individual with respect to whom the employee would be considered a "child" within the meaning of subsection (b)(2)(A) without regard to the age limitation.

"(C) SERIOUS HEALTH CONDITION.—The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice or residential health care facility, or substantial and continuing treatment by a health care provider.

"(c) CREDIT REFUNDABLE.—In the case of so much of the section 38 credit as is attributable to the family leave credit—

"(1) section 38(c) will not apply, and

"(2) for purposes of this section, such credit will be treated as if it were allowed under section 3 of this Act (relating to refundable credits).

"(d) NONDISCRIMINATION REQUIREMENT.—The family leave credit is available to an employer for a taxable year only if the employer provides family leave to its employees for that year on a nondiscriminatory basis.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) IN GENERAL.—For purposes of this section—

"(A) EMPLOYER.—Except as otherwise provided in this subpart, the term "employer" has the meaning provided by section 3306(a)(1) and (3).

"(B) EMPLOYEE.—The term "employee" includes only permanent employees who have been employed by the employer for at least 12 months and have provided over 1000 hours of service to the employer during the 12 months preceding commencement of the family leave.

"(C) QUALIFIED COMPENSATION.—The term "qualified compensation" means the greater of—

"(i) cash wages paid or incurred by the employer to or on behalf of the employee as remuneration for services during the period of family leave, and

"(ii) cash wages that would have been paid or incurred by the employer to or on behalf of the employee as remuneration for services during the period of family leave had the employee not taken the leave.

"(D) COMPUTATION.—For purposes of subsection (e)(1)(C)(ii), the amount of cash wages that would have been paid to the employee for any business day the employee is on family leave is—

"(i) in the case of an employee that was employed by the employer for the calendar year preceding the year in which the family leave begins, the average daily cash wages of that employee for that year, and

"(ii) in the case of other employees, the average daily cash wages of that employee for the four calendar quarters preceding the commencement of the family leave.

"(E) AVERAGE DAILY CASH WAGES.—For purposes of the computation described in subsection (e)(1(D), an employee's average daily cash wages is his or her total cash wages for the period described in such subsection divided by the number of business days in that period.

"(F) BUSINESS DAY.—The term "business day" includes any day other than a Saturday, Sunday or legal holiday.

"(2) EMPLOYMENT AND BENEFITS PROTECTION.—Employers that fail to provide employment or benefits protection to employees while on family leave, or continued health benefits to employees while on family leave under the terms that would have applied had the employees remained at work, will not be eligible for the family leave credit.

"(3) EXPECTATION THAT EMPLOYEE WILL RETURN TO WORK.—No family leave credit will be available for any portion of a period of family leave during which the employer does not reasonably believe that the employee will return from leave to work for the employer.

"(4) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including guidance relating to ensuring adequate employment and benefits protection and guidance to prevent abuse of this section.

SEC. 3. COORDINATION WITH REFUND PROVISION.

For purposes of section 1324(b)(2) of title 31 of the United States Code, section 51A of the Internal Revenue Code of 1986 (as added by this Act) will be considered to be a credit provision of the Internal Revenue Code of 1954 enacted before January 1, 1978.

SEC. 4. CONFORMING AMENDMENTS.

(a) Section 38 is amended by deleting the "plus" after subsection (b)(6) and "." after subsection (b)(7), by inserting ", plus" after subsection (b)(7), and by adding a new subsection (b)(8) to read as follows:

"(8) the family leave credit under section 51A."

(b) The heading and table of contents of Chapter 1, Subchapter A, Part IV, Subpart F are revised to read:

"Subpart F—Rules for Computing Job-Related Credits"

"Sec. 51. Targeted jobs credit."

"Sec. 51A. Family leave credit."

"Sec. 52. Special rules."

(c) The heading of section 51 is revised to read as follows:

"Sec. 51. Targeted jobs credit."

(d) Section 52 is revised by substituting "section 51(a) or 51A(a)" for "section 51(a)" each place it appears.

(e) Section 52(c) is revised by inserting the phrase "or family leave credit" after the phrase "targeted jobs credit".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply to family leave that commences after December 31, 1992.

By Mr. RIEGLE:

S. 3266. A bill to facilitate recovery from recent disasters by providing greater flexibility for depository institutions and their regulators, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

DEPOSITORY INSTITUTIONS DISASTER RELIEF ACT OF 1992

• Mr. RIEGLE. Mr. President, I rise to introduce the Depository Institutions Disaster Relief Act of 1992—legislation I have prepared to facilitate reconstruction in the wake of several recent disasters, including Hurricanes Iniki and Andrew, and the Los Angeles riots.

On September 17, I received legislation proposed by the Treasury Department to address these disasters. I had hoped the administration would not use these national tragedies as vehicles to advance its broad deregulatory agenda for America's financial institutions. Unfortunately, I was disappointed. Treasury's bill was sweeping in its potential impact. It threatened many important safety-and-soundness and consumer protection laws. Of course, the Senate should address the legitimate needs of disaster areas. The bill I am introducing today would do that.

Let me briefly describe some of the flaws in the bill Treasury sent up.

First, it was not limited to regulations affecting the ability of disaster areas to rebuild. Under the Treasury's bill, regulators could waive—and would face pressure to waive—any regulation, including consumer protection laws, community reinvestment laws, capital requirements, insider lending restrictions, and loan-to-one-borrower limits. Many of these laws are irrelevant to the real problems lenders and borrowers face in disaster areas.

Second, it was only loosely tied to institutions and activities conducted in disaster areas. Treasury's bill permits waivers of regulations for any institutions that "are doing business or seek to do business in a disaster area." Thus, for example, it would let regulators waive any regulation, nationwide, for any institution that has a branch, or just an application to open a branch, maybe even just an ATM, in a disaster area.

Third, it did not adequately protect safety and soundness. Treasury's bill requires regulators only to consider whether waivers of regulations will threaten safety and soundness. The regulators can then take any action they please. The law should instead require a determination that such waivers will not impair safety and soundness.

Fourth, it set no limits on how long regulatory waivers could remain in effect. Treasury's bill requires regulators to institute the waiver within 1 year after the President declares a disaster. But the waiver could be permanent. In effect, the bill would allow regulators to create permanent regulation-free zones.

Now some may say, "Yes, of course, all these things could happen under Treasury's bill, but we should have confidence that our regulators would never do anything so misguided." I'm sure our regulators will say that.

I wish I had that confidence. But in the past 2 weeks alone, we have seen our regulators on the FDIC Board roll back an earlier vote to raise deposit insurance premiums at a time when America's banks are making record profits but the Bank Insurance Fund is going deeper into the hole every month. And we have seen our regulators at the Office of Thrift Super-

vision declare they will actually treat an intangible asset, good will, as tangible equity for purposes of calculating compliance with capital requirements.

Beyond all doubt, the residents of these disaster areas are suffering. I know we must do what we can to ease that suffering and I am eager to play my part in that effort. Indeed, in retrospect, I find it curious that the administration evidently never thought to propose legislation along these lines after the Los Angeles riots. My own guess is that—if there is a real need for this sort of thing—the need must surely be greatest in an area like southcentral Los Angeles, where credit availability was a serious problem even before the riots.

But before we plunge ahead, I think we need to stop a moment and figure out what the real need is. So, at my direction, my staff conducted extensive conversations with regulatory officials and bankers in the disaster areas and here in Washington. We asked them to tell us, specifically, what it is about current law that poses hardship to banks and thrifts and impairs the reconstruction effort.

Some of the answers we heard did not make sense. For example, some bankers and regulators insisted that regulators need authority to make exceptions to the real-estate lending standards provided for by last year's banking bill. But the regulators themselves write those standards. If the regulators wish to incorporate emergency exceptions for loans in disaster areas in their standards, they already have all the authority they need to do that. It is clear that there are some in the administration who will seize any opportunity to push for broad deregulation of the banking industry. But this is not the time for that.

On the other hand, we also heard some answers that did make sense. The legislation I am introducing today reflects those answers. It gives regulators discretion to issue limited waivers of appraisal regulations and regulations under the Electronic Funds Transfer Act, the Expedited Funds Availability Act, and the Truth in Lending Act. This grant of authority recognizes the realities that demand for appraisals may outstrip supply in the disaster areas, and that appraising may be an uncertain science at best in areas where entire neighborhoods have been destroyed. And it reflects the reality that many financial institutions have suffered physical damage or power outages that may temporarily impair their ability to process checks and post deposits speedily.

My bill also gives regulators relief from notice provisions of the Administrative Procedure Act for regulatory actions to facilitate reconstruction, and permits them to make exemptions from publication requirements for the establishment of branches and other deposit-taking facilities. These provisions will allow banks and thrifts whose facilities have been damaged or destroyed by recent disasters to open new branches without needless regulatory delays.

My bill strictly limits the relief it provides to transactions occurring within the disaster area. It will not permit depository institutions to obtain wholesale regulatory relief by trading on de minimis ties to the disaster area. It permits relief for only a limited time. We will not have any permanent regulation-free zones as the result of my bill. And it permits only relief that does not compromise safety and soundness. Over the long term, strong financial institutions—not weak ones—will be the greatest engines for reconstruction in the disaster areas. We must not encourage or facilitate the weakening of depository institutions on whose strength hundreds of thousands of disaster victims will depend in years ahead.

Mr. President, I provided the General Accounting Office with copies of both my own draft bill and the bill Treasury proposed and asked them to give me their honest opinion. Today, I received a response from the Comptroller General in which he express the belief that my bill "better balances the goal of providing appropriate regulatory relief for transactions within emergency and major disaster areas with the need to protect against weakening the existing regulatory framework for insured financial institutions." Mr. Bowsher concludes by stating that the General Accounting Office prefers my bill to the Treasury proposal. I ask unanimous consent to insert Mr. Bowsher's complete letter in the RECORD following the conclusion of my statement, along with a copy of a letter I received yesterday from the Association of Community Organizations for Reform Now [ACORN] the Center for Community Change, and Consumers Union. These organizations wrote to me in opposition to the administration bill.

Mr. President, I believe the bill I am sending to the desk today is appropriate and fair legislation. I believe it address the real needs of the afflicted areas without jeopardizing the vitality of our banking laws or the strength of our depository institutions. At an appropriate time, I will urge my colleagues to give it their votes. For now, I urge them to give it their attention and their support.

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

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

S. 3266

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Depository Institutions Disaster Relief Act of 1992".

SEC. 2 EMERGENCY EXCEPTIONS FROM REGULATORY REQUIREMENTS.

(a) APPRAISALS.—Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended by adding at the end the following new section:

"SEC. 1123. EMERGENCY EXEMPTIONS FOR DISASTER AREAS.—

"(a) IN GENERAL.— Each Federal financial institutions regulatory agency may make exceptions to this title, and to standards prescribed pursuant to this title, for transactions with respect to real property located within a disaster area if the agency—

"(1) makes the exception not later than 1 year after the date on which the President determines, pursuant to section 301 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, that an emergency or major disaster exists in the area; and

"(2) determines that the exception is—

"(A) necessary to facilitate recovery from the emergency or disaster; and

"(B) consistent with safety and soundness.

"(b) 3-YEAR LIMIT ON EXCEPTIONS.—Any exception made under this section shall expire not later than 3 years after the date of the determination referred to in subsection (a)(1).

"(c) PUBLICATION REQUIRED.—Any Federal financial institutions regulatory agency shall publish in the Federal Register a statement describing any exception made under this section and explaining the need for the exception.

"(d) DISASTER AREA DEFINED.—For purposes of this section, the term 'disaster area' means an area in which the President, pursuant to sections 102 and 301 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that an emergency or major disaster exists.".

(b) TEMPORARY AUTHORITY TO MAKE EXCEPTIONS TO ELECTRONIC FUNDS TRANSFER ACT, EXPEDITED FUNDS AVAILABILITY ACT OF 1987, OR TRUTH IN LENDING ACT.—

(1) IN GENERAL.—During the 180-day period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System may make exceptions to the Electronic Fund Transfer Act, the Expedited Funds Availability Act of 1987, or the Truth in Lending Act for transactions within an area in which the President, pursuant to sections 102 and 301 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that an emergency or major disaster exists, to the extent necessary to facilitate recovery from the emergency or disaster.

(2) 1-YEAR LIMIT ON EXCEPTIONS.—Any exception made under this subsection shall expire not later than 1 year after the date of the Presidential determination referred to in paragraph (1).

(3) PUBLICATION REQUIRED.—The Board of Governors of the Federal Reserve System shall publish in the Federal Register a statement describing any exception made under this subsection and explaining the need for the exception.

(c) PROCEDURAL FLEXIBILITY FOR DEPOSITORY INSTITUTION REGULATORS.—

(1) IN GENERAL.—During the 180-day period beginning on the date of enactment of this Act, a qualifying regulatory agency may take any of the following actions, with respect to transactions within, or with respect to depository institutions or other regulated entities whose principal place of business is within, an area in which the President, pursuant to sections 102 and 301 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that an emer-

gency or major disaster exists, if the agency determines that the action is necessary to facilitate recovery from the emergency or disaster.

(A) Exercising the agency's authority under provisions of law other that this subsection without complying with—

(i) any requirement of section 553 of title 5, United States Code; or

(ii) any provision of law that requires notice or opportunity for hearing or sets maximum or minimum time limits with respect to agency action.

(B) Making exceptions to—

(i) any publication requirement with respect to establishing branches or other deposit-taking facilities; or

(ii) any similar publication requirement.

(2) PUBLICATION REQUIRED.—A qualifying regulatory agency shall publish in the Federal Register a statement describing any action taken under this subsection and explaining the need for the action.

(3) QUALIFYING REGULATORY AGENCY DEFINED.—For purposes of this subsection, the term 'qualifying regulatory agency' means:

(A) the Board of Governors of the Federal Reserve System;

(B) the Comptroller of the Currency;

(C) the Director of the Office of Thrift Supervision;

(D) the Federal Deposit Insurance Corporation;

(E) the Federal Financial Institutions Examination Council;

(F) the National Credit Union Administration Board; and

(G) with respect to chapter 53 of title 31, United States Code, the Secretary of the Treasury.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, DC, September 22, 1992.

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

DEAR MR. CHAIRMAN: This responds to your request for our comments on two pieces of draft legislation provided to us on September 18, 1992—one prepared by you and the other by the Treasury Department. Each proposal would authorize federal regulators to make emergency exceptions to requirements otherwise applicable to transactions within emergency or major disaster areas. Your draft legislation is a more targeted approach, which we believe better balances the goal of providing appropriate regulatory relief for transactions within emergency and major disaster areas with the need to protect against weakening the existing regulatory framework for insured financial institutions.

Your draft legislation essentially provides for three categories of emergency exceptions for areas the President determines to be emergency or disaster areas. The first would authorize "federal financial institutions regulatory agencies" to grant exceptions to the real estate appraisal requirements of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. This authority would be permanent and an exception could last no more than three years after the President's determination.

The second would authorize the Federal Reserve Board to make exceptions to the Electronic Fund Transfer Act, the Expedited Funds Availability Act of 1987, and the Truth in Lending Act. This authority would exist only for the 180-day period after enactment and an exception could last no more than one year after the President's determination. The third would authorize "qualifying regulatory agencies" to exercise during the 180-day period after enactment procedural flexibility with respect to specified process and notification requirements.

Unlike your draft legislation, the draft Treasury bill provided to us is almost unlimited in its application to emergency or major disaster areas. The Treasury proposal would authorize waivers of any regulatory requirement instead of the specific areas of regulation addressed in your draft bill. Further, while regulatory relief under the Treasury proposal would be limited to activities within the emergency or disaster area, there need not be the finding required in your draft legislation that the relief is necessary to facilitate recovery from the emergency or disaster.

Insured financial institutions often play a critical role in facilitating economic recovery in emergency and major disaster areas. We, like you, are sympathetic to calls for regulatory relief that will enable institutions to effectively fulfill that role. However, those calls for regulatory relief must be tempered with the need to ensure that the safety and soundness of insured financial institutions is not endangered or that other objectives of the regulatory framework are not unnecessarily eroded. In this context, we prefer your draft legislation to the legislation proposed by Treasury.

Sincerely yours,

CHARLES A. BOWSHER,
Comptroller General of the United States.

SEPTEMBER 21, 1992.

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

DEAR MR. CHAIRMAN: We are strongly opposed to the Administration's so-called "emergency regulatory relief" legislation, recently submitted to the Congress, which would give the bank regulatory agencies broad discretion to exempt banks in federal disaster areas from a wide range of safety and soundness, anti-discrimination, and consumer protection laws. We urge you to reject the bill out of hand.

The introduction of this sweeping legislation is a cynical effort to use the tragedies confronting several regions of the country as an excuse to pass the Administration's long sought bank deregulation agenda. In previous years, regulators have accommodated natural disasters without the need for statutory changes. As drafted, the bill would allow the Administration to exempt potentially hundreds of institutions in perhaps dozens of localities from any banking law for an indefinite time.

The regulatory agencies have abused their discretion in the past, and an indefinite "blank check" would give the Administration a free hand to undermine the safety and soundness of the banking industry, and effectively repeal landmark consumer protection and community reinvestment laws in many parts of the country.

The bill would permit broad exemptions to any law or regulation, including prohibitions on insider lending, the fair lending laws, and capital standards, which in no way constrain the ability of impacted communities to rebuild.

And, the proposed legislation would effectively allow the agencies to create permanent "deregulation zones," and allow exemptions for any institution with even a marginal presence in affected communities, for example an Automated Teller Machine (ATM)—or even an application to open an ATM.

Under the Administration's bizzare proposal, banks in south-central Los Angeles—a federal disaster area—could be exempted forever from the Community Reinvestment Act, the nation's landmark anti-redlining statute. A recent hearing held by the Senate Subcommittee on Housing and Urban Affairs revealed that longstanding patterns of neighborhood redlining of minority and low- and moderate-income communities had contributed to problems of poverty and unemployment in the area.

It would be unconscionable to compound the distress experienced by millions of Americans with legislation that would undermine the nation's consumer protection and safety and soundness laws. Again, we urge you to reject the Administration's proposal.

Sincerely,

Association of Community Organizations for Reform Now (ACORN); Center for Community Change; Consumers Union.●

By Mr. RIEGLE (for himself, Mr. ROCKEFELLER, Mr. DECONCINI, Mr. GLENN, Mr. COCHRAN, Mr. METZENBAUM, Mr. LEVIN, Mr. STEVENS, Mr. SASSER, and Mr. GORE):

S.J. Res. 341. Joint resolution to designate November 18, 1992, as "National Philanthropy Day"; to the Committee on the Judiciary.

NATIONAL PHILANTHROPY DAY

● Mr. RIEGLE. Mr. President, today I am introducing, together with several of our colleagues, a joint resolution, to designate November 18, 1992, as National Philanthropy Day.

Philanthropy is one of America's most noble traditions. The legacy of giving of oneself to benefit both the individual and society is evident in the life of Benjamin Franklin, who—in addition to spending most of his life in public service—donated much of the profits from his inventions to various causes.

The word philanthropy is derived from the Greek words meaning "love of man." Americans have consistently taken that meaning to heart, and have devoted portions of their lives to fulfilling its cause. Alexis de Tocqueville, the French historian, lauded the American enthusiasm to make great and real sacrifices for the common good. He attributed this drive to democracy, which, he felt, by destroying barriers of class and privilege, promotes a feeling of compassion for all humanity.

Today, the spirit of philanthropy and voluntarism is stronger than ever.

Over 12 million people—including approximately 5 million volunteers—are serving in philanthropic organizations tackling the variety of needs existing today. Among other activities, American volunteers build housing for the homeless, serve meals to the elderly, organize community cultural events, and raise funds for medical research. Americans are generous with their financial resources, as well. In 1991, Americans gave almost $125 billion to philanthropic organizations.

I believe it is important to set aside November 18, 1992 as "National Philan-

thropy Day" to recognize the generous spirit of the American people, and to promote efforts to carry on this vital tradition of giving. I urge my colleagues to join us in this effort.

I ask unanimous consent that the joint 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. 341

Whereas there are more than 900,000 nonprofit philanthropic organizations (hereafter in this Joint Resolution referred to as "philanthropic organizations") in the United States;

Whereas philanthropic organizations employ more than 12,000,000 individuals, including approximately 5,000,000 volunteers;

Whereas the people of the United States contributed nearly $125,000,000,000 in 1991 to support philanthropic organizations;

Whereas philanthropic organizations are responsible for enhancing the quality of life of people throughout this Nation and the world;

Whereas the people of this Nation owe a great debt to the schools, churches, museums, art and music centers, youth groups, hospitals, research institutions, and community service institutions, and to the institutions and organizations which aid and comfort disadvantaged, sick or elderly individuals; and

Whereas the people of the United States should demonstrate gratitude and support for philanthropic organizations and for the efforts, skills, and resources of individuals who carry out the missions of such organizations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 18, 1992, is designated as "National Philanthropy Day" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 25

At the request of Mr. CRANSTON, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 25, a bill to protect the reproductive rights of women, and for other purposes.

S. 1130

At the request of Mr. KASTEN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1130, a bill to amend the Internal Revenue Code of 1986 to provide for rollover of gain from sale of farm assets into an individual retirement account.

S. 1506

At the request of Mr. GLENN, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1506, a bill to extend the terms of the olestra patents, and for other purposes.

S. 1777

At the request of Mr. ADAMS, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Delaware [Mr. BIDEN], the Senator from Montana [Mr. BAUCUS], the Senator from Florida [Mr. MACK], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 1777, a bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

S. 2661

At the request of Mr. MOYNIHAN, the names of the Senator from Maine [Mr. COHEN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Kansas [Mr. DOLE], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of S. 2661, a bill to authorize the striking of a medal commemorating the 250th Anniversary of the founding of the American Philosophical Society and the birth of Thomas Jefferson.

S. 2707

At the request of Mr. RIEGLE, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 2707, a bill to authorize the minting and issuance of coins in commemoration of the Year of the Vietnam Veteran and the 10th Anniversary of the dedication of the Vietnam Veterans Memorial, and for other purposes.

S. 2810

At the request of Mr. GRASSLEY, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 2810, a bill to recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

S. 2841

At the request of Mr. D'AMATO, the names of the Senator from Nevada [Mr. BRYAN], the Senator from Indiana [Mr. LUGAR], the Senator from Florida [Mr. MACK], the Senator from Michigan [Mr. RIEGLE], the Senator from Illinois [Mr. DIXON], and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of S. 2841, a bill to provide for the minting of coins to commemorate the World University Games.

S. 2889

At the request of Mr. BOREN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2889, a bill to repeal section 5505 of title 38, United States Code.

S. 2930

At the request of Mr. INOUYE, the names of the Senator from North Carolina [Mr. SANFORD], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 2930, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act with respect to minor use of pesticides.

S. 3096

At the request of Mr. DANFORTH, the names of the Senator from Ohio [Mr. METZENBAUM], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 3096, a bill to establish a grant program under the Administrator of the National Highway Traffic Safety Administration for the purpose of promoting the use of bicycle helmets by children under the age of 16.

S. 3123

At the request of Mr. SEYMOUR, the names of the Senator from Utah [Mr. GARN] and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of S. 3123, a bill to amend the Internal Revenue Code of 1986 to modify the involuntary conversion rules for certain disaster-related conversions.

S. 3239

At the request of Mr. DECONCINI, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 3239, a bill to prevent and deter auto theft.

S. 3241

At the request of Mr. HOLLINGS, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 3241, a bill to award a congressional gold medal to John Birks "Dizzy" Gillespie.

SENATE JOINT RESOLUTION 293

At the request of Mr. SASSER, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 293, a joint resolution designating the week beginning November 1, 1992, as "National Medical Staff Services Awareness Week."

SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the names of the Senator from Idaho [Mr. SYMMS], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Washington [Mr. ADAMS], the Senator from Florida [Mr. MACK], the Senator from Alabama [Mr. SHELBY], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Joint Resolution 321, a joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week."

SENATE JOINT RESOLUTION 328

At the request of Mr. COCHRAN, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Alabama [Mr. SHELBY], the Senator from New Mexico [Mr. DOMENICI], the Senator from New Jersey [Mr. BRADLEY], the Senator from Wyoming [Mr. SIMPSON], the Senator from Washington [Mr. ADAMS], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of Senate Joint Resolution 328, a joint resolution to acknowledge the sacrifices that military families have made on behalf of the Nation and to designate November 23, 1992, as "National Military Families Recognition Day."

SENATE JOINT RESOLUTION 332

At the request of Mr. SASSER, the names of the Senator from Maryland

[Mr. SARBANES], the Senator from Georgia [Mr. FOWLER], the Senator from Hawaii [Mr. INOUYE], the Senator from Connecticut [Mr. DODD], the Senator from Utah [Mr. GARN], the Senator from Oregon [Mr. PACKWOOD], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Joint Resolution 332, a joint resolution to establish the month of October, 1992 as "Country Music Month."

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. DECONCINI, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Concurrent Resolution 127, a concurrent resolution to express the sense of the Congress that women's soccer should be a medal sport at the 1996 centennial Olympic games in Atlanta, Georgia.

AMENDMENT NO. 2939

At the request of Mr. WARNER his name was added as a cosponsor of Amendment No. 2939 proposed to H.R. 11, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.

AMENDMENT NO. 3152

At the request of Mr. PELL his name was added as a cosponsor of Amendment No. 3152 proposed to H.R. 5504, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

AMENDMENTS SUBMITTED

INTELLIGENCE AUTHORIZATION APPROPRIATION, FISCAL YEAR 1993

BOREN AMENDMENT NO. 3157

Mr. BOREN proposed an amendment to the bill (S. 2991) authorizing appropriations for fiscal year 1993 for intelligence activities of the U.S. Government and Central Intelligence Retirement and Disability System, to amend the National Security Act of 1947 to provide a framework for the improved management and execution of U.S. intelligence activities, and for other purposes, as follows:

(1) On page 13, line 24: after subsection 304(a)(5) insert the following new subsection:

"(6) in section 804(c), by striking "obligation" and inserting in lieu thereof "expenditure"."

(2) On page 19, line 12: delete "Office of Reconnaissance Support (as provided for in section 105(b)(3))" and insert in lieu thereof "National Reconnaissance Office".

(3) On page 25, line 16, by inserting after subsection 102(a)(5)(C) the following new subsection:

"(6) The Office of the Director of Central Intelligence shall, for administrative purposes, be within the Central Intelligence Agency."

(4) On page 32, line 10, changing "to" to "from".

(5) On page 35, line 19, delete "the Office of".

(6) On page 37, line 14: delete "establishment of an Office of Reconnaissance Support" and insert in lieu thereof "the National Reconnaissance Office".

(7) On page 37, line 17: delete "procurement" and insert in lieu thereof "acquisition".

(8) On page 39, line 3, by inserting at the end of section 105 the following:

"Provided, the Secretary of Defense, in carrying out the functions described in this section, shall be authorized to utilize such elements of the Department of Defense as may be appropriate for the execution of such functions in addition to, or in lieu of, the elements identified in this section."

(9) On page 39, line 18, by inserting at the end of subsection 106(b) the following new subsection:

"(c) AUTHORITY TO WITHHOLD CERTAIN INFORMATION REGARDING THE NATIONAL RECONNAISSANCE OFFICE.—Nothing in this Act or any provision of law shall be construed to require the disclosure of the organization or any function of the National Reconnaissance Office, of any information with respect to the activities thereof, or of the names, titles, salaries, or number of persons employed by, or assigned or detailed to, such office."

MURKOWSKI (AND OTHERS) AMENDMENT NO. 3158

Mr. MURKOWSKI (for himself, Mr. WARNER, Mr. HOLLINGS, Mr. BRADLEY, Mr. D'AMATO, Mr. CRANSTON, Mr. DANFORTH, Mr. DECONCINI, Mr. RUDMAN, Mr. METZENBAUM, Mr. GORTON, Mr. CHAFEE, Mr. KERREY, and Mr. COHEN) proposed an amendment to the bill S. 2991, supra, as follows:

On page 18, after line 2, add the following new section:

SEC. 604. REDESIGNATION OF NATIONAL SECURITY EDUCATION ACT OF 1991.

Section 801(a) of Public Law 102-183 is amended to read as follows:

"(a) SHORT TITLE.—This title may be cited as the 'David L. Boren National Security Education Act of 1991'.".

On page 3, in the table of contents, after the item relating to section 603, insert the following new item:

"Sec. 604. Redesignation of National Security Education Act of 1991.".

PACKWOOD (AND OTHERS) AMENDMENT NO. 3159

Mr. PACKWOOD (for himself, Mr. RIEGLE, and Mr. INOUYE) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1095, beginning with line 4, strike all through line 25.

BENTSEN (AND OTHERS) AMENDMENT NO. 3160

Mr. BENTSEN (for himself, Mr. DURENBERGER, Mr. CHAFEE, Mr. PRYOR, Mr. BAUCUS, Mr. BREAUX, Mr. SPECTER, Mr. NICKLES, Mr. MCCAIN, Mr. KASTEN, Mr. COHEN, Mr. BRYAN, Mr. HATCH, Mr. WARNER, Mr. REID, Mr. DOLE, Mr. COATS, Mr. HATFIELD, Mr. FORD, Mr. DOMENICI, Mr. SEYMOUR, and Mr. PACKWOOD) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 924, beginning with line 1, strike all through page 948, line 6, and insert:

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges after December 31, 1991, in taxable years ending after such date.

PART II—EXTENSION OF CERTAIN EXPIRING TAX PROVISIONS

SEC. 2141. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 103(a) of the TAX Extension Act of 1991 is amended—

(1) by striking "in 1992" and inserting "in 1993", and

(2) by striking "July 1, 1992" each place it appears and inserting "October 1, 1993".

(c) EFFECTIVE DATE.—The amendments made this section shall apply to taxable years ending after June 30, 1992.

SEC. 2142. EMPLOYER-PROVIDED GROUP LEGAL SERVICES PLANS.

(a) IN GENERAL.—Subsection (e) of section 120 (relating to amounts received under qualified group legal services plans) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 104(a) of the Tax Extension Act of 1991 is amended—

(1) by striking "in 1992" and inserting "in 1993", and

(2) by striking "July 1, 1992" each place it appears and inserting "October 1, 1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2143. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) INCREASE IN PERCENTAGE OF COSTS ELIGIBLE FOR DEDUCTION.—Paragraph (1) of section 162(l) is amended by inserting "(100 percent in the case of taxable years beginning after 1992)" after "25 percent".

(c) INCREASE IN BACKUP WITHHOLDING RATE.—Section 3406(a)(1) is amended by striking "20 percent" and inserting "31 percent".

(d) DEDUCTION FOR EXPENSES AWAY FROM HOME.—Section 162(a) is amended by adding at the end the following new sentence: "For purposes of paragraph (2), if a taxpayer is away from home for a period of employment which exceeds 1 year, the taxpayer shall not be treated as being away from home during such period."

(e) CONFORMING AMENDMENT.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 is amended—

(1) by striking "in 1992" and inserting "in 1993", and,

(2) by striking "July 1, 1992" each place it appears and inserting "October 1, 1993".

(f) EFFECTIVE DATE.—

(1) MEDICAL DEDUCTION.—The amendments made by subsections (a), (b), and (e) shall apply to taxable years ending after June 30, 1992.

(2) WITHHOLDING.—The amendment made by subsection (c) shall apply to amounts paid after December 31, 1992.

(3) TRAVEL EXPENSES.—The amendment made by subsection (d) shall apply to costs paid or incurred after December 31, 1992.

SEC. 2144. QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 (relating to interest on certain home mortgages) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(c) FINANCING ALLOWED FOR CONTRACT OF DEED AGREEMENTS.—

(1) IN GENERAL.—Paragraph (2) of section 143(d) (relating to exceptions to 3-year requirement) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by inserting "and" at the end of subparagraph (B), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) financing with respect to land described in subsection (l)(1)(C) and any residence to be constructed thereon,".

(2) EXCEPTION TO NEW MORTGAGE REQUIREMENT.—Paragraph (1) of section 143(i) (relating to mortgages must be new mortgages) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN CONTRACT OF DEED AGREEMENTS.—

"(i) IN GENERAL.—In the case of land possessed under a contract of deed by a mortgagor with family income (as defined in subsection (f)(2)) of less than $15,000 in the year in which owner-financing is provided, the contract of deed shall not be treated as an existing mortgage for purposes of subparagraph (A).

"(ii) CONTRACT OF DEED DEFINED.—For purposes of this section, the term 'contract of deed' means a seller-financed contract for the conveyance of land under which—

"(I) legal title does not pass to the purchaser until the consideration under the contract is fully paid to the seller, and

"(II) the seller's remedy for nonpayment is forfeiture rather than judicial or nonjudicial foreclosure.

"(iii) ADJUSTMENT TO INCOME LEVEL.—In the case of any calendar year after 1992, the dollar amount contained in clause (i) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof."

(3) ACQUISITION COST INCLUDES COST OF LAND.—Clause (iii) of section 143(k)(3)(B) (relating to exceptions to acquisition cost) is amended by inserting "(other than land described in subsection (l)(1)(C)(i))" after "cost of land".

(d) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

(3) CONTRACT OF DEED AGREEMENTS.—The amendments made by subsection (c) shall apply to loans originated after the date of the enactment of this Act.

SEC. 2145. QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) (relating to termination dates) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after June 30, 1992.

SEC. 2146. RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 (relating to credit for increasing research activities) is amended—

(1) by striking "June 30, 1992" each place it appears and inserting "September 30, 1993"; and

(2) by striking "July 1, 1992" each place it appears and inserting "October 1, 1993".

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1992.

SEC. 2147. LOW-INCOME HOUSING CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Paragraph (1) of section 42(o) (relating to termination of low-income housing credit) is amended by striking "June 30, 1992" each place it appears and inserting "September 30, 1993".

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 42(o) is amended—

(A) by striking "July 1, 1992" each place it appears and inserting "October 1, 1993",

(B) by striking "June 30, 1992" in subparagraph (B) and inserting "September 30, 1993",

(C) by striking "June 30, 1994" in subparagraph (B) and inserting "September 30, 1995", and

(D) by striking "July 1, 1994" in subparagraph (C) and inserting "October 1, 1995".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to periods ending after June 30, 1992.

(b) MODIFICATIONS.—

(1) CARRYFORWARD RULES.—

(A) IN GENERAL.—Clause (ii) of section 42(h)(3)(D) (relating to unused housing credit carryovers allocated among certain States) is amended by striking "the excess" and all that follows and inserting "the excess (if any) of the unused State housing credit ceiling for the year preceding such year over the aggregate housing credit dollar amount allocated for such year."

(B) CONFORMING AMENDMENT.—The second sentence of section 42(h)(3)(C) (relating to State housing credit ceiling) is amended by striking "clauses (i) and (iii)" and inserting "clauses (i) through (iv)".

(2) 10-YEAR ANTI-CHURNING RULE WAIVER EXPANDED.—Clause (ii) of section 42(d)(6)(B) (defining federally assisted building) is amended by inserting ", 221(d)(4)," after "221(d)(3)".

(3) HOUSING CREDIT AGENCY DETERMINATION OF REASONABLENESS OF PROJECT COSTS.—Subparagraph (B) of section 42(m)(2) (relating to credit allocated to building not to exceed amount necessary to assure project feasibility) is amended—

(A) by striking "and" at the end of clause (ii),

(B) by striking the period at the end of clause (iii) and inserting ", and", and

(C) by inserting after clause (iii) the following new clause:

"(iv) the reasonableness of the developmental and operational costs of the project."

(4) UNITS WITH CERTAIN FULL-TIME STUDENTS NOT DISQUALIFIED.—Subparagraph (D) of section 42(i)(3) (defining low-income unit) is amended to read as follows:

"(D) CERTAIN STUDENTS NOT TO DISQUALIFY UNIT.—A unit shall not fail to be treated as a low-income unit merely because it is occupied—

"(i) by an individual who is—

"(I) a student and receiving assistance under title IV of the Social Security Act, or

"(II) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or

"(ii) entirely by full-time students if such students are—

"(I) single parents and their children and such parents and children are not dependents (as defined in section 152) of another individual, or

"(II) married and file a joint return."

(5) TREASURY WAIVERS OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—Subsection (g) of section 42 (relating to qualified low-income housing projects) is amended by adding at the end thereof the following new paragraph:

"(8) WAIVER OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—On application by the taxpayer, the Secretary may waive—

"(A) any recapture under subsection (j) in the case of any de minimis error in complying with paragraph (1), or

"(B) any annual recertification of tenant income for purposes of this subsection, if the entire building is occupied by low-income tenants."

(6) BASIS OF COMMUNITY SERVICE AREAS INCLUDED IN ADJUSTED BASIS.—Paragraph (4) of section 42(d) (relating to special rules relating to determination of adjusted basis) is amended—

(A) by striking "subparagraph (B)" in subparagraph (A) and inserting "subparagraphs (B) and (C)",

(B) by redesignating subparagraph (C) as subparagraph (D), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) BASIS OF PROPERTY IN COMMUNITY SERVICE AREAS INCLUDED.—The adjusted basis of any building located in a qualified census tract shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation) used in functionally related and subordinate community activity facilities if—

"(i) the size of the facilities is commensurate with tenant needs,

"(ii) such facilities are designed to serve qualifying tenants and employees of the building owner, and

"(iii) not more than 20 percent of the building's eligible basis is attributable to the aggregate basis of such facilities."

(7) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the amendments made by this subsection shall apply to—

(i) determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings after June 30, 1992, or

(ii) buildings placed in service after June 30, 1992, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

(B) CARRYFORWARD RULES.—The amendments made by paragraph (1) shall apply to calendar years beginning after December 31, 1991.

(C) WAIVER AUTHORITY.—The amendments made by paragraphs (2) and (5) shall take effect on the date of the enactment of this Act.

(c) ELECTION TO DETERMINE RENT LIMITATION BASED ON NUMBER OF BEDROOMS.—In the case of a building to which the amendments made by section 7108(e)(1) of the Revenue Reconciliation Act of 1989 did not apply, the taxpayer may elect to have such amendments apply to such building but only with respect to tenants first occupying any unit in the building after the date of the election.

Such an election may be made only during the 180 day period beginning on the date of the enactment of this Act, and shall be subject to the taxpayer entering into a compliance monitoring agreement pursuant to section 42(m)(1)(B)(iii) of the Internal Revenue Code of 1986 with the housing credit agency for the jurisdiction within which such building is located. Once made, the election shall be irrevocable.

SEC. 2148. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) INCREASE IN AGE REQUIREMENTS OF ECONOMICALLY DISADVANTAGED YOUTH.—Subparagraph (B) of section 51(d)(3) (defining economically disadvantaged youth) is amended by striking "age 23" and inserting "age 25".

(c) ALLOWANCE OF CREDIT FOR HIRING LONG-TERM UNEMPLOYED.—

(1) IN GENERAL.—Paragraph (1) of section 51(d) (defining members of targeted groups) is amended by striking "or" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ", or", and by adding at the end the following new subparagraph:

"(K) a long-term unemployed individual."

(2) LONG-TERM UNEMPLOYED.—Section 51(d) is amended by adding at the end thereof the following new paragraph:

"(17) LONG-TERM UNEMPLOYED.—

"(A) IN GENERAL.—The term 'long-term unemployed individual' means an individual—

"(i) who has been receiving unemployment compensation at all times during the 6-month period ending with the last day of the month preceding the hiring date, or

"(ii) who—

"(I) was receiving unemployment compensation but exhausted all rights to such compensation, and

"(II) has remained unemployed during the period beginning on the date such rights were exhausted and ending on the day before the hiring date.

"(B) EFFECTIVE PERIOD.—Notwithstanding subsection (c)(4), in the case of a long-term unemployed individual, the term 'wages' shall include amounts paid or received for individuals who begin work for the employer during the 6-month period beginning on the date of the enactment of this paragraph, or during any subsequent 6-month period, if, for any month during the preceding 6-month period, the national average rate of total unemployment as determined by the Secretary of Labor exceeds 7 percent.

"(C) UNEMPLOYMENT COMPENSATION.—For purposes of this paragraph, the term 'unemployment compensation' has the meaning given such term by section 85(b).

"(D) SPECIAL RULE FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any long-term unemployed individual subsection (b)(3) shall be applied by substituting '$3,000' for '$6,000'."

(3) CERTAIN INDIVIDUALS ELIGIBLE.—Section 51(i) (relating to certain individuals ineligible) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES FOR LONG-TERM UNEMPLOYED.—No wages shall be taken into account under subsection (a) with respect to any long-term unemployed individual (as defined in subsection (d)(17)) unless—

"(A) notwithstanding paragraph (3), the individual is employed by the employer at least 120 days, and

"(B) the employer certifies on the return of tax for the taxable year for which credit is claimed that the individual was hired after the employer took reasonable actions to specifically recruit long-term unemployed individuals."

(d) MINIMUM EMPLOYMENT PERIOD.—Paragraph (3) of section 51(i) is amended to read as follows:

"(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIOD.—No wages shall be taken into account under subsection (a) with respect to any individual unless—

"(A) such individual is employed by the employer at least 90 days, or

"(B) in the case of an individual described in subsection (d)(12) either—

"(i) is employed by the employer at least 14 days, or

"(ii) has completed at least 20 hours of services performed for the employer."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to individuals who begin work for the employer after June 30, 1992.

(2) LONG-TERM UNEMPLOYED AND MINIMUM PERIOD.—The amendments made by subsections (c) and (d) shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

SEC. 2149. TAX CREDIT FOR ORPHAN DRUG CLINICAL TESTING EXPENSES.

(a) IN GENERAL.—Subsection (c) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2150. EXCISE TAX ON CERTAIN VACCINES.

(a) TAX.—Paragraphs (2) and (3) of section 4131(c) (relating to tax on certain vaccines) are each amended by striking "1992" each place it appears and inserting "1994".

(b) TRUST FUND.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by striking "1992" and inserting "1994".

(c) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall conduct a study of—

(1) the estimated amount that will be paid from the Vaccine Injury Compensation Trust Fund with respect to vaccines administered after September 30, 1988, and before October 1, 1994,

(2) the rates of vaccine-related injury or death with respect to the various types of such vaccines,

(3) new vaccines and immunization practices being developed or used for which amounts may be paid from such Trust Fund,

(4) whether additional vaccines should be included in the vaccine injury compensation program, and

(5) the appropriate treatment of vaccines produced by State governmental entities.

The report of such study shall be submitted not later than January 1, 1994, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 2151. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "with respect to benefits received before October 1, 1992".

SEC. 2152. EXTENSION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Subsection (f) of section 29 is amended to read as follows:

"(f) APPLICATION OF SECTION.—

"(1) IN GENERAL.—This section shall apply with respect to qualified fuels—

"(A) which are—

"(i) produced from a well drilled after December 31, 1979, and before September 1, 1993, or

"(ii) produced in a facility originally placed in service after December 31, 1979, and before September 1, 1993, and

"(B) which are sold before January 1, 2003.

"(2) SPECIAL RULE FOR CERTAIN GAS-PRODUCING FACILITIES.—For purposes of paragraph (1), in the case of a facility for producing qualified fuels described in subparagraph (B)(ii) or (C) of subsection (c)(1)—

"(A) such facility shall, for purposes of paragraph (1)(A)(ii), be treated as being placed in service before September 1, 1993, if such facility is originally placed in service before January 1, 1998, pursuant to a binding written contract in effect before January 1, 1996 and at all times thereafter before such facility is placed in service, and

"(B) paragraph (1)(B) shall be applied with respect to such facility by substituting '2008' for '2003'.

"(3) SPECIAL RULE FOR FACILITIES PRODUCING COKE OR COKE GAS.—This section shall not apply to a facility described in paragraph (1) which produces coke or coke gas unless—

"(A) the original use of the facility commences with the taxpayer, or

"(B) if subparagraph (A) does not apply, the taxpayer owned the facility on December 31, 1992, and at all times thereafter."

(b) LIMITATION ON CREDIT.—Subsection (b) of section 29 is amended by adding at the end the following new paragraph:

"(7) LIMITATION ON GAS ELIGIBLE FOR CREDIT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no credit shall be allowed under subsection (a) with respect to gas produced from any well during the taxable year to the extent that the amount of the gas produced from the well exceeds 42 million cubic feet (mmcf).

"(B) EXCEPTION FOR CERTAIN GAS.—In the case of gas produced from a tight formation or gas described in subparagraph (D)—

"(i) subparagraph (A) shall be applied by substituting '550' for '42', and

"(ii) in determining the amount of the credit under subsection (a) with respect to the production from the well producing such gas in excess of 42 million cubic feet (mmcf), $2.25 shall be substituted for the amount in effect under subsection (a)(1) for the taxable year, except that the $2.25 amount shall not be adjusted under subsection (b)(2).

"(C) UNITIZATION AND POOLING ARRANGEMENTS FOR DEVONIAN SHALE GAS.—In the case of gas produced from Devonian shale, if—

"(i) wells are being operated under a voluntary or compulsory unitization or pooling agreement under which wells are not separately metered for sale purposes, and

"(ii) no gas from wells being operated under such agreement is fuel which is not qualified fuel,

then, for purposes of this paragraph, production for any year from each well under such agreement shall be equal to the total production from all such wells during the year divided by the number of wells actually producing gas during the year.

"(D) CERTAIN COAL SEAM GAS.—Gas described in this subparagraph is gas produced

from coal seams which is captured from the de-stressed zone associated with any full-seam extraction of coal which extends above and below mined-out coal seams."

(c) OIL FROM THE BAKKEN SHALE FORMATION.—Section 29(c) is amended by adding at the end the following new paragraph:

"(4) OIL FROM THE BAKKEN SHALE FORMATION.—For purposes of this section, oil produced from shale from a conventional or nonconventional well producing from the Bakken shale formation shall be treated as a qualified fuel to the extent that the production from such well during the taxable year does not exceed 7,125 barrels."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to wells drilled, and facilities placed in service, after December 31, 1992.

PART III—OTHER INCENTIVES

SEC. 2161. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

"(j) SPECIAL ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.—

"(1) ADDITIONAL ALLOWANCE.—In the case of any qualified equipment—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such equipment is placed in service shall include an allowance equal to 15 percent of the adjusted basis of the qualified equipment, and

"(B) the adjusted basis of the qualified equipment shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) QUALIFIED EQUIPMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified equipment' means property to which this section applies—

"(i) which is section 1245 property (within the meaning of section 1245(a)(3)),

"(ii) the original use of which commences with the taxpayer on or after August 1, 1992,

"(iii) which is—

"(I) acquired by the taxpayer on or after August 1, 1992, and before January 1, 1993, but only if no written binding contract for the acquisition was in effect before August 1, 1992, or

"(II) acquired by the taxpayer pursuant to a written binding contract which was entered into on or after August 1, 1992, and before January 1, 1993, and

"(iv) which is placed in service by the taxpayer before January 1, 1994.

"(B) EXCEPTIONS.—

"(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified equipment' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(iii) REPAIRED OR RECONSTRUCTED PROPERTY.—Except as otherwise provided in regulations, the term 'qualified equipment' shall not include any repaired or reconstructed property.

"(C) SPECIAL RULES RELATING TO ORIGINAL USE.—

"(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property on and after August 1, 1992, and before January 1, 1993.

"(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

"(I) is originally placed in service on or after August 1, 1992, by a person, and

"(II) is sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

"(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified equipment, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i), and decrease each other limitation under subparagraphs (A) and (B) of section 280F(a)(1), to appropriately reflect the amount of the deduction allowable under paragraph (1).

"(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).".

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

"(iii) ADDITIONAL ALLOWANCE FOR EQUIPMENT ACQUIRED IN 1992.—The deduction under section 168(j) shall be allowed."

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by inserting "or (iii)" after "(ii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after August 1, 1992, in taxable years ending on or after such date.

SEC. 2162. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.

(a) IN GENERAL.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to property placed in service in taxable years beginning after the date of the enactment of the Revenue Act of 1992, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A)."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service in taxable years beginning after the date of the enactment of this Act.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) of such paragraph (1).

Subtitle C—Better Access to Affordable Health Care

PART I—IMPROVEMENTS IN HEALTH INSURANCE AFFORDABILITY FOR SMALL EMPLOYERS

SEC. 2171. GRANTS TO STATES FOR SMALL EMPLOYER HEALTH INSURANCE PURCHASING PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall make grants to States that submit applications meeting the requirements of this section for the establishment and operation of small employer health insurance purchasing programs.

(b) USE OF FUNDS.—Grant funds awarded under this section to a State may be used to finance administrative costs associated with developing and operating a group purchasing program for small employers, such as the costs associated with—

(1) engaging in marketing and outreach efforts to inform small employers about the group purchasing program, which may include the payment of sales commissions;

(2) negotiating with insurers to provide health insurance through the group purchasing program; or

(3) providing administrative functions, such as eligibility screening, claims administration, and customer service.

(c) APPLICATION REQUIREMENTS.—An application submitted by a State to the Secretary must describe—

(1) whether the program will be operated directly by the State or through one or more State-sponsored private organizations and the details of such operation;

(2) any participation requirements for small employers;

(3) the extent of insurance coverage among the eligible population, projections for change in the extent of such coverage, and the price of insurance currently available to these small employers;

(4) program goals for reducing the price of health insurance for small employers and increasing insurance coverage among employees of small employers and their dependents;

(5) the approaches proposed for enlisting participation by insurers and small employers, including any plans to use State funds to subsidize the cost of insurance for participating employers; and

(6) the methods proposed for evaluating the effectiveness of the program in reducing the number of uninsured in the State and on lowering the price of health insurance to small employers in the State.

(d) GRANT CRITERIA.—In awarding grants, the Secretary shall consider the potential impact of the State's proposal on the cost of health insurance for small employers and on the number of uninsured, and the need for regional variation in the awarding of grants. To the extent the Secretary deems appropriate, grants shall be awarded to fund programs employing a variety of approaches for establishing small employer health insurance group purchasing programs.

(e) PROHIBITION ON GRANTS.—No grant funds shall be paid to States that do not meet the requirements of title XXI of the Social Security Act with respect to small employer health insurance plans, or to States with group purchasing programs involving small employer health insurance plans that do not meet the requirements of such title.

(f) ANNUAL REPORT BY STATES.—States receiving grants under this section must report to the Secretary annually on the numbers and rates of participation by eligible insurers and small employers, on the esti-

mated impact of the program on reducing the number of uninsured, and on the price of insurance available to small employers in the State.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1993, 1994, and 1995, such sums as may be necessary for the purposes of awarding grants under this section.

(h) SECRETARIAL REPORT.—The Secretary shall report to Congress by no later than January 1, 1995, on the number and amount of grants awarded under this section, and include with such report an evaluation of the impact of the grant program on the number of uninsured and price of health insurance to small employers in participating States.

SEC. 2172. STUDY OF USE OF MEDICARE RATES BY PRIVATE HEALTH INSURANCE PLANS.

(a) IN GENERAL.—Not later than January 1, 1993, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall study and report to the Congress on the feasibility and desirability of the Secretary establishing payment rates, based upon medicare payment rules, for optional use by private health insurers. In developing the study, the Secretary shall take into account the findings and views of the Prospective Payment Assessment Commission and the Physician Payment Review Commission.

(b) PROVISIONS OF STUDY AND REPORT.—The study and report shall evaluate—

(1) the appropriateness of using medicare payment rules to determine payments for services furnished to non-medicare populations (with particular emphasis on services furnished to children);

(2) the potential impact on private health insurance premiums, national health spending, and access to health care services (by medicare beneficiaries and others) of requiring health care providers and practitioners to accept such payment rates as payment in full if the optional use of such rates is available—

(A) to all private health insurance and employer health benefit plans, or

(B) only to private health insurance sold to small employers or small employer health benefit plans; and

(3) the advantages and disadvantages of alternative mechanisms for enforcing such rates when private insurers opt to use them.

PART II—IMPROVEMENTS IN HEALTH INSURANCE FOR SMALL EMPLOYERS

Subpart A—Standards and Requirements of Small Employer Health Insurance Reform

SEC. 2173. STANDARDS AND REQUIREMENTS OF SMALL EMPLOYER HEALTH INSURANCE.

The Social Security Act is amended by adding at the end the following new title:

"TITLE XXI—STANDARDS FOR SMALL EMPLOYER HEALTH INSURANCE AND CERTIFICATION OF MANAGED CARE PLANS

"PART A—GENERAL STANDARDS; DEFINITIONS

"APPLICATION OF REQUIREMENTS TO SMALL EMPLOYER HEALTH INSURANCE PLANS

"SEC. 2101. (a) PLAN UNDER STATE REGULATORY PROGRAM OR CERTIFIED BY THE SECRETARY.—An insurer offering a health insurance plan to a small employer in a State on or after the effective date applicable to the State under subsection (b) shall be treated as meeting the requirements of this title if—

"(1) the Secretary determines that the State has established a regulatory program that provides for the application and enforcement of standards meeting the requirements under section 2102 to meet the requirements of part B of this title; and

"(2) if the State has not established such a program or if the program has been decertified by the Secretary under section 2102(b), the health insurance plan has been certified by the Secretary (in accordance with such procedures as the Secretary establishes) as meeting the requirements of part B of this title.

"(b) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as specified in paragraph (2) and provided in paragraph (3), the standards established under section 2102 to meet the requirements of part B of this title shall apply to health insurance plans offered, issued, or renewed to a small employer in a State on or after January 1, 1994.

"(2) EXCEPTION FOR LEGISLATION.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

"(A) requiring State legislation (other than legislation appropriating funds) in order for insurers and health insurance plans offered to small employers to meet the standards under the program established under subsection (a), or

"(B) having a legislature which does not 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 regular legislative session of the State legislature that begins on or after January 1, 1994. 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 legislative session of the State legislature.

"(3) REQUIREMENTS APPLIED TO EXISTING POLICIES.—In the case of a health insurance plan in effect before the applicable effective date specified in paragraph (1) or (2), the requirements referred to in subsections (a) and (b) of section 2112 shall not apply to any such plan, or any renewal of such plan, before the date which is 2 years after such effective date.

"(c) REPORTING REQUIREMENTS OF STATES.—Each State shall submit to the Secretary, at intervals established by the Secretary, a report on the implementation and enforcement of the standards under the program established under subsection (a)(1) with respect to health insurance plans offered to small employers.

"(d) MORE STRINGENT STATE STANDARDS PERMITTED.—Except as provided in subsections (b)(8) and (c)(4) of section 2113, a State may implement standards that are more stringent than the standards established to meet the requirements of part B of this title.

"(e) LIMITED WAIVER OF RATING REQUIREMENTS.—The Secretary may waive requirements with respect to subsections (b) and (c) of section 2112 in the case of a State with equally stringent but not identical standards in effect prior to January 1, 1992.

"ESTABLISHMENT OF STANDARDS

"SEC. 2102. (a) ESTABLISHMENT OF STANDARDS.—

"(1) ROLE OF THE NAIC.—The Secretary shall request that the NAIC—

"(A) develop specific standards, in the form of a model Act and model regulations, to implement the requirements of part B of this title; and

"(B) report to the Secretary on such standards,

by not later than September 30, 1992. If the NAIC develops such standards within such period and the Secretary finds that such standards implement the requirements of part B of this title, such standards shall be the standards applied under section 2101.

"(2) ROLE OF THE SECRETARY.—If the NAIC fails to develop and report on the standards described in paragraph (1) by the date specified in such paragraph or the Secretary finds that such standards do not implement the requirements under part B of this title, the Secretary shall develop and publish such standards, by not later than December 31, 1992. Such standards shall then be the standards applied under section 2101.

"(3) STANDARDS ON GUARANTEED AVAILABILITY.—The standards developed under paragraphs (1) and (2) shall provide alternative standards for guaranteeing availability of health insurance plans for all small employers in a State as provided in section 2111(c).

"(4) GUIDELINES FOR DEMOGRAPHIC RATING FACTORS.—The standards developed under paragraphs (1) and (2) shall include guidelines with respect to rating factors used by insurers to adjust premiums to reflect demographic characteristics of a small employer group.

"(b) PERIODIC SECRETARIAL REVIEW OF STATE REGULATORY PROGRAM.—The Secretary periodically shall review State regulatory programs to determine if they continue to meet and enforce the standards referred to in subsection (a). If the Secretary initially determines that a State regulatory program no longer meets and enforces such standards, the Secretary shall provide the State an opportunity to adopt a plan of correction that would bring such program into compliance with such standards. If the Secretary makes a final determination that the State regulatory program fails to meet and enforce such standards and requirements after such an opportunity, the Secretary shall decertify such program and assume responsibility under section 2101(a)(2) with respect to plans in the State.

"(c) GAO AUDITS.—The Comptroller General of the United States shall conduct periodic reviews on a sample of State regulatory programs to determine their compliance with the standards and requirements of this title. The Comptroller General of the United States shall report to the Secretary and Congress on the findings of such reviews.

"DEFINITIONS

"SEC. 2103. (a) HEALTH INSURANCE PLAN.—As used in this title, the term 'health insurance plan' means any hospital or medical service policy or certificate, hospital or medical service plan contract, health maintenance organization group contract, or a multiple employer welfare arrangement, but does not include—

"(1) a self-insured group health plan;

"(2) a self-insured multiemployer group health plan; or

"(3) any of the following offered by an insurer—

"(A) accident only, dental only, vision only, disability only insurance, or long-term care only insurance,

"(B) coverage issued as a supplement to liability insurance,

"(C) medicare supplemental insurance as defined in section 1882(g)(1),

"(D) workmen's compensation or similar insurance, or

"(E) automobile medical-payment insurance.

In the case of a multiple employer welfare arrangement that is fully insured, the requirements of this Act shall only apply to the insurer of the arrangement.

"(b) INSURER.—As used in this title the term 'insurer' means any person that offers a health insurance plan to a small employer.

"(c) GENERAL DEFINITIONS.—As used in this title:

"(1) APPLICABLE REGULATORY AUTHORITY.—The term 'applicable regulatory authority' means—

"(A) in the case of a health insurance plan offered in a State with a program meeting the requirements of part B of this title, the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance; or

"(B) in the case of a health insurance plan certified by the Secretary under section 2101(a)(2), the Secretary.

"(2) SMALL EMPLOYER.—The term 'small employer' means, with respect to a calendar year, an employer that normally employs more than 1 but less than 51 eligible employees on a typical business day. For the purposes of this paragraph, the term 'employee' includes a self-employed individual.

"(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

"(4) NAIC.—The term 'NAIC' means the National Association of Insurance Commissioners.

"(5) STATE.—The term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"PART B—SMALL EMPLOYER HEALTH INSURANCE REFORM

"GENERAL REQUIREMENTS FOR HEALTH INSURANCE PLANS ISSUED TO SMALL EMPLOYERS

"SEC. 2111. (a) REGISTRATION WITH APPLICABLE REGULATORY AUTHORITY.—Each insurer shall register with the applicable regulatory authority for each State in which it issues or offers a health insurance plan to small employers.

"(b) GUARANTEED ELIGIBILITY.—

"(1) IN GENERAL.—No insurer may exclude from coverage any eligible employee, or the spouse or any dependent child of the eligible employee, to whom coverage is made available by a small employer.

"(2) WAITING PERIODS.—Paragraph (1) shall not apply to any period an eligible employee is excluded from coverage under the health insurance plan solely by reason of a requirement imposed by an employer applicable to all employees that a *minimum period of* service with the small employer is required before the employee is eligible for such coverage.

"(c) GUARANTEED AVAILABILITY.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, an insurer that offers a health insurance plan to small employers located in a State must meet the standards adopted by the State described in paragraph (2).

"(2) STANDARDS ON GUARANTEED AVAILABILITY.—

"(A) IN GENERAL.—In order to implement the requirements of this title, the standards developed under paragraphs (1) and (2) of section 2102(a) shall—

"(i) require that a State adopt a *mechanism* for guaranteeing the availability of health insurance plans for all small employers in the State,

"(ii) specify alternative mechanisms, including at least the alternative mechanisms described in subparagraph (B), that a State may adopt, and

"(iii) prohibit marketing or other practices by an insurer intended to discourage or limit the issuance of a health insurance plan to a *small employer on the* basis of size, industry, geographic area, expected need for health services, or other risk factors.

"(B) ALTERNATIVE MECHANISMS.—The alternative mechanisms described in this subparagraph are:

"(i) *A mechanism* under which the State—

"(I) requires that any insurer offering a health insurance plan to a small employer in the State shall offer the same plan to all other small employers in the State or in the portion of the State established as the insurer's geographic service area (as approved by the State), and

"(II) requires the participation of all such insurers in a small employer reinsurance program established by the State.

"(ii) *A mechanism under which the State*—

"(I) requires that any insurer offering a health insurance plan to a small employer in the State shall offer the same plan to all other small employers in the State or in the portion of the State established as the insurer's geographic service area (as approved by the State), and

"(II) permits any such insurer to participate in a small employer reinsurance program established by the State.

"(iii) A mechanism under which the State requires that any insurer offering a health insurance plan to a small employer in the State shall participate in a program for assigning high-risk groups among all such insurers.

"*(iv) A mechanism under which the State* requires that any insurer that—

"(I) offers a health insurance plan to a small employer in the State, and

"(II) does not agree to offer the same plan to all other small employers in the State or in the portion of the State established as the insurer's geographic service area (as approved by the State),

shall participate in a program for assigning high-risk groups among all such insurers.

"*(C) STATE ADOPTION OF CERTAIN STANDARDS.*—A regulatory program adopted by the State under section 2101 must provide—

"(i) for the adoption of one of the mechanisms described in clauses (i) through (iv) of subparagraph (B), or

"(ii) for such other program that guarantees availability of health insurance to all small employers in the State and is approved by the Secretary.

"(D) STANDARDS FOR NONCOMPLYING STATES.—The Secretary, in consultation with the Secretary of the Treasury, shall develop requirements with respect to guaranteed availability to apply with respect to insurers located in a State that has not adopted the standards under section 2102 and who wish to apply for certification under section 2101(a)(2).

"(3) GROUNDS FOR REFUSAL TO RENEW.—

"(A) IN GENERAL.—An insurer may refuse to renew, or (except with respect to clause (iii)) may terminate, a health insurance plan under this part only for—

"(i) nonpayment of premiums,

"(ii) fraud or misrepresentation,

"(iii) failure to maintain minimum participation rates (consistent with subparagraph (B)), or

"(iv) repeated misuse of a provider network provision.

"(B) MINIMUM PARTICIPATION RATES.—An insurer may require, with respect to a health insurance plan issued to a small employer, that a minimum percentage of eligible employees who do not otherwise have health insurance are enrolled in such plan if such percentage is applied uniformly to all plans offered to employers of comparable size.

"(d) GUARANTEED RENEWABILITY.—

"(1) IN GENERAL.—An insurer shall ensure that a health insurance plan issued to a small employer be renewed, at the option of the small employer, unless the plan is terminated for a reason specified in paragraph (2) or in subsection (c)(3)(A).

"(2) TERMINATION OF SMALL EMPLOYER BUSINESS.—An insurer is not required to renew a health insurance plan with respect to a small employer if the insurer—

"(A) elects not to renew all of its health insurance plans issued to small employers in a State; and

"(B) provides notice to the applicable regulatory authority in the State and to each small employer covered under a plan of such termination at least *180* days before the date of expiration of the plan.

In the case of such a termination, the insurer may not provide for issuance of any health insurance plan to a small employer in the State during the 5-year period beginning on the date of termination of the last plan not so renewed.

"(e) NO DISCRIMINATION BASED ON HEALTH STATUS FOR CERTAIN SERVICES.—

"(1) IN GENERAL.—Except as provided under paragraph (2), a health insurance plan offered to a small employer by an insurer may not deny, limit, or condition the coverage under (or benefits of) the plan based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(2) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, a health insurance plan *offered to a small employer* by an insurer may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months. The exclusion of coverage shall not apply to services furnished to newborns.

"(B) CREDITING OF PREVIOUS COVERAGE.—

"(i) IN GENERAL.—A health insurance plan issued to a small employer by an insurer shall provide that if an individual under such plan is in a period of continuous coverage (as defined in clause (ii)(I)) with respect to particular services as of the date of initial coverage under such plan, any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage.

"(ii) DEFINITIONS.—As used in this subparagraph:

"(I) PERIOD OF CONTINUOUS COVERAGE.—The term 'period of continuous coverage' means, with respect to particular services, the period beginning on the date an individual is enrolled under a health insurance plan, title XVIII, title XIX, or other health benefit arrangement including a self-insured plan which provides benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

"(II) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a health insurance plan issued to a small employer by an insurer, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage (without regard to any waiting period).

"REQUIREMENTS RELATED TO RESTRICTIONS ON RATING PRACTICES

"SEC. 2112. (a) LIMIT ON VARIATION OF PREMIUMS BETWEEN BLOCKS OF BUSINESS.—

"(1) IN GENERAL.—The base premium rate for any block of business of an insurer (as defined in section 2103(b)(1)) may not exceed the base premium rate for any other block of business by more than 20 percent.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to a block of business if the applicable regulatory authority determines that—

"(A) the block is one for which the insurer does not reject, and never has rejected, small employers included within the definition of employers eligible for the block of business or otherwise eligible employees and dependents who enroll on a timely basis, based upon their claims experience, health status, industry, or occupation,

"(B) the insurer does not transfer, and never has transferred, a health insurance plan involuntarily into or out of the block of business, and

"(C) health insurance plans offered under the block of business are currently available for purchase by small employers at the time an exception to paragraph (1) is sought by the insurer.

"(b) LIMIT ON VARIATION IN PREMIUM RATES WITHIN A BLOCK OF BUSINESS.—For a block of business of an insurer, the highest premium rates charged during a rating period to small employers with similar demographic characteristics (limited to age, sex, family size, and geography and not relating to claims experience, health status, industry, occupation, or duration of coverage since issue) for the same or similar coverage, or the highest rates which could be charged to such employers under the rating system for that block of business, shall not exceed an amount that is 1.5 times the base premium rate for the block of business for a rating period (or portion thereof) that occurs in the first 3 years in which this section is in effect, and 1.35 times the base premium rate thereafter.

"(c) CONSISTENT APPLICATION OF RATING FACTORS.—In establishing premium rates for health insurance plans offered to small employers—

"(1) an insurer making adjustments with respect to age, sex, family size, or geography must apply such adjustments consistently across small employers (as provided in guidelines developed under section 2102(a)(4)), and

"(2) no insurer may use a geographic area that is smaller than a county or smaller than an area that includes all areas in which the first three digits of the zip code are identical, whichever is smaller.

"(d) LIMIT ON TRANSFER OF EMPLOYERS AMONG BLOCKS OF BUSINESS.—

"(1) IN GENERAL.—An insurer may not transfer a small employer from one block of business to another without the consent of the employer.

"(2) OFFERS TO TRANSFER.—An insurer may not offer to transfer a small employer from one block of business to another unless—

"(A) the offer is made without regard to age, sex, geography, claims experience, health status, industry, occupation or the date on which the policy was issued, and

"(B) the same offer is made to all other small employers in the same block of business.

"(e) LIMITS ON VARIATION IN PREMIUM INCREASES.—The percentage increase in the premium rate charged to a small employer for a new rating period (determined on an annual basis) may not exceed the sum of the percentage change in the base premium rate plus 5 percentage points.

"(f) DEFINITIONS.—In this section:

"(1) BASE PREMIUM RATE.—The term 'base premium rate' means, for each block of business for each rating period, the lowest premium rate which could have been charged under a rating system for that block of business by the insurer to small employers with similar demographic or other relevant characteristics (limited to age, sex, family size, and geography and not relating to claims experience, health status, industry, occupation or duration of coverage since issue) for health insurance plans with the same or similar coverage.

"(2) BLOCK OF BUSINESS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'block of business' means, with respect to an insurer, all of the small employers with a health insurance plan issued by the insurer (as shown on the records of the insurer).

"(B) DISTINCT GROUPS.—

"(i) IN GENERAL.—Subject to clause (ii), a distinct group of small employers with health insurance plans issued by an insurer may be treated as a block of business by such insurer if all of the plans in such group—

"(I) are marketed and sold through individuals and organizations that do not participate in the marketing or sale of other distinct groups by the insurer,

"(II) have been acquired from another insurer as a distinct group, or

"(III) are provided through an association with membership of not less than 25 small employers that has been formed for purposes other than obtaining health insurance.

"(ii) LIMITATION.—An insurer may not establish more than six distinct groups of small employers.

"(g) FULL DISCLOSURE OF RATING PRACTICES.—

"(1) IN GENERAL.—At the time an insurer offers a health insurance plan to a small employer, the insurer shall fully disclose to the employer all of the following:

"(A) Rating practices for small employer health insurance plans, including rating practices for different populations and benefit designs.

"(B) The extent to which premium rates for the small employer are established or adjusted based upon the actual or expected variation in claims costs or health condition of the employees of such small employer and their dependents.

"(C) The provisions concerning the insurer's right to change premium rates, the extent to which premiums can be modified, and the factors which affect changes in premium rates.

"(2) NOTICE ON EXPIRATION.—An insurer providing health insurance plans to small employers shall provide for notice, at least 60 days before the date of expiration of the health insurance plan, of the terms for renewal of the plan. Such notice shall include an explanation of the extent to which any increase in premiums is due to actual or expected claims experience of the individuals covered under the small employer's health insurance plan contract.

"(h) ACTUARIAL CERTIFICATION.—Each insurer shall file annually with the applicable regulatory authority a written statement by a member of the American Academy of Actuaries (or other individual acceptable to such authority) certifying that, based upon an examination by the individual which includes a review of the appropriate records and of the actuarial assumptions of the insurer and methods used by the insurer in establishing premium rates for small employer health insurance plans—

"(1) the insurer is in compliance with the applicable provisions of this section, and

"(2) the rating methods are actuarially sound.

Each insurer shall retain a copy of such statement for examination at its principal place of business.

"REQUIREMENTS FOR SMALL EMPLOYER HEALTH INSURANCE BENEFIT PACKAGE OFFERINGS

"SEC. 2113. (a) BASIC AND STANDARD BENEFIT PACKAGES.—

"(1) IN GENERAL.—If an insurer offers any health insurance plan to small employers in a State, the insurer shall also offer a health insurance plan providing for the standard benefit package defined in subsection (b) and a health insurance plan providing for the basic benefit package defined in subsection (c).

"(2) MANAGED CARE OPTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if an insurer offers any health insurance plan to small employers in a State and also offers a managed care plan in the State or a geographic area within the State to employers that are not small employers, the insurer must offer a similar managed care plan to small employers in the State or geographic area.

"(B) SIZE LIMITS.—An insurer may cease enrolling new small employer groups in all or a portion of the insurer's service area for a managed care plan if it ceases to enroll any new employer groups within the service area or within a portion of a service area of such plan.

"(b) STANDARD BENEFIT PACKAGE.—

"(1) IN GENERAL.—

"(A) PACKAGE DEFINED.—Except as otherwise provided in this section, a health insurance plan providing for a standard benefit package shall be limited to payment for—

"(i) inpatient and outpatient hospital care, except that treatment for a mental disorder, as defined in subparagraph (B)(i), is subject to the special limitations described in clause (v)(I);

"(ii) inpatient and outpatient physician services, as defined in subparagraph (B)(ii), except that psychotherapy or counseling for a mental disorder is subject to the special limitations described in clause (v)(II);

"(iii) diagnostic tests;

"(iv) preventive services limited to—

"(I) prenatal care and well-baby care provided to children who are 1 year of age or younger;

"(II) well-child care;

"(III) Pap smears;

"(IV) mammograms; and

"(V) colonrectal screening services; and

"(v)(I) inpatient hospital care for a mental disorder for not less than 45 days per year, except that days of partial hospitalization or residential care may be substituted for days of inpatient care; and

"(II) outpatient psychotherapy and counseling for a mental disorder for not less than 20 visits per year provided by a provider who is acting within the scope of State law and who—

"(aa) is a physician; or

"(bb) is a duly licensed or certified clinical psychologist or a duly licensed or certified clinical social worker, a duly licensed or certified equivalent mental health professional, or a clinic or center providing duly licensed or certified mental health services.

"(B) DEFINITIONS.—For purposes of this paragraph:

"(i) MENTAL DISORDER.—The term 'mental disorder' has the same meaning given such term in the International Classification of Diseases, 9th Revision, Clinical Modification.

"(ii) PHYSICIAN SERVICES.—The term 'physician services' means professional medical

services lawfully provided by a physician under State medical practice acts, and includes professional services provided by a dentist, licensed advanced-practice nurse, physician assistant, optometrist, podiatrist, or chiropractor acting within the scope of their practices (as determined under State law) if such services would be treated as physician services if furnished by a physician.

"(2) AMOUNT, SCOPE, AND DURATION OF CERTAIN BENEFITS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and in paragraph (3), a health insurance plan providing for a standard benefit package shall place no limits on the amount, scope, or duration of benefits described in subparagraphs (A) through (C) of paragraph (1).

"(B) PREVENTIVE SERVICES.—A health insurance plan providing for a standard benefit package may limit the amount, scope, and duration of preventive services described in subparagraph (D) of paragraph (1) provided that the amount, scope, and duration of such services are reasonably consistent with recommendations and periodicity schedules developed by appropriate medical experts.

"(3) EXCEPTIONS.—Paragraph (1) shall not be construed as requiring a plan to include payment for—

"(A) items and services that are not medically necessary;

"(B) routine physical examinations or preventive care (other than care and services described in subparagraph (D) of paragraph (1)); or

"(C) experimental services and procedures.

"(4) LIMITATION ON PREMIUMS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an insurer issuing a health insurance plan providing for a standard benefit package shall not require an employee to pay a monthly premium which exceeds 20 percent of the total monthly premium.

"(B) PART-TIME EMPLOYEE EXCEPTED.—In the case of a part-time employee, an insurer issuing a health insurance plan providing for a standard benefit package may require that *such an employee pay a monthly premium* that does not exceed 50 percent of the total monthly premium.

"(5) LIMITATION ON DEDUCTIBLES.—

"(A) IN GENERAL.—Except as permitted under subparagraph (B), a health insurance plan providing for a standard benefit package shall not provide a deductible amount *for benefits provided in any plan year* that exceeds—

"(i) with respect to benefits payable for items and services furnished to any employee with no family member enrolled under the plan, for a plan year beginning in—

"(I) a calendar year prior to 1993, $400; or

"(II) for a subsequent calendar year, the limitation specified in this clause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year; and

"(ii) with respect to benefits payable for items and services furnished to any employee with a family member enrolled under the standard benefit package plan, for a plan year beginning in—

"(I) a calendar year prior to 1993, $400 per family member and $700 per family; or

"(II) for a subsequent calendar year, the limitation specified in this clause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year. If the limitation computed under clause (i)(II) or (ii)(II) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(B) WAGE-RELATED DEDUCTIBLE.—A health insurance plan may provide for any other deductible amount instead of the limitations under—

"(i) subparagraph (A)(i), if such amount does not exceed (on an annualized basis) 1 percent of the total wages paid to the employee in the plan year; or

"(ii) subparagraph (A)(ii), if such amount does not exceed (on an annualized basis) 1 percent per family member or 2 percent per family of the total wages paid to the employee in the plan year.

"(6) LIMITATION ON COPAYMENTS AND COINSURANCE.—

"(A) IN GENERAL.—Subject to subparagraphs *(B) through (D)*, a health insurance plan providing for a standard health benefit package may not require the payment of any copayment or coinsurance for an item or service for which coverage is required under this section—

"(i) in an amount that exceeds 20 percent of the amount payable for the item or service *under the plan*; or

"(ii) after an employee and family covered under the plan have incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit (as defined in subparagraph (E)(ii)) for a plan year.

"(B) EXCEPTION FOR MANAGED CARE PLANS.—A health insurance plan that is a managed care plan may require payments in excess of the amount permitted under subparagraph (A) in the case of items and services furnished by nonparticipating providers.

"(C) EXCEPTION FOR IMPROPER UTILIZATION.—A health insurance plan may provide for copayment or coinsurance in excess of the amount permitted under subparagraph (A) for any item or service that an individual obtains without complying with procedures established by a managed care plan or under a utilization program to ensure the efficient and appropriate utilization of covered services.

"(D) EXCEPTIONS FOR MENTAL HEALTH CARE.—In the case of care described in paragraph (1)(E)(ii), a health insurance plan shall not require payment of any copayment or coinsurance for an item or service for which coverage is required by this part in an amount that exceeds 50 percent of the amount payable for the item or service.

"(7) LIMIT ON OUT-OF-POCKET EXPENSES.—

"(A) OUT-OF-POCKET EXPENSES DEFINED.—As used in this section, the term 'out-of-pocket *expenses' means, with respect to* an employee in a plan year, amounts payable under the plan as deductibles and coinsurance with respect to items and services provided under the plan and furnished in the plan year on behalf of the employee and family covered under the plan.

"(B) OUT-OF-POCKET LIMIT DEFINED.—As used in this section and except as provided in subparagraph (C), the term 'out-of-pocket limit' means for a plan year beginning in—

"(i) a calendar year prior to 1993, $3,000; or

"(ii) for a subsequent calendar year, the limit specified in this subparagraph for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year. If the limit computed under clause (ii) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(C) ALTERNATIVE OUT-OF-POCKET LIMIT.—A health insurance plan may provide for an out-of-pocket limit other than that defined in subparagraph (B) if, for a plan year with respect to an employee and the family of the employee, the limit does not exceed (on an annualized basis) 10 percent of the total wages paid to the employee in the plan year.

"(8) LIMITED PREEMPTION OF STATE MANDATED BENEFITS.—No State law or regulation in effect in a State that requires health insurance plans offered to small employers in the State to include specified items and services other than those specified by this subsection shall apply with respect to a health insurance plan providing for a standard benefit package offered by an insurer to a small employer. A State law or regulation requiring the coverage of newborns, adopted children or other specified categories of dependents shall continue to apply.

"(c) BASIC BENEFITS PACKAGE.—

"(1) IN GENERAL.—A health insurance plan providing for a basic benefit package shall be limited to payment for—

"(A) inpatient and outpatient hospital care, including emergency services;

"(B) inpatient and outpatient physicians' services;

"(C) diagnostic tests; and

"(D) preventive services (which may include one or more of the following services)—

"(i) prenatal care and well-baby care provided to children who are 1 year of age or younger;

"(ii) well-child care;

"(iii) Pap smears;

"(iv) mammograms; and

"(v) colonrectal screening services.

Nothing in this paragraph shall prohibit a basic health benefit package from including coverage for treatment of a mental disorder.

"(2) COST-SHARING.—Each health insurance plan providing for the basic benefit package issued to a small employer by an insurer may impose premiums, deductibles, copayments, or other cost-sharing on enrollees of such plan.

"(3) OUT-OF-POCKET LIMIT.—Each health insurance plan providing for a basic benefit package shall provide for a limit on out-of-pocket expenses.

"(4) *LIMITED PREEMPTION OF STATE MANDATED BENEFITS.*—No State law or regulation in effect in a State that requires health insurance plans offered to small employers in the State to include specified items and services other than those described in this subsection shall apply with respect to a health insurance plan providing for a basic benefit package offered by an insurer to a small employer. A State law or regulation requiring the coverage of newborns, adopted children or other specified categories of dependents shall continue to apply.".

Subpart B—Tax Penalty on Noncomplying Insurers

SEC. 2174. EXCISE TAX ON PREMIUMS RECEIVED *ON HEALTH INSURANCE POLICIES* WHICH DO NOT MEET CERTAIN REQUIREMENTS.

(a) IN GENERAL.—Chapter 47 (relating to taxes on group health plans) is amended by adding at the end thereof the following new section:

"SEC. 5000A. FAILURE TO SATISFY CERTAIN STANDARDS FOR HEALTH INSURANCE.

"(a) GENERAL RULE.—In the case of any person issuing a health insurance plan to a

small employer, there is hereby imposed a tax on the failure of such person to meet at any time during any taxable year the applicable requirements of title XXI of the Social Security Act. The Secretary of Health and Human Services shall determine whether any person meets the requirements of such title.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) by reason of 1 or more failures during a taxable year shall be equal to 25 percent of the gross premiums received during such taxable year with respect to all health insurance plans issued to a small employer by the person on whom such tax is imposed.

"(2) GROSS PREMIUMS.—For purposes of paragraph (1), gross premiums shall include any consideration received with respect to any accident and health insurance contract.

"(3) CONTROLLED GROUPS.—For purposes of paragraph (1)—

"(A) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(B) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(c) LIMITATION ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the person on whom the tax is imposed did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) DEFINITIONS.—For purposes of this section:

"(1) HEALTH INSURANCE PLAN.—The term 'health insurance plan' means any hospital or medical service policy or certificate, hospital or medical service plan contract, health maintenance organization group contract, or a multiple employer welfare arrangement, but does not include—

"(A) a self-insured group health plan;

"(B) a self-insured multiemployer group health plan; or

"(C) any of the following:

"(i) accident only, dental only, vision only, disability only, or long-term care only insurance,

"(ii) coverage issued as a supplement to liability insurance,

"(iii) medicare supplemental insurance as defined in section 1882(g)(1),

"(iv) workmen's compensation or similar insurance, or

"(v) automobile medical-payment insurance.

In the case of a multiple employer welfare arrangement that is fully insured, this Act shall only apply to the insurer of the arrangement.

"(2) SMALL EMPLOYER.—The term 'small employer' means, with respect to a calendar year, an employer that normally employs more than 1 but less than 51 eligible employees on a typical business day. For the purposes of this paragraph, the term 'employee' includes a self-employed individual.

"(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

"(4) PERSON.—The term 'person' means any person that offers a health insurance plan to a small employer, including a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, or in States which have distinct insurance licensure requirements, a multiple employer welfare arrangement.".

(b) NONDEDUCTIBILITY OF TAX.—Paragraph (6) of section 275(a) (relating to nondeductibility of certain taxes) is amended by inserting "47," after "46,".

(c) CLERICAL AMENDMENTS.—The table of sections for such chapter 47 is amended by adding at the end thereof the following new item:

"Sec. 5000A. Failure to satisfy certain standards for health insurance.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall take effect on the date of the enactment of this Act.

(2) NONDEDUCTIBILITY OF TAX.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1991.

Subpart C—Studies and Reports

SEC. 2175. GAO STUDY AND REPORT ON RATING REQUIREMENTS AND BENEFIT PACKAGES FOR SMALL GROUP HEALTH INSURANCE.

(a) IN GENERAL.—The Comptroller General of the United States shall study and report to the Congress by no later than January 1, 1995, on—

(1) the impact of the standards for rating practices for small group health insurance established under section 2112 of the Social Security Act and the requirements for benefit packages established under section 2113 of such Act on the availability and price of insurance offered to small employers, differences in available benefit packages, the number of small employers choosing standard or basic packages, and the impact of the standards on the number of small employers offering health insurance to employees through a self-funded employer welfare benefit plan; and

(2) differences in State laws and regulations affecting the availability and price of health insurance plans sold to individuals and the impact of such laws and regulations, including the extension of requirements for health insurance plans sold to small employers in the State to individual health insurance and the establishment of State risk pools for individual health insurance.

(b) RECOMMENDATIONS.—The Comptroller General shall include in the report to Congress under this section recommendations with respect to adjusting rating standards under section 2112 of the Social Security Act—

(1) to eliminate variation in premiums charged to small employers resulting from adjustments for such factors as claims experience and health status, and

(2) to eliminate variation in premiums associated with age, sex, and other demographic factors.

PART III—IMPROVEMENTS IN PORTABILITY OF PRIVATE HEALTH INSURANCE

SEC. 2176. EXCISE TAX IMPOSED ON FAILURE TO PROVIDE FOR PREEXISTING CONDITION.

(a) IN GENERAL.—Chapter 47 (relating to taxes on group health plans), as amended by section 2221, is amended by adding at the end thereof the following new section:

"SEC. 5000B. FAILURE TO SATISFY PREEXISTING CONDITION REQUIREMENTS OF GROUP HEALTH PLANS.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of—

"(1) a group health plan to meet the requirements of subsection (e), or

"(2) any person to meet the requirements of subsection (f)

with respect to any covered individual.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to a covered individual shall be $100 for each day in the noncompliance period with respect to such failure.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the date such failure is corrected.

"(3) CORRECTION.—A failure of a group health plan to meet the requirements of subsection (e) with respect to any covered individual shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the covered individual is placed in a financial position which is as good as such individual would have been in had such failure not occurred.

For purposes of applying subparagraph (B), the covered individual shall be treated as if the individual had elected the most favorable coverage in light of the expenses incurred since the failure first occurred.

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the first date any of the persons referred to in subsection (d)

knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the following shall be liable for the tax imposed by subsection (a) on a failure:

"(A) In the case of a group health plan other than a self-insured group health plan, the issuer.

"(B)(i) In the case of a self-insured group health plan other than a multiemployer group health plan, the employer.

"(ii) In the case of a self-insured multiemployer group health plan, the plan.

"(C) Each person who is responsible (other than in a capacity as an employee) for administering or providing benefits under the group health plan, health insurance plan, or other health benefit arrangement (including a self-insured plan) and whose act or failure to act caused (in whole or in part) the failure.

"(2) SPECIAL RULES FOR PERSONS DESCRIBED IN PARAGRAPH (1)(C).—A person described in subparagraph (C) (and not in subparagraphs (A) and (B)) of paragraph (1) shall be liable for the tax imposed by subsection (a) on any failure only if such person assumed (under a legally enforceable written agreement) responsibility for the performance of the act to which the failure relates.

"(e) NO DISCRIMINATION BASED ON HEALTH STATUS FOR CERTAIN SERVICES.—

"(1) IN GENERAL.—Except as provided under paragraph (2), group health plans may not deny, limit, or condition the coverage under (or benefits of) the plan based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(2) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, group health plans may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months. The exclusion of coverage shall not apply to services furnished to newborns.

"(B) CREDITING OF PERVIOUS COVERAGE.—

"(i) IN GENERAL.—A group health plan shall provide that if an individual under such plan is in a period of continuous coverage (as defined in clause (ii)(I)) with respect to particular services as of the date of initial coverage under such plan (determined without regard to any waiting period under such plan), any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage without regard to any waiting period.

"(ii) DEFINITIONS.—As used in this subparagraph:

"(I) PERIOD OF CONTINUOUS COVERAGE.—The term 'period of continuous coverage' means, with respect to particular services, the period beginning on the date an individual is enrolled under a health insurance plan, title XVIII or XIX of the Social Security Act, or other health benefit arrangement (including a self-insured plan) which provides benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

"(II) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a group health plan, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage without regard to any waiting period.

"(f) DISCLOSURE OF COVERAGE, ETC.—Any person who has provided coverage (other than under title XVIII or XIX of the Social Security Act) during a period of continuous coverage (as defined in subsection (e)(2)(B)(ii)(I)) with respect to a covered individual shall disclose, upon the request of a group health plan subject to the requirements of subsection (e), the coverage provided the covered individual, the period of such coverage, and the benefits provided under such coverage.

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

"(1) COVERED INDIVIDUAL.—The term 'covered individual' means—

"(A) an individual who is (or will be) provided coverage under a group health plan by virtue of the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1)), and

"(B) the spouse or any dependent child of such individual.

"(2) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term by section 5000(b)(1).".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 47 is amended by adding at the end thereof the following new item:

"Sec. 5000B. Failure to satisfy preexisting condition requirements of group health plans.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1992.

PART IV—HEALTH CARE COST CONTAINMENT

SEC. 2177. ESTABLISHMENT OF HEALTH CARE COST COMMISSION.

(a) IN GENERAL.—There is hereby established a Health Care Cost Commission (in this subtitle referred to as the "Commission"). The Commission shall be composed of 11 members, appointed by the President by and with the advice and consent of the Senate. The membership of the Commission shall include individuals with nationally recognized expertise in health insurance, health economics, health care provider reimbursement, and related fields. The President shall provide for appointment of individuals to the Commission within 6 months of the date of enactment of this Act and in appointing such individuals to the Commission, the President shall assure representation of consumers of health services, large and small employers, State and local governments, labor organizations, health care providers, health care insurers, and experts on the development of medical technology.

(b) TERMS.—

(1) CHAIRMAN.—The term of the Chairman shall be coincident with the term of the President.

(2) OTHER MEMBERS OF THE COMMISSION.—Except as provided in paragraph (1), members of the Commission shall be appointed to serve for terms of 3 years, except that the terms of the members first appointed shall be staggered so that the terms of no more than 4 members expire in any year.

(3) VACANCIES.—Individuals appointed to fill a vacancy created in the Commission shall be appointed only for the unexpired portion of the term for which the individual's predecessor was appointed.

(c) DUTIES.—

(1) ANNUAL REPORT.—

(A) IN GENERAL.—The Commission shall report annually to the President and the Congress on national health care costs. Such report shall be made by March 30 of each year and shall include information on—

(i) levels and trends in public and private health care spending by type of health care service, geographic region of the country, and public and private sources of payment;

(ii) levels and trends in the cost of private health insurance coverage for individuals and groups;

(iii) sources of high and rising health care costs, including inflation in input prices, demographic changes and the utilization, supply and distribution of health care services; and

(iv) comparative trends in other countries and reasons for any differences from trends in the United States.

(B) ASSESSMENT AND RECOMMENDATIONS.—The report shall also analyze and assess the impact of public and private efforts to reduce growth in health care spending, and shall include recommendations for cost containment efforts.

(2) NATIONAL UNIFORM CLAIMS FORMS AND REPORTING STANDARDS.—

(A) IN GENERAL.—As part of its first annual report, the Commission shall, taking into account recommendations by the Secretary of Health and Human Services, recommend—

(i) a national uniform claims form for use by health care providers and individuals in submitting claims to private health insurers and the medicare and medicaid programs;

(ii) national standards for reporting of insurance information including coverage benefits, copayments, and deductibles;

(iii) national standards for uniform reporting by health care providers of information including clinical diagnoses, services provided, and costs of services; and

(iv) a strategy and schedule for implementing national use of such claims forms and reporting standards by January 1, 1996.

(B) RELEVANT FACTORS.—In developing its recommendations, the Commission shall consider—

(i) the potential use of electronic cards or other technology that allows expedited access to medical records, insurance, and billing information;

(ii) the need for patient confidentiality; and

(iii) special implementation issues including those concerning providers in rural and inner-city areas.

(C) REPORT.—The Commission shall report annually and make recommendations with respect to—

(i) the progress made toward national implementation of uniform claims forms and reporting standards; and

(ii) other approaches to minimize the impact of administrative costs on national health spending.

(3) STANDARDS FOR MANAGED CARE.—The Commission shall make recommendations to the Secretary of Health and Human Services for the development and ongoing review of standards for managed care plans and utilization review programs (as defined under section 2114 of title XXI of the Social Security Act).

(d) MISCELLANEOUS.—

(1) AUTHORITY.—The Commission may—

(A) employ and fix compensation of an Executive Director and such other personnel (not to exceed 25) as may be necessary to

carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

(C) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)); and

(D) make advance, progress, and other payments which relate to the work of the Commission.

(2) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from the member's home and regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority.

(3) ACCESS TO INFORMATION, ETC.—The Commission shall have access to such relevant information and data as may be available from appropriate Federal agencies and shall assure that its activities, especially the conduct of original research and medical studies, are coordinated with the activities of Federal agencies. The Commission shall be subject to periodic audit by the General Accounting Office.

(4) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 2178. FEDERAL CERTIFICATION OF MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS.

Title XXI of the Social Security Act, as added by title II of this Act, is amended by adding at the end the following part:

"PART C—FEDERAL CERTIFICATION OF MANAGED CARE PLANS

"FEDERAL CERTIFICATION OF MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS

"SEC. 2114. (a) VOLUNTARY CERTIFICATION PROCESS.—

"(1) CERTIFICATION.—The Secretary shall establish a process for certification of managed care plans meeting the requirements of subsection (b)(1) and of utilization review programs meeting the requirements of subsection (b)(2).

"(2) QUALIFIED MANAGED CARE PLAN.—For purposes of this title, the term 'qualified managed care plan' means a managed care plan that the Secretary certifies, upon application by the program, as meeting the requirements of this section.

"(3) QUALIFIED UTILIZATION REVIEW PROGRAM.—For purposes of this title, the term 'qualified utilization review program' means a utilization review program that the Secretary certifies, upon application by the program, as meeting the requirements of this section.

"(4) UTILIZATION REVIEW PROGRAM.—For purposes of this title, the term 'utilization review program' means a system of reviewing the medical necessity, appropriateness, or quality of health care services and supplies covered under a health insurance plan or a managed care plan using specified guidelines. Such a system may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory procedures, and retrospective review.

"(5) MANAGED CARE PLAN.—

"(A) IN GENERAL.—For purposes of this title the term 'managed care plan' means a plan operated by a managed care entity as described in subparagraph (B), that arranges for the financing and delivery of health care services to persons covered under such plan through—

"(i) arrangements with participating providers to furnish health care services;

"(ii) explicit standards for the selection of participating providers;

"(iii) organizational arrangements for ongoing quality assurance and utilization review programs; and

"(iv) financial incentives for persons covered under the plan to use the participating providers and procedures provided for by the plan.

"(B) MANAGED CARE ENTITY DEFINED.—For purposes of this title, a managed care entity includes a licensed insurance company, hospital or medical service plan, health maintenance organization, an employer, or employee organization, or a managed care contractor as described in subparagraph (C), that operates a managed care plan.

"(C) MANAGED CARE CONTRACTOR DEFINED.—For purposes of this title, a managed care contractor means a person that—

"(i) establishes, operates or maintains a network of participating providers;

"(ii) conducts or arranges for utilization review activities; and

"(iii) contracts with an insurance company, a hospital or medical service plan, an employer, an employee organization, or any other entity providing coverage for health care services to operate a managed care plan.

"(6) PARTICIPATING PROVIDER.—The term 'participating provider' means a physician, hospital, pharmacy, laboratory, or other appropriately licensed provider of health care services or supplies, that has entered into an agreement with a managed care entity to provide such services or supplies to a patient covered under a managed care plan.

"(7) REVIEW AND RECERTIFICATION.—The Secretary shall establish procedures for the periodic review and recertification of qualified managed care plans and qualified utilization review programs.

"(8) TERMINATION OF CERTIFICATION.—The Secretary shall terminate the certification of a qualified managed care plan or a qualified utilization review program if the Secretary determines that such plan or program no longer meets the applicable requirements for certification. Before effecting a termination, the Secretary shall provide the plan notice and opportunity for a hearing on the proposed termination.

"(9) CERTIFICATION THROUGH ALTERNATIVE REQUIREMENTS.—

"(A) CERTAIN ORGANIZATIONS RECOGNIZED.—An eligible organization as defined in section 1876(b), shall be deemed to meet the requirements of subsection (b) for certification as a qualified managed care plan.

"(B) RECOGNITION OF ACCREDITATION.—If the Secretary finds that a State licensure program or a national accreditation body establishes a requirement or requirements for accreditation of a managed care plan or utilization review program that are at least equivalent to a requirement or requirements established under subsection (b), the Secretary may, to the extent he finds it appropriate, treat a managed care plan or a utilization review program thus accredited as meeting the requirement or requirements of subsection (b) with respect to which he made such finding.

"(b) REQUIREMENTS FOR CERTIFICATION.—

"(1) MANAGED CARE PLANS.—The Secretary, in consultation with the Health Care Cost Commission, shall establish Federal standards for the certification of qualified managed care plans, including standards related to—

"(A) the qualification and selection of participating providers;

"(B) the number, type, and distribution of participating providers necessary to assure that all covered items and services are available and accessible to persons covered under a managed care plan in each service area;

"(C) the establishment and operation of an ongoing quality assurance program, which includes procedures for—

"(i) evaluating the quality and appropriateness of care;

"(ii) using the results of quality evaluations to promote and improve quality of care; and

"(iii) resolving complaints from enrollees regarding quality and appropriateness of care;

"(D) the provision of benefits for covered items and services not furnished by participating providers if the items and services are medically necessary and immediately required because of an unforeseen illness, injury, or condition;

"(E) the qualifications of individuals performing utilization review activities;

"(F) procedures and criteria for evaluating the necessity and appropriateness of health care services;

"(G) the timeliness with which utilization review determinations are to be made;

"(H) procedures for the operation of an appeals process which provides a fair opportunity for individuals adversely affected by a managed care review determination to have such determination reviewed;

"(I) procedures for ensuring that all applicable Federal and State laws designed to protect the confidentiality of individual medical records are followed; and

"(J) payment of providers for the expenses associated with responding to requests for information needed to conduct a utilization review.

"(2) QUALIFIED UTILIZATION REVIEW PROGRAMS.—The Secretary, in consultation with the Health Care Cost Commission, shall establish Federal standards for the certification of qualified utilization review programs, including standards related to—

"(A) the qualifications of individuals performing utilization review activities;

"(B) procedures and criteria for evaluating the necessity and appropriateness of health care services;

"(C) the timeliness with which utilization review determinations are to be made;

"(D) procedures for the operation of an appeals process which provides a fair opportunity for individuals adversely affected by a utilization review determination to have such determination reviewed;

"(E) procedures for ensuring that all applicable Federal and State laws designed to protect the confidentiality of individual medical records are followed; and

"(F) payment of providers for the expenses associated with responding to requests for information needed to conduct a utilization review.

"(3) APPLICATION OF STANDARDS.—

"(A) IN GENERAL.—Standards shall first be established under this subsection by not later than 24 months after the date of the enactment of this section. In developing standards under this subsection, the Secretary shall—

"(i) review standards in use by national private accreditation organizations and State licensure programs;

"(ii) recognize, to the extent appropriate, differences in the organizational structure and operation of managed care plans; and

"(iii) establish procedures for the timely consideration of applications for certification by managed care plans and utilization review programs.

"(B) REVISION OF STANDARDS.—The Secretary shall periodically review the standards established under this subsection, taking into account recommendations by the Health Care Cost Commission, and may revise the standards from time to time to assure that such standards continue to reflect appropriate policies and practices for the cost-effective and medically appropriate use of services within managed care plans and utilization review programs.

"(c) LIMITATION ON STATE RESTRICTIONS ON QUALIFIED MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS.—

"(1) IN GENERAL.—No requirement of any State law or regulation shall—

"(A) prohibit or limit a qualified managed care plan from including financial incentives for covered persons to use the services of participating providers;

"(B) prohibit or limit a qualified managed care plan from restricting coverage of services to those—

"(i) provided by a participating provider; or

"(ii) authorized by a designated participating provider;

"(C) subject to paragraph (2)—

"(i) restrict the amount of payment made by a qualified managed care plan to participating providers for items and services provided to covered persons; or

"(ii) restrict the ability of a qualified managed care plan to pay participating providers for items and services provided to covered persons on a per capita basis;

"(D) prohibit or limit a qualified managed care plan from restricting the location, number, type, or professional qualifications of participating providers;

"(E) prohibit or limit a qualified managed care plan from requiring that items and services be authorized by a primary care physician selected by the covered person from a list of available participating providers;

"(F) prohibit or limit the use of utilization review procedures or criteria by a qualified utilization review program or a qualified managed care plan;

"(G) require a qualified utilization review program or a qualified managed care plan to make public utilization review procedures or criteria;

"(H) prohibit or limit a qualified utilization review program or a qualified managed care plan from determining the location or hours of operation of a utilization review, provided that emergency services furnished during the hours in which the utilization review program is not open are not subject to utilization review;

"(I) require a qualified utilization review program or a qualified managed care plan to pay providers for the expenses associated with responding to requests for information needed to conduct utilization review, other than as provided in standards for qualified managed care plans and qualified utilization review programs;

"(J) restrict the amount of payment made to a qualified utilization review program or a qualified managed care plan for the conduct of utilization review;

"(K) restrict access by a qualified utilization review program or a qualified managed care plan to medical information or personnel required to conduct utilization review;

"(L) define utilization review as the practice of medicine or another health care profession; or

"(M) require that utilization review be conducted (i) by a resident of the State in which the treatment is to be offered or by an individual licensed in such State, or (ii) by a physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

"(2) EXCEPTIONS TO CERTAIN REQUIREMENTS.—

"(A) SUBPARAGRAPH (C).—Subparagraph (C) shall not apply where the amount of payments with respect to a block of services or providers is established under a statewide system applicable to all non-Federal payors with respect to such services or providers.

"(B) SUBPARAGRAPHS (L) AND (M).—Nothing in subparagraphs (L) or (M) shall be construed as prohibiting a State from (i) requiring that utilization review be conducted by a licensed health care professional or (ii) requiring that any appeal from such a review be made by a licensed physician or by a licensed physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

"(3) RELATIONSHIP TO MEDICAID PROGRAM.—Nothing in paragraph (1) shall be construed as prohibiting a State from imposing requirements on managed care plans or utilization review programs that are necessary to conform with the requirements of title XIX of the Social Security Act with respect to services provided to, or with respect to, individuals receiving medical assistance under such title.".

SEC. 2179. ADDITIONAL FUNDING FOR OUTCOMES RESEARCH.

Section 1142(i) of the Social Security Act is amended—

(1) in paragraph (1), to read as follows:

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $175,000,000 for fiscal year 1992;

"(B) $225,000,000 for fiscal year 1993;

"(C) $275,000,000 for fiscal year 1994; and

"(D) $300,000,000 for fiscal year 1995."; and

(2) in paragraph (2), by striking out "70 percent" and inserting in lieu thereof "50 percent".

PART V—MEDICARE PREVENTION BENEFITS

SEC. 2180. COVERAGE OF CERTAIN IMMUNIZATIONS.

(a) IN GENERAL.—Section 1861(s)(10) of the Social Security Act (42 U.S.C. 1395x(s)(10)) is amended—

(1) in subparagraph (A), by striking "and, subject to section 4071 of the Omnibus Budget Reconciliation Act of 1987, influenza vaccine and its administration; and" and inserting a comma; and

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

"(C) influenza vaccine and its administration, and

"(D) tetanus-diphtheria booster and its administration;".

(b) LIMITATION ON FREQUENCY.—Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)) is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the semicolon at the end and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(G) in the case of an influenza vaccine, which is administered within the 11 months after a previous influenza vaccine, and, in the case of a tetanus-diphtheria booster, which is administered within the 119 months after a previous tetanus-diphtheria booster;".

(c) CONFORMING AMENDMENT.—Section 1862(a)(7) of such Act (42 U.S.C. 1395y(a)(7)) is amended by striking "and paragraph (1)(B) or under paragraph (1)(F)" and inserting "or under subparagraph (B), (F), or (G) of paragraph (1)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to influenza vaccines administered on or after October 1, 1992, and tetanus-diphtheria boosters administered on or after January 1, 1993.

SEC. 2181. COVERAGE OF WELL-CHILD CARE.

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (O);

(2) by striking the semicolon at the end of subparagraph (P) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(Q) well-child services (as defined in subsection (ll)(1)) provided to an individual entitled to benefits under this title who is under 7 years of age;".

(b) SERVICES DEFINED.—Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(1) by redesignating the subsection (jj) added by section 4163(a)(2) of the Omnibus Budget Reconciliation Act of 1990 as subsection (kk); and

(2) by inserting after subsection (kk) (as so redesignated) the following new subsection:

"*WELL-CHILD SERVICES*

"(ll)(1) The term 'well-child services' means well-child care, including routine office visits, routine immunizations (including the vaccine itself), routine laboratory tests, and preventive dental care, provided in accordance with the periodicity schedule established with respect to the services under paragraph (2).

"(2) The Secretary, in consultation with the American Academy of Pediatrics, the Advisory Committee on Immunization Practices, and other entities considered appropriate by the Secretary, shall establish a schedule of periodicity which reflects the appropriate frequency with which the services referred to in paragraph (1) should be provided to healthy children.".

(c) CONFORMING AMENDMENTS.—(1) Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)), as amended by section 226I(b), is amended—

(A) in subparagraph (F), by striking "and" at the end;

(B) in subparagraph (G), by striking the semicolon at the end and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(H) in the case of well-child services, which are provided more frequently than is provided under the schedule of periodicity established by the Secretary under section 1861(ll)(2) for such services;".

(2) Section 1862(a)(7) of such Act (42 U.S.C. 1395y(a)(7)), as amended by section 2261(c), is amended by striking "or (G)" and inserting "(G), or (H)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to well-child services provided on or after January 1, 1993.

SEC. 2182. DEMONSTRATION PROJECTS FOR COVERAGE OF OTHER PREVENTIVE SERVICES.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (hereafter referred to as the "Secretary") shall establish and provide for a series of ongoing demonstration projects under which the Secretary shall provide for coverage of the preventive services described in subsection (c) under the medicare program in order to determine—

(1) the feasibility and desirability of expanding coverage of medical and other health services under the medicare program to include coverage of such services for all individuals enrolled under part B of title XVIII of the Social Security Act; and

(2) appropriate methods for the delivery of those services to medicare beneficiaries.

(b) SITES FOR PROJECT.—The Secretary shall provide for the conduct of the demonstration projects established under subsection (a) at the sites at which the Secretary conducts the demonstration program established under section 9314 of the Consolidated Omnibus Budget Reconciliation Act of 1985 and at such other sites as the Secretary considers appropriate.

(c) SERVICES COVERED UNDER PROJECTS.—The Secretary shall cover the following services under the series of demonstration projects established under subsection (a):

(1) Glaucoma screening.

(2) Cholesterol screening and cholesterol-reducing drug therapies.

(3) Screening and treatment for osteoporosis, including tests for bone-mass measurement and hormone replacement therapy.

(4) Screening services for pregnant women, including ultrasound and clamydial testing and maternal serum alfa-protein.

(5) One-time comprehensive assessment for individuals beginning at age 65 or 75.

(6) Prostate-specific antigen (PSA) testing.

(7) Other services considered appropriate by the Secretary.

Not more than one such service shall be covered at each site.

(d) REPORTS TO CONGRESS.—Not later than October 1, 1994, and every 2 years thereafter, the Secretary shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives describing findings made under the demonstration projects conducted pursuant to subsection (a) during the preceding 2-year period and the Secretary's plans for the demonstration projects during the succeeding 2-year period.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Supplementary Medical Insurance Trust Fund for expenses incurred in carrying out the series of demonstration projects established under subsection (a) the following amounts:

(1) $4,000,000 for fiscal year 1993.
(2) $4,000,000 for fiscal year 1994.
(3) $5,000,000 for fiscal year 1995.
(4) $5,000,000 for fiscal year 1996.
(5) $6,000,000 for fiscal year 1997.

SEC. 2183. OTA STUDY OF PROCESS FOR REVIEW OF MEDICARE COVERAGE OF PREVENTIVE SERVICES.

(a) STUDY.—The Director of the Office of Technology Assessment (hereafter referred to as the "Director") shall, subject to the approval of the Technology Assessment Board, conduct a study to develop a process for the regular review for the consideration of coverage of preventive services under the medicare program, and shall include in such study a consideration of different types of evaluations, the use of demonstration projects to obtain data and experience, and the types of measures, outcomes, and criteria that should be used in making coverage decisions.

(b) REPORT.—Not later than 2 years after the date of the enactment of this section, the Director shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on the study conducted under subsection (a).

SEC. 2184. FINANCING OF ADDITIONAL BENEFITS.

(a) PREMIUMS FOR 1993-1995.—Section 1839(e)(1)(B) of the Social Security Act (42 U.S.C. 1395r(e)(1)(B)) is amended—

(1) in clause (iii) by striking "$36.60" and inserting "$36.70",

(2) in clause (iv) by striking "$41.10" and inserting "$41.20", and

(3) in clause (v) by striking "$46.10" and inserting "$46.20".

(b) PREMIUMS FOR 1996-1997.—(1) Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(g) Except as provided in subsections (b) and (f), the monthly premium otherwise determined, without regard to this subsection, for each individual enrolled under this part shall be increased by 10 cents for each month in 1996 and 1997.".

(2) Section 1839 of such Act (42 U.S.C. 1395r) is amended—

(A) in subsection (a)(2), by striking "(b) and (e)" and inserting "(b), (e), and (g)",

(B) in subsection (a)(3), by striking "subsection (e)" and inserting "subsections (e) and (g)", and

(C) in subsection (b), by striking "determined under subsection (a) or (e)" and inserting "otherwise determined under this section (without regard to subsection (f))".

Subtitle D—Repeal of Certain Luxury Excise Taxes; Imposition of Tax on Diesel Fuel Used in Noncommercial Boats

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON JUDICIARY

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, September 23, 1992, at 2 p.m. to hold a hearing on "National Economic Strategies for a Global Economy."

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

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 23, 1992, at 2 p.m. to hold a hearing on recent developments in South Africa.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, September 23, 1992, at 10 a.m. for a hearing on "Traumatic Brain Injury."

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

ADDITIONAL STATEMENTS

SMALL RURAL BANKS FEELING CRA EXAMINATION BURDEN

• Mr. DASCHLE. Mr. President, during my frequent travels throughout South Dakota, I have the opportunity to talk informally with individuals from all walks of life. The concerns and opinions expressed in those discussions are many and diverse, and I address them periodically on the Senate floor. Today, I wish to focus on the frustration I hear from bankers in rural towns across my State.

The most common concern I hear from South Dakota's small-town bankers is the paperwork burden placed upon them by Government regulations. While the savings and loan experience of recent years underscores the need for an effective Government oversight mechanism in the banking industry, many bankers tell me that they fear Government has learned the wrong lesson from this sorry episode. Due diligence, not overkill, should be the goal of such oversight. For example, for many small community banks today, the costs of complying with the myriad of regulations governing their operations often have the ironic effect of reducing the banks' ability to address the banking needs of the communities they serve.

While the bankers I have spoken with do not deny that the nature of banking calls for some regulation, there is a strong feeling in my State that too often the abuses of large urban banking institutions have prompted extensive regulations that are applied to banks nationwide, regardless of size and past performance. South Dakota community bankers make a compelling case that the rationale for many of these regulations in rural areas should be reexamined and the paperwork burden reduced.

Of particular concern to small bankers in South Dakota are the regulations that have been imposed pursuant to the Community Reinvestment Act of 1977. South Dakota bankers tell me that they are audited annually for CRA compliance, while many large urban banks often go several years between audits. They speculate that, because small rural banks are easier to audit, the regulators can complete more audits in a year by focusing on these institutions rather than by tackling the

much more complex audits of the large urban banks, where many of the past abuses have occurred.

In addition to the audits, the CRA regulations require a tremendous amount of paperwork to prove the existence of transactions that our rural bankers have provided all along. Many small banks find it difficult, if not impossible, to absorb the cost of hiring extra help to handle this paperwork.

Recordkeeping simply for recordkeeping's sake is not fair, and it certainly does not fulfill the intent of the Congress in enacting the Community Reinvestment Act of 1977. The CRA was a good piece of legislation that responded to legitimate problems among certain banks that would accept deposits in the communities in which they operated but fail to serve the financing and other needs of all members of those communities who qualified. The point of the Community Reinvestment Act, however, was never to have regulatory requirements, adopted pursuant to the act, place an undue burden on small community banks.

Members of Congress were told repeatedly by regulators that CRA would not require an increase in paperwork to determine compliance. But that has not been the case. It is long past time for Congress to take a serious look at the real world effect of CRA paperwork and determine whether it truly serves the intent of the act. If it does not, changes are in order.

I believe that community bankers have a point that merits the attention of Congress. Therefore, I have joined as a cosponsor of S. 2511, a narrowly drafted bill introduced by my colleague from Kansas, Senator NANCY KASSEBAUM, that would exempt small banks in rural communities of less than 15,000 from CRA examination requirements. To qualify, a bank would have to have aggregate assets of no more than $75 million and at least half of their deposits in loans. Enactment of this legislation would help small rural banks better serve the needs of their communities and target CRA examination on more appropriate areas.

Mr. President, the Senate Banking Committee has announced its intent to hold hearings on the paperwork burden on the banking industry. It is my understanding that the committee will include the effect of CRA recordkeeping requirements on small community banks in this review. It is my hope that the committee will take a serious look at S. 2511 as one option for reducing the paperwork burden on small community banks, and I look forward to their recommendations in this regard.●

TRIBUTE TO HARDINSBURG

● Mr. MCCONNELL. Mr. President, I rise today to recognize the town of Hardinsburg in Breckinridge County.

Hardinsburg is a small intimate town about 65 miles southwest of Louisville. Despite its proximity to a large metropolitan area, Hardinsburg still maintains its charm as a close-knit southern town. However, it is making major strides of progress and growth.

Hardinsburg is planing to start a chamber of commerce to further promote the town. The Breckinridge County Industrial Council has recently built a 20,000-square-foot building to attract prospective employers. The city hall is recently remodeled. A local business, the Galante Studio, is renowned for its luxurious domestic products found in most national department stores. Since the construction of a new highway bypass, business has begun to grow out of downtown. Residents are happy about this, as it allows downtown to remain uncongested and peaceful.

The residents of Hardinsburg have a strong work ethic which dates back to their farming roots. Furthermore, since Hardinsburg is close to larger metropolitan areas, it allows many citizens increased opportunities for employment. A handshake still means something in business, and the community knows that it must work together to continue to grow. These are examples of what makes Hardinsburg a wonderful community.

I applaud Hardinsburg's efforts to maintain its small-town charm, but at the same time its move forward, making it one of the finest towns in Kentucky.

Mr. President, please enter the following article from Louisville's Courier-Journal in today's CONGRESSIONAL RECORD.

The article follows:

HARDINSBURG

(By Beverly Bartlett)

Hardinsburg residents say they can dial a wrong number and talk for 30 minutes.

"That's true," said Virginia Hinton, Breckinridge County archivist. "Everyone here knows everyone else. That's my kind of town."

It's an intimacy that means Lowell Macy can sit in his restaurant and evaluate the income of another local business.

"Lucas Brothers, they moved (their hardware store) right next to Wal-Mart and they're making more money than they've ever made in their lives," he said, as a way of explaining the positive impact a Wal-Mart can have on a community's economy.

So Gary and Maurice Lucas, is it true?

"Our business has been up every year since they came in," said Gary Lucas.

"It's helped us," said Maurice Lucas. "It's helped us a bunch."

Maurice Lucas doesn't look shocked that his neighbors would be talking about them. He seems used to it. It sums up, to some, the good and bad of Hardinsburg.

"Everybody knows everybody's business," said Bobbie Ann Wright, of Wright's Sport Shop. "That's the worst part, I guess the best part is that everyone knows everyone."

And the things they know make up the patterns of their lives.

They know the roads they travel to take them away from this city; the roads that take them to work in Jefferson or Hardin or Hancock or Grayson counties.

"We don't have overly high unemployment and I don't know why," said Breckinridge County Judge-Executive Tom Moorman. But then he says he does know why. It's the work ethic bred into these people through their farming roots that drives them to drive to find work, no matter how far.

"Most all of us grew up on a farm," he said. "And you learn to work when you grow up on a farm. So they drive to Louisville and they drive to Fort Knox."

(Despite such enterprise, county unemployment averaged 9.02 percent from 1987 to 1991, while the state averaged 7.22 percent, state figures show.)

And they know the way a small town—even a town like Hardinsburg with a thriving retail district—uses those roads to bring a sense of variety to life.

"If you want to buy a good suit, chances are you're going to go to Louisville or Elizabethtown," said Miller Monarch, a real estate agent and auctioneer who gave up a more lucrative marketing career in cities like Chicago and Louisville to come home to Hardinsburg. "If you want to buy . . . fresh seafood, you can't buy it here. If you want to eat Italian food, you've got one place and that's Pizza Hut."

This is a place where Charley Blancett, coowner of Blancett Motors Ford Dealership, can measure the success of the new radio station by checking the music playing in cars in the service center.

The radio count, he says, looks promising for the new station.

The people of Hardinsburg know their way of life slows during the school year between 2:30 and 3:30 when the high school students are released and their cars crowd the streets and make it hard to pull out of parking lots.

"We always say if they'd just put in one red light so you could get a break somewhere * * *," said Jane Board, store manager at Lucas Brothers.

Hardinsburg does not have a traffic light. In fact, the county doesn't have a four-lane road. It has only a few yards of three-lane, a passing lane here, a left-turn lane there. That's the extent of congestion control. And that's just about the extent to which it's needed. That's what these people like about the place.

That's the thing that makes Monarch willing to give up the conveniences of a big city. "We don't get into a tremendous rush here. We just try to get the job done. You just don't have the inconveniences of living in a metropolitan area. You sort of trade those off for the inconveniences and benefits of living in a small town."

This is a place where the largest industrial employer operates a factory on the square. The Galante Studio has hired seamstresses and produced luxurious travel bags, baby clothes and bed pillows for fashionable department stores like Nieman Marcus and Saks Fifth Avenue since 1929.

A monogrammed pillow for reading in bed goes for more than $120. They aren't for sale in Hardinsburg. They aren't for sale in many places in Kentucky.

Bernice Taul, who with four other former employees took over the company in 1981, says she doesn't think most of the firms they deal with realize the humble origins of the luxurious goods.

For years, "They'd call all the time and say 'What's your street address?' and we'd say, 'Hardinsburg, Kentucky; that's all you need,'" she says. "They'd think we're just so big we didn't need one. They didn't realize the town is just so small."

The company has recently started using a more specific address.

Two doors down from Galante's is the open door of Abbott and Tanner Jewelers, a place that also can befuddle out-of-towners.

Lee Abbott, who started the jewelry and watch repair operation in 1949 and who has left the front door open every summer since because that's the only air-conditioning the place has, says some New York companies he deals with are surprised he doesn't have a phone.

"They don't understand that. They think if I don't have a phone, I'm near bankruptcy."

But the real answer is simpler. He didn't have one when he started and he's never needed one bad enough to justify the interruptions the calls would cause.

"I guess jewelers all over the country do it," he said. "But you're sitting there working on something delicate and the phone rings. * * * They know I go home for dinner so they call me between 11 and 12."

Abbott doesn't think the lack of a phone hurts business. He draws clients in different ways. He sells guitar strings because no one else in town does and there are a lot of country fans that want them. Sometimes a customer will come in for a guitar string and "six months later they come in and buy an engagement ring," he said.

Abbott was once a one-stop wedding center. That was when he was county judge pro tem in the 1970s and '80s. Sometimes when the county judge was out of town, couples would come over, buy their wedding ring and get married right on the spot, with Abbott's son-in-law, Robert D. Tanner, and a passerby serving as the witnesses.

Of course, there used to be more passersby. Hardinsburg's traffic has gradually moved away from downtown, toward the bypass. The hospital has moved that way. So have the banks. That's where Wal-Mart is. That's the general area of the city's restaurants and the grocery stores and the gas stations. That's the area where the high school sits.

That's the way of small towns these days. As it is their way to tout the wonder of a small town and then at the same time talk about wanting to get bigger.

Not too big, they say, just big enough to provide more jobs. Macy wants to start a chamber of commerce to promote the town. And the Breckinridge County Industrial Council has built a 20,000 square foot building to show prospective employers.

"We have to have something for people to come in and look at," said Mayor John Sosh.

Meanwhile, they're looking for ways to do the best with what they have. Sosh said he's been pleased with how a private company has managed the city, even though he initially opposed the idea.

Contract Operations 2 Inc. took over the city's public works operation in April 1991 and saved the city $17,000 the first year, said Bob Taylor, the company's Hardinsburg project manager.

Two years ago, the city showed what else it could do with community spirit, cooperation and limited resources.

When The Farmers Bank announced it would join other migrating businesses near the bypass, it gave its two-story building downtown to the city, which remodeled it into an elegant city hall. That meant the fire department could get the old City Hall, saving the city several thousand dollars it planned to spend enlarging the fire department's quarters.

The gesture seems to fit right into the congenial way of life the people talk about here.

If you have a problem or a complaint, business people won't put you on hold. Community leaders can trust the residents to come home to buy what they can locally. A handshake in a business deal still means something.

Things are changing, but slowly.

"This little community," said Maurice Lucas, "is a close-knit community."

Population (1990): Hardinsburg, 1,906; Breckinridge County, 16,312.

Per capita income (1988): Breckinridge County, $10,384 or $2,446 below the state average.

Jobs (1988): Manufacturing, 186; wholesale/retail trade, 651; services, 348; state/local government, 547; contract construction, 203.

Big employers: The Galante Studio Inc., 79; Eleanor Beard Inc., 40; Office Products Specialty, 19.

Media: Newspaper—Breckinridge County Herald-News (weekly). Radio—WHIC-AM (1520 AM), country; WHIC-FM (94.3 FM), country; WXBC-FM (104.3), a mix of country, light adult contemporary and oldies.

Transportation: Rail—CSX Transportation has service to Cloverport and Irvington. Air—Breckinridge County Airport has a 3,500-foot paved runway; nearest commercial service, Standiford Field, Louisville, 65 miles northeast of Hardinsburg. Trucking: 14 companies serve the county.

Education: Breckinridge County Public Schools, 2,739; Cloverport Independent, 350, St. Romauld, preschool through eighth grade, 200.

Topography: Breckinridge County lies along the Ohio River on the northwestern section of central Kentucky's Mississippian Plateaus Region.

FAMOUS FACTS AND FIGURES

Hardinsburg may be small, but you won't find the usual dark and mysterious smalltown hardware store. Lucas Brothers ServiStar Hardware is bright and spacious, and neon tubes form gentle cursive letters to describe departments. "One man made a comment that they need a store like this in Lexington," said Gary Lucas. "That's where he was from."

In 1913, part of the downtown burned. The fire may have started in a bakery. The entire east side of the square was destroyed.

The building where Blancett Motors has operated since the 1950s has been a car dealership since 1937, when it was the largest dealership building in the area. It doesn't seem that big now, but it remains a sight to behold.

Hardinsburg claims its founding in 1780, the year William "Indian Bill" Hardin built "Hardin Fort" to protect settlers from Indians. A century later, during the town's centennial, the keynote speech showed the attitude toward the Indians had changed little. Col. Alfred Allan, president of the centennial society, is recorded as describing the Indians as a human "animated by hatred of a hundred years growth—a hatred that never slept and was always pitiless—a hatred that was aggravated a thousandfold at sight of the white man's footprints in the soil of this, his favorite hunting ground. . . ."

Today Hardinsburg offers a friendlier image. A giant happy face on the intersection in front of City Hall greets visitors.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational of charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received a request for a determination under rule 35 for Mary Lynn Qurnell, a member of the staff of Senator HELMS, to participate in a program in Russia, sponsored by the Legislative Study Institute and the Russian Government, for 2 months, beginning on October 24, 1992.

The committee has determined that participation by Ms. Qurnell in this program, at the expense of the LSI and the Russian Government, is in the interest of the Senate and the United States.•

TRIBUTE TO JOHN BEGLEY, EXECUTIVE DIRECTOR OF THE LOUISVILLE VISUAL ARTS ASSOCIATION

• Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a fellow Louisvillian, John Begley. Mr. Begley is executive director of the Louisville Visual Art Association, as well as an artist himself.

The Louisville Visual Arts Association is an 82-year-old nonprofit organization which encourages the creation of visual arts, acts as a prime source of art education, and, in general, champions the cause of the visual arts. In his position as director of the association, Mr. Begley is in charge of furthering the exposure of visual arts in Louisville. The association has a budget of $600,000 with 30 percent of that amount coming from the Greater Louisville Fund for the Arts.

Mr. Begley brings a wide variety of qualifications to this position; however, there is one which is mentioned consistently. Those who know Mr. Begley point to his quiet understated manner in getting his message across. He is described as a great mediator, with a very thoughtful, conciliatory attitude. But don't be fooled into mistaking his soft-spoken manner for lack of enthusiasm, rather Mr. Begley brings a persistence, which is common to artists, to every task he pursues.

The association does more than just make sure that Louisville prominently plays an active role in displaying visual art. Mr. Begley has also seen to it that the association is involved with education through art programs. In the association's education role, it has founded Children's Free Art Classes, a free scholarship program which has given rise to several local artists. The program is offered in 32 neighborhood sites in the Louisville metropolitan area and has almost 650 children enrolled.

Other services the association oversees include a large gallery for regional artists at its headquarters located in the old water tower. There is also a sales and rental gallery in the Starks Building in downtown Louisville, a Media Arts Center at the main branch of the public library, as well as many other programs designed to increase community awareness of the visual arts.

Mr. Begley also finds the time to help organize the Louisville area's 20 or so nonprofit galleries into an association called the Visual Arts Network. In addition, he serves as the chairman of the Mayor's Art in Public Places Program. With all of these projects it is little wonder that Mr. Begley often puts in 12-hour days.

Mr. President, I ask my colleagues to join me in recognizing this outstanding citizen. I also ask that an article from the July 29 Business First be included in the RECORD.

The article follows:

JOHN BEGLEY IS ADVOCATE FOR AREA'S VISUAL ARTISTS

(By John Bowman)

When John Begley paints, those who know him best don't need to steal a peek over his shoulder to guess his subject matter.

Cedar trees.

"For the last few years, he's painted a lot of cedar trees," his wife of 20 years, Kay Begley, says with a laugh.

In fact, for the past eight years, Begley admits, his art has focused primarily on cedar trees.

That's about how long it's been since the Begleys moved to Louisville from New Harmony, Ind., near Evansville. During the weeks before the move, the couple did a lot of driving down Interstate 64 between the two cities.

"I really thought it was an ugly drive"—and a boring one, Kay remembers.

But John, the artist, noticed the cedar trees—how they grew in interesting groupings and seemed to sprout literally straight out from the rock cliffs. He was also drawn to their shape, which is at once both abstract and recognizable.

The idea that Begley would adopt a form and spend the next eight years quietly exploring and creating art from it would probably not seem strange to those who deal with him in his "other" capacity—as executive director of the Louisville Visual Art Association.

The 32-year-old non-profit association encourages the creation of visual arts, acts as a prime source of art education, and, in general, champions the cause of the visual arts.

As its head, Begley serves as the chief advocate for visual artists in the Louisville area.

Acquaintances describe the 44-year-old Begley as a modest, soft-spoken, yet persistent and extremely effective administrator who gets things done in a community where the arts scene has historically been dominated by strong performing-arts groups.

"I think John is so effective because he's so understated; I think people respect that," offers Marlene Grissom, a former gallery owner who remains an active, private art dealer.

Peter Morrin, director of the J.B. Speed Art Museum, calls Begley "a great mediator" who brings to the task "a very thoughtful, conciliatory attitude."

The visual art association has a staff of 14, up from three when Begley first arrived here. Its budget is about $600,000 annually, much of it brought in by tuitions, gift-shop sales, membership sales and corporate contributions.

But about 30 percent of its revenue comes from the Greater Louisville Fund for the Arts, an umbrella fund-raising organization. Out of 15 groups the fund serves, only the association and the Kentucky Art & Craft Gallery focus on the visual arts.

One of Begley's jobs is to make sure the association gets its share of the annual pie, which the fund doles out each year based on various artistic and management considerations.

"He's a master of the understated," says Allan Cowan, the fund's president. "He's quiet; he believes in sort of continuous influence as opposed to beating people over the head."

Actually, Cowan knew Begley first as an artist, having bought an original Begley painting several years ago at the New Harmony Gallery of Contemporary Art—where Begley was director.

"He has a great depth of understanding of the subject matter," says Cowan, who describes the painting he bought as "contemporary."

Louisville sculptor Ed Hamilton, who has carved a national reputation for himself in the last few years with several major commissions, counts himself a friend and admirer of Begley.

"John is one person who not only is an administrator and an artist, but hell, he's good at both of 'em," Hamilton says. "I don't know how he does it."

Others say persistence is part of the answer.

"He stays with it and stays with it," says Cowan.

"He's not somebody whose ego gets all messed up in minor failures and minor victories," the Speed's Morrin explains. He credits Begley with a wonderful steadiness and consistency, adding that "people find it very comfortable working with him."

A recent incident illustrates those words.

Begley is one of 17 area artists who cooperatively own and operate the Zephyr Gallery in downtown Louisville.

The arrangement allows the artists to keep more of the proceeds from the sale of their work, as well as giving them creative control over the exhibit space. In fact, each artist is supposed to have a piece on display at all times.

In return, the artist is required to spend a certain number of hours each month "minding the ship."

One recent Friday, Begley was taking his turn. When a reporter strolled in and asked to see his painting, he laughed and said, "It's in the can."

He wasn't kidding. On a wall in the restroom hung an original J.P. Begley—with cedar trees as the telltale subject.

While the spot is often pressed into service as exhibit space, Begley clearly didn't mind his work being there; in fact, he found the situation quite humorous.

Begley took art classes each year at Salem (Ind.) High School, but didn't really expect to become an artist. In fact, he chose archaeology as his major at the University of New Mexico over art school in Indianapolis upon graduation.

Only after discovering the university's acclaimed printmaking department did he switch to a fine arts major.

July 17, 1969—just after college graduation—proved to be one of the more interesting days in Begley's life. In the morning he enlisted in the U.S. Army; that night he met his future wife on a blind date.

Why, you might ask, would a 22-year-old Bachelor of Fine Arts join the army in the middle of a bloody conflict in Southeast Asia?

"I was being drafted," recalls Begley, who wears bow ties and certainly looks more the part of an artist than a warrior.

Enlistment allowed him some control over his future, and he was accepted into officer's training school at Fort Benning, Ga. By the time he graduated, U.S. involvement in the ground war was winding down.

When it became clear he wouldn't be shipped overseas, John and Kay decided to get married. He served most of his two-year stint as a first lieutenant and training officer at Fort Knox, Ky.

Out of the army in 1972, the Begleys moved to Bloomington, Ind., where Kay worked in a bank, allowing John to earn his master of fine arts degree from Indiana University in 1975.

While in school, Begley and another student built their own press, using it to produce lithographs; printmaking had been his main interest when he switched his major from archaeology to fine arts as an undergraduate at New Mexico.

Begley was also developing an interest in the business side of art; he had Kay are from the Midwest and wanted to keep living in the region.

It was clear to him early on that most artists—especially those who choose to live outside New York or other "major" art centers—need other work to provide a steady income.

With his master's degree, he landed a position as director of the Gallery of Contemporary Art in New Harmony—a tiny city, but one progressive enough to support such an institution.

They stayed there for eight years, until he decided to come to Louisville as director of the Water Tower Association—which merged with the Louisville Art Gallery in 1986 to form the visual art association.

The association had been founded in 1909 as the Louisville Art Association—an exhibit forum for Louisville artists and patrons. Over the years, it expanded its role, helping to form both the J.B. Speed Art Museum and the Louisville Art Gallery.

The association also adopted an educational role and founded Children's Free Art Classes—a free scholarship program that spawned Hamilton and many other successful artists; it currently is offered at 32 neighborhood sites in the metropolitan area with nearly 650 children enrolled.

Cowan says Begley played a key role in expanding the free classes beyond Jefferson County into towns like Shelbyville and Shepherdsville, Ky., and in the merger of the two groups that "didn't quite have critical mass" to form the current association.

The association provides a large gallery for regional artists at its headquarters in the old Water Tower building; runs a sales and rental gallery at the downtown Starks building with a slide registry of more than 300 regional artists; operates a Media Arts Center at the main branch of the public library to provide film video and photography equipment to regional artists at low costs; and oversees a host of other programs and events designed to raise community awareness of the visual arts.

While overseeing all that, Begley also found time to help organize the area's 20 or

so non-profit and for-profit galleries into an association called the Visual Arts Network.

Some call him the founder, but Begley says a handful of others were involved.

He also serves as chairman of the Mayor's Art in Public Places program, which the art association played a lead role in creating.

"He's got a full plate," says Morrin, who says Begley juggles it with a knack for "putting together sequences that make things happen."

The Speed has a "friendly-competition-slash-cooperative" relationship with the visual art association, Morrin says, adding that each has an extremely small staff, considering the task at hand.

There's a great need in both organizations, "to accomplish miracles," Morrin says. "And my sense is that he's done it on a consistent basis."

Begley often spends 12 or more hours a day on the job. Kay says "he broods a lot about not having enough time" left for his painting.

Luckily, she says, Begley "works well under pressure. He gets quite intense" at his art when he has a show coming up, she adds.

But Begley says he doesn't resent his job or all the juggling he has to do to get things done.

"I don't see that as lost time." On the contrary, he says he enjoys administration and the business side of art.

At the same time, the intensity his wife spoke of is part of what attracts him to painting.

"That's when it's fun—when you're really focused," he reflects. He says sticking with a single subject probably helps keep him focused.

Cedar trees.

Kay says family friends claim they have spotted trees along I-64 and recognized them as subjects of Begley's work.

But Begley—stirred in part by a recent show of retrospective works by the Zephyr artists called "A Blast from the Past"—is feeling the winds of change.

"It may be time for a new motif," he admits.

BIO: JOHN PHILLIP BEGLEY

Title: Executive director, Louisville Visual Art Association.

Age: 44.

Hometown: Salem, Ind.

Education: Bachelor of Fine Arts, University of New Mexico; Master of Fine Arts, Indiana University.

Family: Wife: Kay.●

COSPONSORSHIP OF S. 2113

● Mr. SMITH. Mr. President, yesterday, by unanimous consent, Senator MCCAIN was added as a cosponsor of S. 2113. Mr. President, Senator MCCAIN should have been listed as a cosponsor earlier this year. Due to an oversight, he had not been officially listed. I wanted to note this for the RECORD.●

COMMENDING THE ADDRESS OF JAMES P. YOUNGBLOOD, M.D., "SUFFER THE LITTLE CHILDREN"

● Mr. BOND. Mr. President, I rise today to urge my colleagues in the U.S. Senate to join me in paying tribute to the Presidential address "Suffer the Little Children" given by James P. Youngblood, M.D., president of the Central Association of Obstetricians and Gynecologists, in October 1991.

Dr. Youngblood addresses the extensive and pervasive problem of infant mortality in the United States. Citing his 20 years of experience in the private practice of obstetrics and gynecology, he suggests that we can confront the medical problems associated with pregnancy by providing early prenatal care for women. "We must begin education and provide resources to attract women not only to early prenatal care but even to preconception care." He urges Congress to promote the work of the National Commission to Prevent Infant Mortality throughout our Nation.

It is the responsibility of the medical profession, Government, social programs and our education system to address the issue of prenatal care according to Dr. Youngblood. Once there is universal access to prenatal care, we will be able to drive down the rate of prenatal mortality in the United States. Until then, we incur medical, enormous medical costs to sustain premature infants in life support systems. If we could reduce our preterm delivery rate to that of France, which is slightly over 4 percent, the result would be savings of more than $1 billion in health care costs.

Mr. President, I would like to extend my sincere congratulations to Dr. Youngblood for his appointment as president of the Central Association of Obstetricians and Gynecologists and commend him for his leadership and vision on this very important issue and I request that his address be printed in the Record.

The address follows:

SUFFER THE LITTLE CHILDREN

(Presidential address by James P. Youngblood, M.D.)

As I set about planning this address, I reviewed many of the recent addresses given by our esteemed past presidents. They are generally in one of three categories: historic, scientific, or philosophic. They have nearly always been of a personal nature, to a greater or lesser degree, revealing something of the inner character of the speaker. Dr. Russell Malinak's address last year was especially stirring and memorable. I recall one of our members asking me immediately after the talk whether I felt that I could top it this year. Of course, I won't be able to, and I won't even try. But I hope at the end I will have given you some food for thought, and perhaps you'll also know a little more about me.

My talk is more of the philosophic type, and I think it will reveal a little of how I think and what has become very important to me over the years.

The title of this address is "Suffer the Little Children. . . ." What do I mean by that? I think that most of you are aware that this is from the New Testament, the Gospel according to Mark, chapter 10, verse 14. "Suffer the little children to come unto me and forbid them not, for such is the Kingdom of God." After preaching all day, Jesus is tired and is resting and the little children in the area have come for his words and his blessing, and his disciples are trying to keep them from him so that he may rest. In this case, Jesus uses the term suffer to mean permit. He indicates that the children have a priority higher than any need that he may have for rest. Indeed, he indicates their helplessness and innocence in the words "for such is the Kingdom of God."

I have used the word suffer in a double context in this address, because the children in our world and in our country do suffer. And, of course, they are innocent. By now you are certainly aware that we have a problem with infant mortality in this country and that it is a national embarrassment. The richest nation on earth, now the only super power, with the most advanced medical technology, which spends 11%[1] of its gross national product on health care, ranks nineteenth to twenty-second[2] in the world in perinatal mortality. The most recent figures indicate that the overall perinatal mortality in the United States in 1988 was 13.7.[3] This means that per 1000 live births 13.7 babies die either before or during birth or within the first 28 days of life after birth. In 1990 in the county in which I live the perinatal mortality rate was 13.0[3] overall and 21.4 for blacks.[4] This is pathetic.

So here we go again—another talk about perinatal mortality and America-bashing because we're doing such a lousy job. I'm sorry, but the problem is severe and must be kept in the public consciousness. But we're not all that bad. We are doing some things to turn the problem around and we are making progress. But more must be done.

I know that you are concerned that this talk will be a reiteration of Dr. Malinak's eloquent address last year.[5] You must forgive me for having chosen the same topic, but realize that this has been my main area of concentration for the past 7 years and I have thought long and deeply about this problem. I may cover some of the same ground, but I think you'll see that we have somewhat divergent views in the solution of the problem and therefore I feel it merits exploration. In the long run I do not wish you to consider this a rebuttal of Dr. Malinak's address but rather an exploration and possible expansion.

While in the private practice of obstetrics and gynecology for 20 years, I was aware that there was a perinatal mortality problem. But it was in the inner city, and although I frequently attended clinics in the inner city, I was not completely aware of how extensive and pervasive the problem was. It wasn't that I didn't care, it was that I was just unable to interact in a meaningful way.

Seven years ago, I undertook the chairmanship of an obstetrics and gynecology department in an inner-city public hospital. I was unprepared for what awaited. The indigent and working-poor population had been increasing—Nutrition was poor, disease of all kinds was rampant, and medical complications of pregnancy were numerous. Resources of all kinds were inadequate to meet these demands. The low-birth-weight rate at our hospital was 15% as compared with a national average of 6.9%. Then came Medicaid expansion and we were able to increase staffing and more actively apply our interventions, especially for so-called high-risk pregnancies. But, in spite of all our efforts, the low-birth-weight rate remained at 15%. Consequently, we developed the premise that risk assessment for pregnancy as it was done in most institutions was invalid in our insti-

59-059 O—97 Vol. 138 (Pt. 19) 5

Footnotes at end of article.

tution. It was our impression that the patients we called routine patients were, indeed, all at high risk. With the support of a 2-year grant from the March of Dimes, we set about proving this premise. We studied 300 routine patients in the study group against 300 similar routine patients in the control group. The study group was intensively educated, with emphasis on things such as awareness of premature contractions, health and diet, and education regarding smoking, and drug and alcohol abuse. Socioeconomic problems were more intensely addressed. In other words, the study group of routine patients was treated as high risk. Amazingly, the low-birth-weight rate in the routine study group, who had intensive prenatal care and education, was 7.3%, whereas the rate in the so-called routine control group was 14.8%. Therefore a decrease of 7.5% in the low-birth-weight rate occurred.[6] Although it was a small study, the numbers were compelling and I was able to convince our hospital director to increase our staffing of nurse practitioners, nurses, health care educators, nutritionists, and social workers in our obstetric clinic so that we could intensify our care across the board for all of our patients. In January 1991 we instituted this plan and look forward to a positive report on the results in the near future.

But intensity of prenatal care is not the only answer. Prenatal care is carried on within the institutional walls or doctors' offices and does not address the problems of access, transportation, economics, and the social and psychologic difficulties of the patient population. Nor does it address the role of poverty—poverty rooted in habits and character traits—"behavioral poverty" George Will called it in his recent syndicated column of Sept. 19, 1991.[7] Nor does it address the teenage pregnancy problem and particularly the cultural sensitivity of our various racial and ethnic subgroups. Yet, in addition, we must also stress responsible parenting. Too long have we witnessed teenagers siring and bearing three or four children before age 20. Not only safe sex but responsible sex must be encouraged as in the American College of Obstetricians and Gynecologists' "I Intend" program. Finally, we must address the role of government, industry, and the medical profession itself.

In this country we tend to excuse our poor performance with prenatal mortality relative to European countries by stating that we're comparing apples and oranges. Societies in Scandinavia, Germany, France, and England are all homogeneous, whereas in the United States we have a much more heterogeneous society composed of various cultures, ethnic backgrounds, and races. We somehow rationalize that this prevents adequate prenatal care and universal access to such care. The major difference is that in all of the European countries and in Japan universal access to prenatal care is not only available but mandated by the governments of these countries.

In the 1989 report of the United States Public Health Service expert panel on "Content of prenatal care," many factors that may affect perinatal mortality were cataloged.[8] Without going into great detail, these can be subdivided into medical disorders before pregnancy, such as hypertension and diabetes, and specific pregnancy conditions or hazards, such as preeclampsia and infection. There also are psychosocial risk factors, including being a single parent, having a limited formal education, and living in poverty. This lead to the next item of socioeconomic status, which includes occupation, education level, housing, income, marital status, and nutritional resources. Seldom considered but extremely important are psychologic factors such as limited maternal support networks and increased levels of stress because of pregnancy, emotional disorders, and, of course, pregnancy ambivalence. Increasingly, adverse health behaviors have contributed to perinatal mortality and these include, as we well know, drug and alcohol abuse and smoking.

I submit that we can address the medical problems associated with pregnancy and are doing so within our institutions when we have early registration into the care system by our mothers. It is the socioeconomic and psychosocial factors and the cultural and ethnic factors that prevent us from applying our medical technology to the fullest with the expectation of good outcome. We must get out of the institutions and into the community to address these problems. We must begin education and provide resources to attract women not only to early prenatal care but even to preconception care. It is imperative that we form a partnership of influencing factors, government, industry, and the health care community and women themselves who can work together to address this problem of high perinatal mortality. Let's take a look at what these entities can do.

What can government do? In 1986 Congress formed the National Commission to Prevent Infant Mortality. Its charge was to create a national strategic plan to reduce infant mortality and morbidity in the United States. The Commission includes some members of Congress, the Secretary of Health and Human Services, and the Comptroller General of the United States. One of the unique programs this National Commission has developed is the concept of home visiting, especially by resource mothers. Resource mothers are women selected from the community who have evident helping skills and who have been successful mothers. They receive training in health, social services, and counseling to enable them to help disadvantaged young mothers, usually teenager, get early prenatal care and reduce or eliminate unhealthy behaviors, such as smoking, drinking, and other substance abuse. In addition, these resource mothers help prepare the patients for labor and delivery and the needs of a newborn. These women are generally neighbors and friends of the young women they visit and therefore are culturally sensitive and aware of not only their health needs but also their psychosocial and economic needs. They also visit the mothers and babies after delivery and ensure the infants receive regular checkups and that the health of mother and baby is enhanced and ensured. Where these programs have been established, there has been a marked lowering of the low-birth-weight rate.[9] We are working now to promote this kind of activity in our own area and anticipate such activity catching on throughout the nation.

What can we expect from Industry? You should know that in all of the countries I've mentioned, in Europe and Japan, industry in some way or another subsidizes pregnant women. In France women are paid their normal salaries for 6 weeks before delivery and 6 months after delivery. Also, a doctor may prescribe additional compensated rest whenever indicated.[10] How can they afford to do this? The question should be, how can we in the United States afford not to subsidize our pregnant women? You may be surprised to know that a few enlightened companies in this country are already subsidizing pregnancy. Mr. Joseph Taylor,[11] plant manager on Sunbeam Industries, Coushatta, La., is one of the early leaders in this kind of support for pregnancy.

What can we expect of medicine? What can we as obstetricians-gynecologists do to reduce infant mortality in the United States? Do we need to change our whole health care system: I think not. As Dr. Malinak so eloquently expressed in his address last year,[5] we have the finest health care system in the world, bar none. Our problem is getting that health care to those who need it in a timely manner to prevent low-birth-weight infants and high perinatal mortality.

There are things we can do. In his presidential address, our Immediate Past President of The American College of Obstetricians and Gynecologist, Ezra Davidson, presented a strategy to reduce infant mortality. Briefly, his strategy is to mimic the maternal mortality review committees that we used so effectively in the 30s, 40s, 50s, and 60s to reduce maternal mortality to a number <1 in this country. Dr. Davidson feels that similar local review committees should be established and every perinatal death should be reviewed as to cause and preventability. He feels, and justifiably so, that such intensive peer review will reveal numerous strategies to respond to locally identified factors.[11]

I would strongly urge that you not only be active members of such committees in your area but even spearhead the formation of such committees if they currently do not exist. Nearly all of us belong to local obstetrics and gynecology societies or city or county medical societies whose resources could be used for this effort.

And what should we expect of our nation's mothers to help reduce perinatal mortality in the United States. They must be educated as to the necessity of early prenatal care and even of preconceptional care. They must be encouraged to enter the health care system at an early age, in grade school if possible. They should register early for prenatal care because pregnancy may be a delicate condition in their particular case. They may need special care and special interventions to ensure a good outcome for themselves and their babies. Adverse health behavior should be curtailed or modified. Smoking, drinking, and illicit drug use should cease as proper nutrition is emphasized. Many workplace and pregnancy-related studies that have been done link working conditions to increased adverse outcomes in pregnancy. For example, a job requiring standing all day is much more likely to produce preterm labor than a job requiring only part-time, upright working conditions.[12] Pregnant women and their employers need to be aware of the implications of their workplace situation and adjust accordingly.

Finally, in my mind there is really only one comprehensive and satisfactory solution for reducing perinatal mortality in this country. Universal access to early prenatal care! All of the factors I've just mentioned should be addressed, but universal access is the absolute necessity. All of our medical and social interventions are useless unless they are accessible. We are all aware that 37 million people in this country have no health insurance. Naturally, most of these people are young and many of them are women in the reproductive age group. Medicaid is addressing the needs of the very poor but not the working poor. We must address the needs of all pregnant women. You know we have a peculiar mindset in this country that everyone must adhere to the "pay-as-you-go" format for health care regardless of economic situation.

Have you ever considered that there is a very large segment of our population that has to jump through only one hoop to have health care provided? There is no asset testing, no one's bank account is examined, there are no qualifications save one—you must be 65. Of course, I'm talking about Medicare. I remember in 1965 I had just started in practice and was appalled that Congress enacted the Medicare Act, feeling it would be the downfall of medicine. You'll recall that organized medicine came screaming and kicking into the Medicare reality. Obviously, its not a perfect system and is rife with problems and even corruption, yet it continues to be one of the more humane things that our society has done for its elderly.

As a matter of fact, in 1987 combined Medicare and Medicaid health care for the aged and disabled came to 114 billion dollars, or 23% of the health care dollar, as opposed to only 6 billion, or 2.5%, provided for maternal health care.[13] Are we emphasizing the wrong age group? Triple bypass surgery in a 75-year-old person costs $50,000; prenatal care costs $500.

I would propose that government, industry (including the insurance industry), and the medical profession form a partnership to produce a maternity insurance plan that would be available for all. The only requirement to enter the health care systems to receive prenatal care would be a positive pregnancy test. No other hoops need be jumped through because no extensive application forms need be reviewed and there would be no asset testing. Imagine the decrease in the bureaucracy now used to administer Medicaid. Any pregnant woman regardless of race, ethnic background, or social status would be eligible for this care.

But, given the problems obstetricians currently have with Medicaid, such as low and slow reimbursement and the interminable forms and red tape, why would they buy into this plan?

First, organized medicine must negotiate a realistic global fee for prenatal care and delivery. This fee must take into account that many of the new and previously uninsured will be at high risk, as I have already outlined.

Second, because a positive pregnancy test allows immediate and early access to care, any necessary documentation and paper work can be accomplished throughout the course of pregnancy, thus ensuring prompt payment on completion of care.

How would a newly pregnant woman have access to care? She would simply obtain proof of pregnancy from any recognized health care provider (e.g. hospital, clinic, or her own physician). She would immediately receive a voucher for prenatal care by her provider of choice.

What about the woman who desires more than average amenities? Because the vouchers would be equal in value, she would need to personally supplement the reimbursement required for these amenities. As you know, this same system is currently used in European countries.

What should we call this plan? How about "Maternacare"? Call it what you will, but whatever you call it, it is progress for humankind and maternal and infant welfare.

Perhaps I've made this too simplistic. Believe me, I know that problems will ensue. Institution of this kind of system will strain the resources of the prenatal health care system as we know it today. When we instituted our own new program as I previously outlined to you, so markedly increased was patient interest and awareness that early registration and frequency of visits increased to the point that we swamped the system. Our physicians, both resident and attending, were unable to handle the load, and we had to hire additional physician extenders, such as nurse practitioners and physician aides. But this is already going on in many large obstetric groups and health maintenance organizations. I have personal knowledge in our own area of private practice groups that have hired nutritionists, nurse practitioners, and even midwives to help them with the enhanced prenatal care that they wish to deliver. Obstetricians will need to become comfortable with the idea that they will need the help of other professional health care providers to maximize their efficacy in driving down perinatal mortality in this country.

As I was writing this article, I mentioned this concept to several friends and associates, not necessarily physicians, and, to a person, the first question they asked was: "Who would pay for it?" We pay for national defense, and we pay for fire and police protection and wildlife conservation. And how about the savings and loan bailout—the last estimate I read 2 weeks ago was 160 billion dollars! What I am asking for is peanuts!

Why not pay for our single greatest resource, our newborn infants? And, would it be very expensive? Yes, but it certainly is expensive now. Consider that a premature infant of 2 pounds who stays in the hospital up to 3 months may incur medical costs of $50,000 to $100,000 and possibly a lifelong cost of $400,000 to $1,000,000 if neurologic deficits are incurred. Consider that there are 260,000 low-birth-weight infants born annually and each of them incurs on average $10,000 in additional medical costs before they can leave the hospital. This comes to a total of $2.8 billion. Consider if we could lower the low-birth-weight rate by 1% in this country, the savings would be $400,000,000 annually. If we could get our preterm delivery rate down to that of France, which is slightly over 4%,[14] the savings would be more than $1 billion. This savings plus what is currently spent by government sources, insurance premiums, and private pay would come close to paying for the entire cost of universal access to prenatal care. Whatever the cost, the time has come for this nation to get its priorities straight and one of them should be a reduction in this terrible infant mortality that we continue to have.

National mindsets can be overcome. Even global mindsets can be overcome.

Consider Semmelweiss' realization that it was the unclean obstetrician who was the cause of puerperal sepsis—childbed fever. It was 30 years before his simple recommendations for antisepsis were accepted, after he had been driven mad by his critics and detractors.

Sometimes the simplest ideas may have most profound effects!

Surely we can overcome this mindset that is keeping us from enjoying our most precious resource—the infants and children of our country.

Suffer the little children to come unto us—healthy. And on time! Suffer the little children to suffer no more!

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ORDERS FOR TOMORROW

Mr. WELLSTONE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:45 a.m., Thursday, September 24; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day.

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

RECESS UNTIL TOMORROW AT 8:45 A.M.

The PRESIDING OFFICER. If there is no further business to come before the body, the Senate, under the previous order, will stand in recess until tomorrow at 8:45 a.m.

Thereupon, the Senate, at 7:18 p.m., recessed until Thursday, September 24, 1992, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate September 23, 1992:

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

DAVID N. MERRILL, OF MARYLAND

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

CRAIG G. BUCK, OF TEXAS
VALERIE L. DICKSON-HORTON, OF TEXAS
THOMAS L. GEIGER, OF VIRGINIA
FREDERICK E. MACIMER, OF TEXAS
PAUL E. WHITE, OF CALIFORNIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR

PAUL E. ARMSTRONG, OF NEW YORK
DOUGLAS W. ARNOLD, OF CALIFORNIA
JUAN A.B. BELT, OF FLORIDA
ELENA BRINEMAN, OF VIRGINIA
BUNYAN BRYANT, OF VIRGINIA
SARAH C. CLARK, OF TEXAS
VINCENT CUSUMANO, OF VIRGINIA
GREGORY F. HUGER, OF MISSOURI
WAYNE J. KING, OF CALIFORNIA
HENRY W. REYNOLDS, OF CALIFORNIA
STEPHEN RYNER, OF VIRGINIA
SAMUEL T. SCOTT, JR., OF TEXAS
ROGER J. SIMMONS, OF VIRGINIA
GLENN G. SLOCUM, JR., OF FLORIDA
HUGH I. SMITH, OF MARYLAND
THEODORA WOOD-STERVINOU, OF TENNESSEE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED.

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

MARY A. RYAN, OF TEXAS
THOMAS W. SIMONS, JR., OF THE DISTRICT OF COLUMBIA
WILLIAM GRAHAM WALKER, OF CALIFORNIA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

JANICE FRIESEN BAY, OF CALIFORNIA
RANDOLPH M. BELL, OF VIRGINIA
WILLIAM R. BREW, OF CALIFORNIA
EDWARD BRYNN, OF CALIFORNIA
JAMES F. CREAGAN, OF VIRGINIA
CRAIG G. DUNKERLEY, OF MASSACHUSETTS
MORTON R. DWORKEN, JR., OF VIRGINIA
STANLEY T. ESCUDERO, OF FLORIDA
ROBERT C. FELDER, OF FLORIDA
RONALD D. FLACK, OF MINNESOTA
ROBERT C. FRASURE, OF WEST VIRGINIA
WAYNE C. GRIFFITH, OF FLORIDA
DAVID CRANE HALSTED, OF VERMONT
DENNIS G. HARTEL, OF NEW JERSEY
WILLIAM J. HUDSON, OF VIRGINIA
DOUGLAS HUGH JONES, OF CALIFORNIA
THEODORE H. KATTOUF, OF MARYLAND
DOUGLAS R. KEENE, OF MAINE
MICHAEL J. MCLAUGHLIN, JR., OF ARIZONA
JOHN F. MERMEL, OF VIRGINIA
GEOFFREY OGDEN, OF CALIFORNIA
ANNE WOODS PATTERSON, OF ARKANSAS
W. ROBERT PEARSON, OF CALIFORNIA
ARLENE RENDER, OF VIRGINIA
MAX NEWTON ROBINSON, OF WASHINGTON
ELEANOR WALLANCE SAVAGE, OF CALIFORNIA
HERBERT W. SCHULZ, OF PENNSYLVANIA
RAYMOND F. SMITH, OF THE DISTRICT OF COLUMBIA
JOEL S. SPIRO, OF VIRGINIA
ALEXANDER RUSSELL VERSHBOW, OF THE DISTRICT OF COLUMBIA
WILLIAM A. WEINGARTEN, OF CALIFORNIA
DONALD B. WESTMORE, OF WASHINGTON
EDWARD H. WILKINSON, OF INDIANA
KENNETH YALOWITZ, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, AND FOR APPOINTMENT, AS CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE, AS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

CHARLES RUSSELL ALLEGRONE, OF VIRGINIA
JANET STODDARD ANDRES, OF FLORIDA
NED W. ARCEMENT, OF LOUISIANA
LAWRENCE REA BAER, OF CALIFORNIA
JOHN A. BARCAS, OF VIRGINIA
ROBERT W. BECKER, OF MARYLAND
RICHARD WARREN BEHRENS, OF PENNSYLVANIA
WILLIAM M. BELLAMY, OF CALIFORNIA
ROBYN M. BISHOP, OF FLORIDA
BARBARA K. BODINE, OF MISSOURI
ROBERT A. BRADTKE, OF PENNSYLVANIA
WILLIAM JOSEPH BURNS, OF PENNSYLVANIA
JAMES C. CASON, OF FLORIDA
JOHN A. COLLINS, JR., OF MARYLAND
BRIAN DEAN CURRAN, OF FLORIDA
MATTHEW PATRICK DALEY, OF CALIFORNIA
MARGARET M. DEAN, OF ILLINOIS
DEAN DIZIKES, OF VIRGINIA
ERIC S. EDELMAN, OF VIRGINIA
M. MICHAEL HINK, OF FLORIDA
JOHN M. EVANS, OF THE DISTRICT OF COLUMBIA
LAWRENCE F. FARRAR, OF VIRGINIA
JAMES IRVIN GADSDEN, OF THE DISTRICT OF COLUMBIA
LESLIE ANN GERSON, OF CALIFORNIA
LINO GUTIERREZ, OF FLORIDA
DENNIS K. HAYS, OF FLORIDA
BROOKE C. HOLMES, OF CALIFORNIA
CAROLYN RUTH HUGGINS, OF FLORIDA
DAVID H. KAEUPER, OF MICHIGAN
RUSSELL A. LAMANTIA, JR., OF ILLINOIS
JOHN HARGRAVES LEWIS, OF PENNSYLVANIA
LEE R. LOHMAN, OF PENNSYLVANIA
JUDYT LANDSTEIN MANDEL, OF THE DISTRICT OF COLUMBIA
THOMAS H. MARTIN, OF CALIFORNIA
WILLIAM C MCCAHILL, JR , OF NEW JERSEY
DOUGLAS L. MCELHANEY, OF FLORIDA
ELIZABETH MCKUNE, OF MARYLAND
MARTIN MCLEAN, OF NEW JERSEY
JEFFREY V.S MILLINGTON, OF NEW JERSEY
JOHN SCOTT MONIER, OF ILLINOIS
BRUCE F. MORRISON, OF NEW YORK
BISMARCK MYRICK, OF VIRGINIA
THOR P. NAGY, JR., OF TEXAS
MICHAEL P. OWENS, OF TEXAS
F. COLEMAN PAHOFFT, OF ALABAMA
SUE H. PATTERSON, OF VIRGINIA
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SYLVIA G. STANFIELD, OF TEXAS
THEODORE EUGENE STRICKLER, OF TEXAS
JAMES CURTIS STRUBLE, OF CALIFORNIA
ALBERT A. THIBAULT, JR., OF MARYLAND
PAUL H. WACKERHARTH, OF MARYLAND
DAVID M. WALKER, OF VIRGINIA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

JEFFREY W. BOWERS, OF VIRGINIA
DAVID G. BOWYER, OF MARYLAND
JOHN N. CHRISTENSEN, OF TEXAS
PETER J. GALLANT, OF VIRGINIA
JOHN N. KENNEDY, OF VIRGINIA
JAMES T. LEDERMAN, OF FLORIDA
JOHN R. LYONS, OF PENNSYLVANIA
ARTHUR A. MAUREL, OF CALIFORNIA
SIDNEY V. REEVES, OF TEXAS
JOHN C. TRIPLETT, OF COLORADO

THE FOLLOWING-NAMED PERSON OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR APPOINTMENT AS CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF *THE CLASS STATED, AND ALSO FOR THE OTHER* APPOINTMENT INDICATED HEREWITH:

FOR APPOINTMENT AS A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND A *CONSULAR OFFICER AND A SECRETARY IN THE DIPLO*MATIC SERVICE OF THE UNITED STATES OF AMERICA:

DAVID MICHAEL SPRAGUE, OF THE DISTRICT OF COLUMBIA

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE *OTHER APPOINTMENTS INDICATED HEREWITH:*

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF *AMERICA:*

AGENCY FOR INTERNATIONAL DEVELOPMENT

KAREN POE, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF *AMERICA:*

DEPARTMENT OF STATE

RUFUS A. WATKINS, OF FLORIDA

AGENCY FOR INTERNATIONAL DEVELOPMENT

ARTHUR H. BRAUNSTEIN, OF VIRGINIA
VICKI LYN MOORE, OF CALIFORNIA
DAVID JOHN OSINSKI, OF WASHINGTON
RICHARD EDWARD SILC, OF FLORIDA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

CARLA ENRICA BARBIERO, OF VIRGINIA
CARLTON M. BENNETT, OF LOUISIANA
JAMES ARTHUR CHRISTENSEN, OF OREGON
CHARLENE HOPE DEI, OF FLORIDA
MARGARET A. HEALY, OF NEW JERSEY
DOUGLAS WILLIAM HEISLER, OF PENNSYLVANIA
CONNIE J. JOHNSON, OF TEXAS
PHILIP K. JONES, OF TEXAS
JULIAN A. LANIER, OF TEXAS
AMANDA LEVENSON, OF ALASKA
DAVID ELLIOT MCCLOUD, OF FLORIDA
FRED WAYNE MCDONALD, OF NEW MEXICO
ROBERT G. POSNER, OF SOUTH DAKOTA
RONALD SENYKOFF, OF FLORIDA
CHARLES B. SHORTER, OF FLORIDA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

JULIE LYNNE GRANT, OF CALIFORNIA
U.S. INFORMATION AGENCY
GLORIA F. BERBENA, OF CALIFORNIA
JEREMY L. CARPER, OF CALIFORNIA
R. WESLEY CARRINGTON, OF VIRGINIA
MAUREEN ELIZABETH CORMACK, OF ILLINOIS
VALERIE L. CRITES, OF OREGON
J. THOMAS DOUGHERTY, OF WYOMING
JOSEPH ADAM ERELI, OF TEXAS
GONZALO ROLANDO GALLEGOS, OF TEXAS
CAREN F. GORDON, OF VIRGINIA
FRANK E. NEVILLE, OF NEW YORK
MICHAEL DEAN ORLANSKY, OF OHIO
WILLIAM A. OSTICK, OF GEORGIA
THOMAS C. PICKREL, OF MISSOURI
KRISTIN HOPE PLAEHN, OF TEXAS
MICHAEL ALAN RICHARDS, OF NEW HAMPSHIRE
SARA A. STRYKER, OF KANSAS

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENTS OF STATE AND COMMERCE TO BE CONSULAR OFFICERS AND OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA

MICHAEL J. ADLER, OF MARYLAND
LINDA G. ARCHER, OF CALIFORNIA
CRAIG S. ATKINS, JR., OF MARYLAND
MARY RUTH AVERY, OF FLORIDA
ANN M. BACHER, OF THE DISTRICT OF COLUMBIA
DANIEL KARL BALZER, OF OHIO
DAVID M. BERMAN, M.D., OF VIRGINIA
RUSSEL JOHN BROWN, OF MONTANA
DEAN W. CARVER, OF VIRGINIA
RAYMOND CHILDRESS, OF TEXAS
GREGORY THOMAS CULLISON, OF ARIZONA
CYNTHIA RAE DOELL, OF NEBRASKA
ANN CATHERINE DONOVAN, OF VIRGINIA
MICHAEL D. ELAND, OF VIRGINIA
CATHERINE SANDRA ELIAS, OF VIRGINIA
TERESA J. ENSOR, OF VIRGINIA
MONICA ELIZABETH EPPINGER, OF ARIZONA
TONY J. FINNIGAN, OF MARYLAND
JAMES M. FLUKER, OF NEW YORK
BRENT D. FOLEY, OF VIRGINIA
MATTHEW ELLIOTT FOX, OF MICHIGAN
WM. LANCE GATLING, OF TENNESSEE
PAMELA L. GOMEZ, OF TEXAS
SEYMOUR E. GREENFIELD, OF MASSACHUSETTS
JOSHUA HARRISON, OF VIRGINIA
MICHAEL W. HOLSHEY, OF VIRGINIA
VIRGINIA BEDELL HOTCHNER, OF VIRGINIA
BERNARD K. HUDSON, OF VIRGINIA
TODD MICHAEL HUIZINGA, OF MICHIGAN
MICHAEL CHRISTOPHER KEAYS, OF CALIFORNIA
WILLIAM A. KOLB, OF CALIFORNIA
KRISTINA KVIEN, OF CALIFORNIA
COLETTE MARCELLIN, OF TEXAS
MICHAEL J. MATES, OF WASHINGTON
JEAN L. MCCALL, OF VIRGINIA
WENDY M. MCCONNEL, OF MARYLAND
ANN BARROWS MCCONNELL, OF CALIFORNIA
CHARLES L. MCKNIGHT, OF NEVADA
STEPHEN DAVID MCLAUGHLIN, OF VIRGINIA
KELLIE ANN MEIMAN, OF NEBRASKA
RICHARD W. MIDDLETON, JR., OF VIRGINIA
DOUGLAS A. MORRIS, OF NEBRASKA
NANCY TODD BRES MULENEX, OF WASHINGTON
W. PATRICK MURPHY, OF VERMONT
COURTNEY ROBIN NEMROFF, OF PENNSYLVANIA
HAROLD H. NIEBEL, III, OF MARYLAND
NELS PETER NORDQUIST, OF MONTANA
GERALD A. O'SHEA, OF NEW YORK
DAMIAN PEKO, OF MARYLAND
GEOFFREY W. PLANT, OF VIRGINIA
HOWARD V. REED, OF OHIO
JOAN MARIE RICHARDS, OF CONNECTICUT
CARL DOUGLAS RINGER, OF VIRGINIA
WILLIAM VERNON ROSBUCK, JR., OF NORTH CAROLINA
AVA L. ROGERS, OF LOUISIANA
WAYNE M. ROSEN, OF VIRGINIA
ANDREW J. ROTH, OF VIRGINIA
ROGER M. SCHER, OF VIRGINIA
WILLIAM JOHANN AUGUST SCHMONSEES, III, OF SOUTH CAROLINA
ROBERT W. SCOTT, OF VIRGINIA
WILLIAM P. SHANLEY, OF VIRGINIA
MARTHA D. SHOGI, OF VIRGINIA
GREGORY HOWARD STANTON, OF VIRGINIA
SHERRY LYNN STEELEY, OF PENNSYLVANIA

MAYA RUSHING WALKER, OF NEW HAMPSHIRE
STEVEN CRAIG WALKER, OF HAWAII
JOSEPH M. WEISBERG, OF THE DISTRICT OF COLUMBIA
JAMES D. WHEELER, OF MARYLAND
BETH MARIE WILSON, OF VIRGINIA
JAMES A. WOLFE, II, OF CALIFORNIA
CHARLES D. ZAPINSKI, OF THE DISTRICT OF COLUMBIA

SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

RAYMOND A. BONESKI, OF FLORIDA
MARCO S. DI CAPUA, OF CALIFORNIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION WITHIN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED, EFFECTIVE OCTOBER 6, 1991:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

ALLEN L. KEISWETTER, OF VIRGINIA

THE FOLLOWING-NAMED PERSON OF THE DEPARTMENT OF STATE, PREVIOUSLY APPOINTED AS FOREIGN SERVICE OFFICER OF CLASS FOUR, A CONSULAR OFFICER AND A SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA NOVEMBER 21, 1991, NOW TO BE EFFECTIVE SEPTEMBER 8, 1989:

JOHN ALAN CONNERLEY, OF CALIFORNIA

THE FOLLOWING-NAMED PERSON OF THE DEPARTMENT OF STATE FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, A CONSULAR OFFICER, AND A SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, EFFECTIVE OCTOBER 1, 1991:

VICTOR J. BONILLA-NEWMAN, OF CALIFORNIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED, EFFECTIVE OCTOBER 6, 1991:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

JOHN M. O'KEEFE, OF MARYLAND

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN ROBERT L. RUTHERFORD, 454 52 7491, U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JAY W. KELLEY, 305 42-5876, U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, 8373, AND 8374, TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. TANDY K. BOZEMAN, 418 46 8162, AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. STEPHEN P. CORTRIGHT, 411 10 7292, AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. DENNIS B. HAGUE, 518 38 7860, AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. E. GORDON STUMP, 272 36 2543, AIR NATIONAL GUARD OF THE UNITED STATES

To be brigadier general

COL. CHARLES L. BLOUNT, 250 54 3212, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. STEWART R. BYRNE, 404 48 3818, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. HARRIS R. HENDERSON, 571-52-8740, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JOHN S. HOFFMAN, 523-58-6913, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. DONALD E. JOY, JR., 045-30-0189, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. RONALD H. MORGAN, 009 26 3981, AIR NATIONAL GUARD OF THE UNITED STATES
COL. HARRY E. OWEN, JR., 462 40 7955, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. DANIEL H. PUMERTON, 517 36 1939, AIR NATIONAL GUARD OF THE UNITED STATES
COL. KENNETH M. TAYLOR, JR., 571 14 6402, AIR NATIONAL GUARD OF THE UNITED STATES.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR PERMANENT APPOINTMENT TO THE GRADE OF LIEUTENANT COLONEL, UNDER TITLE 10, UNITED STATES CODE, SECTION 5912:

GARY D. ANDERSON, 3795
PHILIP G. ARNOLD, 4109
REGINALD H. BAKER, 5768
DAN O. BAUSCH, 0511
WILLIAM S. BAYLES, III, 1397
ERIC A. BENNETT, 4215
MARK W. BIRCHER, 6018
ELIZABETH S. BLEE, 1263
MICHAEL R. BLEHM, 3561
BARRY L. BOULTON, 0156
LAURENCE D. BRADLEY, 9761
JEFFERY L. BRONAUGH, 4391
TERRENCE D. BROWN, 0179
GARNETT P. BRUY, 1411
FREDERICK E CALE, 6683
SUSAN M. CANDELLE, 0523
THOMAS A. CASTRIOTA, 1410
TIMOTHY J. CHRISTENSON, 3219
DONALD COBB, 0118
SEAN T. CONNOLLY, 3003
THOMAS M. COOK, 5602
STEVEN C. COREY, 5977
MICHAEL A. CROWELL, 4966
SUSAN K. CUNNINGHAM, 9555
TERRY O. DAVISON, 7035
RICHARD A. DECHAINEAU, 5101
BRUCE D. DEVERIS, 3996
JOSEPH E. DEYOUNG, JR., 9453
LUIS A. DIAZ, 5016
DANIEL W. DONAHUE, 0097
KEVIN W. DONAHUE, 0522
RUSSELL D DOUFT, 2972
DAVID C. DRIEGERT, 9427
GEORGE W. DUNBAR, 2528
CHARLES J. DYER, JR, 7224
JAMES L. EDWARDS, JR, 1497
RANDY L. EDWARDS, 9657
RALPH H. EMERSON, III, 9073
CHRISTOPHER A. ERDOS, 1239
SUSAN M. ENNER, 1113
CARL R. FAUSER, 5813
WENDY R. FONTELA, 8900
JON L. GANT, 2122
DONALD R. GIBBS, 5437
ROBERT L. GOODWIN, 3115
BRUCE R. GRATHWOHL, 4677
CHARLES R. GROSS, 2929
WILLIAM F. HANNAN, JR, 9589
JOSEPH A. HANSEN, 6022
JAMES R. HENDES, 1120
WILLIAM H. HEWETT, 6277
MICHAEL R. HILL, 9339
CONRAD C. HILSDORF, 2405
MICHAEL J. HOBBS, 5987
ROBERT J. HOLT, 6135
JOHN A. HUTCHISON, 7112
EDWARD J. HUZYAK, JR, 2112
PAUL D. ICE, 6305
BARBARA F JOHNSON, 0923
JAMEEL F. JOSEPH, 9006
DAVID J. KAESSNER, 4169
JOHN J. KANE, 9628
DAVID T. KELLEY, 6266
DAVID D. KENDRICK, 8310
KENNETH M. KOBELL, 6629
MARK T. KOTNOUR, 4312
MARK W. KRAMER, 9690
RICHARD J. KUHIAK, 6303
PAUL A. LADY, 7488
BENJAMIN M. LAFOLLETTE, 5179
TIMOTHY G. LAJEUNESSE, 7213
STEPHEN J. LAVINUS, 9723
PAUL C. LEUNG, 0371
LARRY L. LIGGITT, 5619
JOSEPH C. LONG, 5913
WILLIAM W. LONG, 3116
MICHAEL T. LOVEJOY, 5020
DAVID W. MAFFETT, 6578
CURTIS W. MARSH, 7352
ALFRED R. MARSHALL, JR, 2012
MICHAEL J. MASSOTH, 0270
SUSIE K. MCCALLA, 3181
MICHAEL P. MCCLOSKEY, 3922
WILLIAM E MCDANIEL, 1213
PATRICK W. MCDONOUGH, 7766
DAVID H. MCELREATH, 1446
MOSE A. MCWHORTER, 3613
JAMES A. MEARS, 5382
CAROL F MEDEIROS, 0623
THOMAS A MILLER, 5831
THOMAS J. MILLER, 5729
RAPHAEL A. MIRABAL, 4513
CHARLES R MIZE, JR, 1756
CAMILO A. MONSANTO, 8221
JACQUES J. MOORE, JR, 5518
LLOYD W. MOSS, 5775
DONALD E NELSON, 7233
JOSEPH E. NILAN, 6949
GERALD D. NIX, 5158
JOSEPH C NOONE, 1161
MENELAOS P. PALLES, 2959
WILLIAM C. PALMER, 5203
RODNEY P. PANTER, 4525
EUGENE G. PAYNE, JR, 7528
DAVID L. PETERSON, 6331
DANTE L. PETRIZZO, 4103
HAYDEN R. PHILLIPS, JR, 9004
JOSEPH A. RAUSA, 8198
STEPHEN A. REYNOLDS, 1209
JEFFREY A. ROBERTSON, 2807
GLENN C. ROUNDY, 9280
EDWARD P. RUSSELL, JR, 0061
EUGENE R. RYHAN, 7322
JOHN W. SAPUTO, 2139
NANCY J. SCHENK, 5491
WILLIAM P SCHMID, 8626
JOSEPH A. SCOTTO, 7072
KARIM SHIHATA, 1297
AUSTIN K. SMITH, 1691
ERIC H. SMITH, 3692
JEFFREY N. STICKEL, 3527
TERRY C. THOMASON, 2918
WILLIAM P. TODD, 8381
ROBERT P. TROY, JR, 3752
RUSSELL B. TURPIN, 7798
LEONARD C. UITENHAM, 5166
CHAD R. WALLWORK, 4647
RICHARD T. WATKINS, 2184
RONALD J. WATTERS, 2978
JOHN A. WEIL, 4186
DANIEL M. WELCH, 7992
MICHAEL W. WHITTED, 2816
JAMES L. WILLIAMS, 6353
DONALD K. WILLINGHAM, 6461
JAMES J. WITKOWSKI, 5295
RONALD P. WODTKE, 3263
JOHN M. ZAJAC, 2525

CONFIRMATIONS

Executive nominations confirmed by the Senate September 23, 1992:

THE JUDICIARY

NATHANIEL M. GORTON, OF MASSACHUSETTS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS.

JOHN PHIL GILBERT, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF ILLINOIS.

WITHDRAWAL

Executive message transmitted by the President to the Senate on September 23, 1992, withdrawing from further Senate consideration the following nomination:

U.S. AIR FORCE

THE NOMINATION OF THE OFFICER NAMED HEREIN FOR APPOINTMENT IN THE U.S. AIR FORCE IN THE GRADE OF MAJOR GENERAL, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 629(A), THAT WAS SENT TO THE SENATE ON APRIL 16, 1991:

To be major general

BRIG GEN. JAMES E MCCARTHY, U.S. AIR FORCE, 008 28 4817

HOUSE OF REPRESENTATIVES—*Wednesday, September 23, 1992*

The House met at 10 a.m.

The Reverend William M. Naughton, Resurrection Church, Randolph, NJ, offered the following prayer:

God, our Creator, a handful of courageous men and women, in a moment of danger, pledged their lives, fortunes, and honor to proclaim a nation whose citizens' rights were based not upon the nod of king or ruler, but upon creation at Your hands.

Grant to our administration a ministry of service to all, not the few; to our Congress, the upholding of public interest, not merely a welter of competing private claims; to our judiciary, a wisdom in interpreting law grounded in principle, not expediency.

Pour Your spirit out upon our people so that they may become active in the affairs of government, that they may not confuse dissent for disloyalty, that they may use their mighty power for the healing of differences among nations, with justice and mercy and love. 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 New York [Mr. SCHEUER] please come forward and lead the House in the Pledge of Allegiance.

Mr. SCHEUER 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.

CHAPLAIN CAPT. WILLIAM M. NAUGHTON

(Mr. ROE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROE. Mr. Speaker, today's opening prayer was offered by Chaplain Capt. William M. Naughton of Resurrection Parish in Randolph, NJ.

I am proud to welcome Father Naughton, my good friend of more than 20 years, as the guest chaplain in the House today.

Father Naughton has served in northern New Jersey since he was ordained to the priesthood in 1972. He has been associate pastor, parish administrator, and copastor at St. Brendan Parish in Clifton. He is presently pastor at Resurrection Parish in Randolph, NJ.

Father Naughton obtained a bachelor's degree in philosophy from St. Joseph Seminary and University, a master of divinity from St. Mary Seminary, a certificate in pastoral studies from Blanton-Peale Graduate Institute, and a master of sacred theology and doctor of ministry from New York Theological Seminary.

He has done pastoral counseling at the New York City prison at Riker's Island, served at the Summer City Program at the Holy Name Center for Homeless Men in New York, and at the Viva House-Soup Kitchen in Baltimore.

Father Naughton is currently a member of the Congressional Academy Review Board.

He has also had a distinguished affiliation with the armed services. He has been a member of the Air Force Reserves since 1985. He has been a captain since 1988 and is Catholic Reserve chaplain at McGuire Air Force Base in New Jersey.

He graduated from Air Force Chaplain School, is the editor of the Reserve Chaplains' Newsletter, and is enrolled in Squadron Officer's School. He received the Air Force Commendation Medal for his work in the Desert Storm crisis.

Father Naughton has a long and distinguished record of service to the people of northern New Jersey. I can attest from personal experience and knowledge that Father Naughton has a strong interest in helping people. He is to be commended for his work, and I am proud to present Father William Naughton to the Members of this House.

THE ENGINE THAT DRIVES OUR ECONOMY

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, small business is America's biggest industry.

Small business is the engine that drives our economy. It will create most of the new jobs and provide many of the new technologies and products into the next century.

Like an engine, small business runs most effectively when it runs cleanly.

Small business runs cleanly if it is not clogged up with ruinous regulations, high taxes, and frivolous lawsuits.

President George Bush, with his new initiative, encouraging entrepreneurial capitalism, will unclog the small business engine. This strategy will lower taxes, cut regulations, and reform our legal system to discourage litigation.

Bill Clinton, on the other hand, will impose new mandates that will make things even worse. He will impose tax hikes. He will promote more Government mandates. And he will encourage more useless litigation.

In this race to win the Presidency, the American people must decide which candidate will best take care of the engine that drives our economy.

When it comes to small business, George Bush takes the checkered flag, hands down.

PRESIDENTIAL VETO OF FAMILY LEAVE BILL

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, I deeply regret the mean-spirited action of President Bush yesterday in vetoing the family leave provision. What makes us, the United States of America, less compassionate to family needs, less sensitive, less caring than every other developed country in the world?

There is not a one that does not have a family leave policy. West Germany and Japan have 3 months paid family leave for compassionate reasons of infants or a child or a parent who needs care. A major percentage of our Fortune 500 companies have an established family leave policy: American Express, up to 12 months of unpaid leave; Eastman Kodak, up to 17 weeks; Johnson & Johnson, up to 26 weeks. This is the norm in America now.

It is Congress' obligation, with the President, to establish basic moralities and basic ethical systems in our national life. We have eliminated child labor as a statement of how we feel about child labor. We have eliminated obnoxious and punitive wages and hours.

Why can we not permit people to go home and care for a loved one, as every other civilized country in the world does?

This is a terrible reflection on President Bush's personal family values.

REPEAL OF THE LUXURY TAX

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, after nearly 2 years of debating and stalling, Congress is poised to repeal the luxury tax. This action will finally bring to an end 2 years of devastating stagnation in the industries of aircraft, boats, automobiles, jewelry and furs, which has caused thousands of layoffs.

Although this tax is about to become only a bad memory, it leaves behind some valuable lessons for this tax and spend Congress.

The economy is not strengthened through new taxes—it is weakened.

The deficit is not reduced through new taxes—it increases.

And finally, when Congress tries to tax the rich, the burden ultimately falls on the shoulders of the workers of America.

It is time for Congress to admit this mistake and finish repealing the luxury tax.

WHITE HOUSE IGNORES REAL FAMILY NEEDS AND VALUES

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, yesterday the President vetoed the family medical leave bill. He stated it would be an undue burden on business.

The facts of our experience in Oregon with family medical leave contradict the President's election year rhetoric.

I quote from Karl Frederick, lobbyist for the Associated Oregon Industries, an organization of large employers in Oregon.

I haven't heard any cries of outrage that this is repressive.

This is in regard to legislation passed in 1987 and implemented in Oregon for family medical leave.

In fact, he said:

They fought tooth and nail against it, but since its passage, I haven't had any response of an unfavorable nature, other than grumbling that this is another mandate.

Well, that is what we are hearing from the White House, grumbling about mandates while real family needs and values go unmet in this country.

I urge my colleagues, it is time to put real family values in the President's empty rhetoric, time to vote for real American family values. Vote to override the President's cynical election year veto.

JUST SAY "NO" TO METRIC SIGNS

(Mr. CALLAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALLAHAN. Mr. Speaker, I am today introducing a bill to prevent the Federal Highway Administration from requiring highway signs to be in metric measurements.

The Department of Transportation is proceeding with regulations to mandate metric highway signs although there is a dispute over congressional intent with respect to such signs. There is no dispute over one thing—the American people do not want metric highway signs and they sure do not want to pay for them.

My State of Alabama projects that new signs that would be required by the Federal Highway Administration would cost almost $3 million. That is not the major expense, though. The cost of changing design standards, computer programs, and related items is expected to be much higher.

At a time when we refer without blinking to a $400 billion budget deficit, this may not sound like much. But to a poor State with urgent highway improvement needs, it is staggering. *More importantly, it is ridiculous.* My constituents view this as another outrageous act out of Washington, and they are right. The people do not want this, we cannot afford it, and it will not improve our international competitiveness.

I am hopeful that the Department of Transportation will drop any plans for a metric highway system. If not, I am fully prepared to pursue my bill vigorously in the 103d Congress.

□ 1010

A MIDNIGHT VETO OF FAMILY VALUES

(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, late last night very quietly, without fanfare, after all the television lights had been turned off and all the news deadlines had passed, in order not to call attention to it, the President cast his 32d veto. He vetoed the family and medical leave bill.

So much, Mr. Speaker, for family values, so much for all the high-flown and emotional discussion which emerged from Houston last month about family values. It is business as usual. The President has again accepted very bad advice and acted on that advice. So much for family values.

I was very proud to vote to pass the Family and Medical Leave Act. I will be just as proud to cast my vote to override the President's veto if that question reaches this House.

Mr. Speaker, we all know that the workplace has changed. We have more working mothers, more working families. We have more need to give opportunity to these families to take care of their children or or loved ones who are ill without sacrificing their jobs.

Real family values of America, Mr. Speaker, would be served by passing this bill. I hope very much that we can pass it over the President's veto.

THE REPORT CARD FOR CONGRESS SHOWS AN F

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, every day the Democrats parade to this well and criticize President Bush for his lack of a domestic agenda. Well, the American people know cheap partisan rhetoric when they hear it. It is time to look at the facts: 230 days ago, President Bush proposed comprehensive health care reform, and Congress has done nothing; 523 days ago, President Bush proposed the America 2000 education reform plan, and Congress has done nothing; 552 days ago, President Bush proposed a national energy strategy, and Congress has done nothing; 551 days ago, President Bush proposed a comprehensive crime bill which is supported by the Nation's attorneys general and district attorneys, and Congress has done nothing; 1,330 days ago, President Bush proposed enterprise zones to create jobs in our depressed urban and rural areas, and Congress has done nothing; and 229 days ago, President Bush proposed far-reaching reforms of our civil justice system, and Congress has done nothing.

How do the Democrats explain their inaction on these domestic priorities? They may talk a good game, but the American people are not fooled. The record of this Democrat Congress, or lack of it, speaks for itself.

Mr. Speaker, as a teacher by profession, it is time to hand out the report card. This Congress deserves an F.

NO MORE LIPSERVICE FOR AMERICA

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, President Bush asked America to read his lips, no new taxes. His lips then said, "I will say anything to get elected." His lips then continued on the virtues of family values, and all Americans believe in family values. But then the President went on to veto the family and medical leave bill, unemployment compensation, middle income tax cuts, and minimum wage increases.

Then the President's lips said: "30 million new jobs." Then Americans started losing more jobs, we sent most of them to China and to Mexico, and then business started to leave the country in droves.

I do not think America wants any more lipservice. It is either 4 more years or 4 more months. America, it is time to use the stroke of the pen and not your lips.

THE FEDERAL GOVERNMENT CREATES MORE PROBLEMS THAN SOLUTIONS

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, it is sad but true, too often today our Federal Government is part or all of the problem rather than part of the solution. Many times it does more harm than good.

A perfect example of this is contained in legislation before us today. The Water Resources Development Act has $140 million to undo a project the Federal Government spent many millions on between 1961 and 1971. In the 1960's the Army Corps of Engineers changed the path of the Kissimmee River in Florida from an oxbow shape to a straight path river. This was done for flood control purposes.

Now they tell us the straightening of the river has endangered wildlife, such as the coot, the blue-winged teal, and the ring-necked duck. Thus, to protect wildlife, we are told we must change the river back to its original oxbow shape at a total estimated cost of $426 million, even though experts say the shape of the river has nothing to do with loss of wildlife, but rather, a change in migratory habits.

What a boondoggle. The real endangered species today is the American taxpayer. We are placing in jeopardy the jobs, the livelihoods and well-being of every citizen, young and old, by continuing to recklessly spend money which helps no one but the bureaucrats who work for this out-of-control Federal Government.

AMERICA NEEDS LEGISLATION, NOT MORE VETOES

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, President Bush during this campaign has repeatedly complained about gridlock and pointed to Congress. Of course there is gridlock, but the President is the driver of the automobile that is stuck in traffic.

With his veto last night of the medical leave bill, we know he has vetoed now 32 bills we have passed in Congress. That is the cause of gridlock. A case in point is the unfortunate veto of the campaign finance reform bill last May. That bill set spending limits on House campaigns, it limited PAC contributions, it closed soft money loopholes; it was a very good bill. It advanced the cause of campaign finance reform. The President vetoed it.

Now the President is talking about vetoing the cable bill. There is substantial and broad support all across the country for the cable bill. It passed both Houses by two-thirds. It needs to become law.

One reason people are so disillusioned with Government is that they feel their voices are not heard in the din caused by all of the special interest groups in Washington. If the President vetoes the cable bill, it will be a perfect example of that. The cable television laws need to be amended. We need the President to sign that legislation.

Mr. Speaker, I have supported campaign finance reform, the family and medical leave bill, unemployment benefits, cancer research, and a whole range of things the President has vetoed. Mr. Speaker, the vetoes are the problem. Let us remind the country that the gridlock of which the President complains is coming from his end of Pennsylvania Avenue.

THE FIRST-TIME HOME BUYER TAX CREDIT

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, time and again in Ways and Means Committee hearings, we have been told that the best way to stimulate the economy is with a targeted, focused economic plan which will generate jobs and create positive economic opportunities. That is why, last November, I introduced the first-time home buyer tax credit, which was hailed as a way to create a huge ripple effect throughout the economy.

Most agreed that this proposal would create the splash our economy needs to get back on its feet. Unfortunately, the home buyer tax credit—supported by Members from both sides of the aisle and the Bush administration—was stalled and killed in committee—never having its day on the House floor.

Today I suggest that we find a way to agree to the Senate provision for a $2,500 credit—and get this economy moving. Many young people have little opportunity to achieve the same standard of living that they had growing up. A tax benefit aimed directly at first-time home buyers can help remove some of the barriers these young people face.

Experience proves that a home buyers tax credit would spur economic growth immediately and lead this Nation into a lasting recovery. I urge my colleagues to find a way to support the Senate provision and include this measure in our plans before the end of the year.

VETOES OF BIPARTISAN LEGISLATION CREATE MORE GRIDLOCK

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, there has been a lot of talk about political gridlock in Washington this year and who is responsible. The President, of course, would have us believe that the Democrats in Congress are responsible for the gridlock, but today we hear that President Bush is planning to veto the cable legislation.

Let me remind my colleagues that more than two-thirds of the Members of this body voted for that legislation, and yesterday 74 Members of the other body voted for the cable bill. This is bipartisan legislation supported by a majority of Members on both sides of the political aisle in both bodies.

□ 1020

If President Bush vetoes the cable bill he will make it abundantly clear to the people of this country who is responsible for the political gridlock. And in addition to that, he will be saying no to legislation that will save consumers in America millions of dollars. He will also be saying no to legislation that will improve programming for rural communities all across America.

Mr. President, you can put an end to the political gridlock and save the consumers of this country millions of dollars by saying "yes" to this cable bill. I urge you to sign it, Mr. President.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair would like to remind Members that they should direct their remarks to the Chair.

CONGRESS AND ADMINISTRATION HAVE 2 WEEKS TO DEAL WITH VIOLENCE AGAINST WOMEN

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, recently, the FBI issued a report stating that 106,590 American women were raped last year. That's one rape victim every 5 minutes.

The tragic story of the 14-year-old girl from Watertown, a town of 2,200 in my congressional district, allegedly sexually assaulted by a fellow teen who also shot and killed her friend, shows it can and does happen everywhere.

As the overall crime rate rises, women are being victimized by violent crime in disproportionately increasing numbers. In the past decade, the incidence of rape has increased more than four times faster than the overall

crime rate, according to the FBI. During the same time, domestic violence was the single largest cause of injury to women in our country.

While this is shocking in itself, it is equally disturbing that Congress and the Justice Department have been slow to take action and fully appreciate the extent of violence against women. With 1 month left before the 102d Congress adjourns, it is imperative for Congress and the President to take off their partisan hats and work together to pass meaningful legislation that addresses this problem.

Recently, the National Victim Center and other victims' rights groups were instrumental in gaining sufficient congressional support to pass the Campus Sexual Assault Victims Bill of Rights Act I authored last year.

When I first introduced this bill, few in Congress were aware of the widespread epidemic of campus rape, and some even refused to believe it existed. But after our efforts to expose and address this problem, the bill gained strong bipartisan support and passed both Houses of Congress. The bill was amended into the Higher Education Reauthorization Act, which President Bush signed on July 23.

Although passage of the campus sexual assault victims bill represents a major step forward in dealing with violence against women, we now face the same obstacles in addressing this crisis throughout the country.

To those of us who have been working on the issue, the FBI's statistics come as no surprise.

After all, rape is the Nation's most underreported crime, as victims are too frequently reluctant to come forward with their cases to the criminal justice system.

Ironically, the same Justice Department officials who released the startling rape statistics oppose the other major piece of legislation before Congress dealing with this problem—the Violence Against Women Act.

This important legislation, which will be marked up today, provides assistance for victims of violence against women, as well as resources for prevention and public education, rape crisis centers and battered women's shelters. The Violence Against Women Act authorizes $25 million for grants to States for victims' programs, law enforcement, prosecutors, and the courts.

Because so few legal protections exist for battered women in most States, this legislation would require each State to enforce protective orders issued by another State.

When spouse abusers cross State lines in violation of such orders or continue their abuse, the bill imposes a minimum prison term of 5 years, and up to 20 years depending on the extent of injuries to the victim.

In addition, the bill provides new penalties for sex crimes, extends the rape shield law protection for victims' identities and makes public transit and public parks safer.

The most controversial provision of the bill would create a civil rights remedy for victims of gender-based sex crimes. This remedy is especially important because it provides women with the same protections that now cover other victims of hate or bias crimes.

Many years ago, Federal law recognized that hate assaults of certain minorities violate their right to be free and equal. We should guarantee the same protection for victims of sexual assault who are attacked only because they are women.

The Violence Against Women Act is a bold, far-reaching bill. Given the recent startling and tragic findings, Congress and the administration can no longer ignore the fact that violence against women has reached epidemic proportions. Nor can they continue to ignore its devastating effects on women's lives and their civil rights.

This much-needed legislation attacks this problem in a comprehensive way. Congress should pass it without further delay. The women of America deserve nothing less.

OPPOSITION TO THE ANTITRUST REFORM ACT

(Mr. STALLINGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STALLINGS. Mr. Speaker, I rise in opposition to H.R. 5096, the Antitrust Reform Act. This legislation would have an adverse impact by denying jobs to the American economy at a time of dire need, and would be especially damaging to rural America.

A recent study, "The Economic Impact of Bell Operating Company Participation in the Information Services Industry," concludes that more than 156,000 jobs would be created throughout the economy in U.S. West's 14 States by 2001—if it is allowed to remain in the information services market. Nationwide, RBOC participation in the information services industry would add 1.46 million jobs to the economy by 2001. H.R. 5096 would stifle this growth in jobs.

The restrictive nature of H.R. 5096 assures that the telecommunications infrastructure of smalltown America will stagnate. The businesses that bring the information age to big city America have little intention of investing in small towns. For our communities to survive and thrive, we need a local telephone industry with the freedom and incentives to add to the investment they have historically made in rural America.

VETO OF THE FAMILY AND MEDICAL LEAVE BILL

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, I rise today to talk about the veto of the family and medical leave bill last night. But I am spurred on by our colleague from California to talk about Bill Clinton for the first part of my minute instead.

When Bill Clinton is the President of the United States, we will have in the White House one of the greatest Presidents of this century, a person of great intellect, of great knowledge, a person with a prepared mind, a plan of action, and a person who will give confidence to the American people. We would have a President who would sign the family and medical leave, who would have true family values and support them legislatively.

Last night in the dark of night, President Bush vetoed family values. He hosed them right down.

I do not think this veto can take the light of day. When President Bush ran for office he said he did not think a woman should have to give up her job if she had a baby.

The President's veto, therefore, is disappointing, not unexpected, but hope did spring eternal that perhaps he would see the light.

I guess it all comes down to the fact that in order to have Mr. Bush's family values you have to have Mr. Bush's family money.

DEBATING THE NORTH AMERICAN FREE-TRADE AGREEMENT

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. KOLBE. Mr. Speaker, last week President Bush transmitted the draft of the North American Free-Trade Agreement to the Congress for its consideration. This step marks an important milestone in the process of forging closer economic ties between the three countries of North America.

Although a vote to implement the agreement will not happen until the 103d Congress convenes next year, it is appropriate that this issue be debated, discussed and argued now. Now, during a Presidential and congressional election, is the time for the American people to decide their economic future.

Some in this body, some in the leadership of the Democrat Party, have said the agreement should be rejected. They argue that America should not seek to expand our exports, should not create jobs at home by producing goods to sell overseas, should not offer more choices and lower prices for consumers at home.

I disagree, and during the remaining days of this session, I hope this debate

will be joined. Nothing could be more important to the future of this country.

WITH FRIENDS LIKE THAT

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, it is fascinating as we look at this campaign develop. Our friend, Governor Clinton, has claimed to be a friend of small business, and there is one natural question which comes to mind for all of us. With friends like that, who needs enemies?

Mr. Clinton has advocated a $150 billion tax, most of which will fall on the backs of small business men and women. With friends like that, who needs enemies?

Mr. Clinton has also advocated a health care plan that will lead to a 7-percent payroll tax to finance a Government-run health care program, most of which will fall on the backs of small business men and women. With friends like that, who needs enemies?

Mr. Clinton wants to add another payroll tax for training. With friends like that, who needs enemies?

Mr. Clinton wants to add a tax on foreign companies operating in the United States and employing American workers. With friends like that, who needs enemies?

Mr. Speaker, I do not think America's small business men and women can afford Mr. Clinton's kind of friendship.

CONFERENCE REPORT ON H.R. 2194, FEDERAL FACILITY COMPLIANCE ACT OF 1992

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 576 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 576

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2194) to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

□ 1030

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], and pending that, I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 576 is the rule providing for consideration of the conference report on H.R. 2194, the Federal Facility Compliance Act.

Under the rules of the House, conference reports are considered as privileged. The rule waives all points of order against the conference report and against its consideration. The rules waived include those requiring a 3-day layover of conference reports filed in the House, scope, and germaneness.

As the Committee on Rules heard in testimony, H.R. 2194 enjoys strong bipartisan support. Indeed, the House accepted the bill under suspension of the rules by a voice vote, and the Senate approved it 94 to 3. Despite the overwhelming bipartisan support for the legislation in the House and the Senate, the President, however, has not publicly announced that he has changed his intention to veto the bill.

For those reasons, the rule under consideration today would ensure that, should the President veto H.R. 2194, the Congress would have the opportunity to respond to the President's action.

H.R. 2194 ends the hypocritical double standard that exists today because of the Federal Government's practice of assessing civil penalties against private companies, municipalities, and State agencies for violations of the very same environmental laws that the Federal Government itself violates with impunity. The result is that the Federal Government is among the Nation's worst polluters. It is past time that we end this immunity to penalties under the Nation's solid waste laws.

Mr. Speaker, we would like to thank the gentleman from Ohio [Mr. ECKART], the gentleman from Washington [Mr. SWIFT], and the gentleman from Colorado [Mr. SCHAEFER] for their hard work on this important environmental legislation. Their persistence has paid off. We finally have the chance to require the Federal Government to comply with the same environmental laws and regulations it imposes on private businesses and States.

Mr. Speaker, I urge my colleagues to adopt this rule and the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I recognize that as we approach the end of this session of Congress the schedule will become rather hectic, and there is a great need to expedite the process on a number of measures. In my view though, Mr. Speaker, that expedited process is not necessary on this bill.

Instead, I am concerned that this rule represents a potential pattern of abuse that will intensify as the legislative session begins to wind down. In addition to waiving points of order against germaneness and scope violations, the rule waives the 3-day layover requirement which exists explicitly for legislation such as this.

The conference report, which contain a number of controversial provisions, was filed just yesterday evening. It is my understanding that a number of our colleagues, as well as the people at the Departments of Energy and Defense, were still trying to determine exactly how the conference report would affect their agencies.

Mr. Speaker, it is important that the Federal Government not exempt itself from environmental laws imposed on the private sector. At the same time, it is also important that the administration be given the flexibility to deal with what are clearly complex contamination problems. It is only fair that Members have sufficient opportunity to determine whether these goals are met by this legislation.

Mr. Speaker, it is my hope that this rule is not in fact an indication of the kind of rules that we in the minority can expect in the closing days of this Congress. In our haste to adjourn by this, as many have said, early Monday morning, October 5 date, it is especially necessary that Members be given adequate time to review the legislation we will be voting on.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DREIER of California. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I urge a no vote on this rule.

Mr. BEILENSON. Mr. Speaker, I urge my colleagues to support the rule, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. SWIFT. Mr. Speaker, pursuant to House Resolution 576, I call up the conference report on the bill (H.R. 2194) to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 22, 1992, at page H 26716.)

The SPEAKER pro tempore. The gentleman from Washington [Mr. SWIFT] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. RITTER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the conference report on H.R. 2194, now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of the conference report to accompany H.R. 2194, the Federal Facility Compliance Act of 1992, a bill introduced by my colleagues DENNIS ECKART of Ohio and DAN SCHAEFER of Colorado.

Mr. ECKART and Mr. SCHAEFER deserve special commendation for their remarkable perseverance and patience over the past three Congresses in their efforts to bring environmental accountability Federal facilities.

Both of these gentlemen have diligently pursued enactment of this legislation in spite of numerous obstacles placed in their path, and they have consistently demonstrated their willingness to work with the administration and the Republican members of the Energy and Commerce Committee to overcome these obstacles.

As a result, what we have before us today is a conference report that represents bipartisan agreement on both sides of the Capitol. The conference report addresses all four of the major issues raised by the Departments of Energy and Defense, concerning the regulatory status of mixed waste, munitions, federally owned treatment works, and public vessels under the newly amended Solid Waste Disposal Act.

Mr. Speaker, this legislation has a long and complex history.

In 1976, Congress mandated that Federal facilities comply with our Nation's hazardous waste laws in the same manner and to the same extent as any other person, including private entities and State and local governments. Unfortunately, at the urging of the Justice Department on behalf of the Departments of Energy and Defense, over a period of time, some Federal courts indicated that the waiver of sovereign immunity in the 1976 law was not sufficiently clear.

In 1987, President Bush came to my home State of Washington and acknowledged that some of our worst environmental polluters were our Federal facilities, and promised that he would insist "that in the future Federal agencies meet or exceed our environmental standards."

One year later, in 1988, the Energy and Commerce Committee tried to carry out that objective by approving Federal facilities legislation by a vote of 27 to 15.

In 1989, during the 101st Congress, the committee again approved similar legislation by a vote of 38 to 5, and it subsequently passed the House by a vote of 380 to 39.

During this Congress, the committee passed the bill by a vote of 42 to 1, and sent it to the floor under suspension of the rules, and the House passed the bill again, this time by a voice vote.

Mr. Speaker, the main provisions of the conference report before us today are essentially identical to the previously passed House versions of the legislation. The legislation has three primary provisions—all of which are designed to remove the double standard that now applies to Federal facilities on the one hand, and to State and private facilities on the other.

First, it clarifies the sovereign immunity waiver to ensure that States have the right to enforce their hazardous waste laws and the Solid Waste Disposal Act against Federal facilities.

Second, it restores to EPA the right to use administrative orders to resolve regulatory violations at Federal facilities.

Finally, Federal agencies will have the opportunity to confer with the EPA Administrator before any administrative order becomes final.

The need for the legislation is obvious. If DOD and DOE had been complying with the law, environmental disasters like Hanford Reservation in the State of Washington might never happened. Without this bill, I am afraid they could continue to happen.

This bill has widespread support. It has been endorsed by all 50 State attorneys general, by the National Governors' Association, the National Conference of State Legislators, the League of Cities, as well as organized labor and all of the major environmental organizations.

Mr. Speaker, I am extremely pleased that the resolution of this conference, embodied in the legislation before us today, and urge its adoption by the House.

Mr. DINGELL. Mr. Speaker, Federal facilities are among this country's worst environmental offenders. Their long history of noncompliance with this country's environmental laws, particularly the hazardous waste management requirements under RCRA, has resulted in numerous lawsuits by States against the Federal Government seeking to compel compliance with the law and remediation of the severe environmental problems they have caused. This bill reaffirms Congress' original intent that Federal facilities not only must comply with all of the procedural and substantive requirements of our Federal and State hazardous waste laws, but they, like everyone else, are also subject to fines and penalties for violations of those laws. In doing so, Congress is responding to the recent Supreme Court decision in United States Department of Energy versus Ohio et al., and making the waiver of sovereign immunity as clear and unambiguous as humanly possible. It is our fervent hope that the Supreme Court will heed Justice Byron White and not resort to "ingenuity to create ambiguity" that simply does not exist in this statute.

This bill, which has been passed three times in the House in the last two Congresses, has been endorsed by every State attorney general, the National Governors' Association, the National Association of Attorneys General, the National Conference of State Legislatures, the National District Attorneys Association, the Sierra Club, the National League of Cities, the American Federation of Labor and Congress of Industrial Unions, the United Mine Workers of America, and the International Brotherhood of Teamsters to name just a few.

The conference has attempted to be responsive to the administration's concerns by addressing each of the four issues raised by the administration during consideration of this bill: The applicability of RCRA to hazardous waste generated aboard public vessels; the definition of when military munitions become hazardous wastes; the applicability of the domestic sewage exemption to federally owned treatment works [FOTW]; the violations of the section 3004(j) mixed waste storage prohibition.

The conferees addressed these issues in the final bill, notwithstanding the fact that the House bill contained no provision relating to any of these four issues. Specifically, public vessels were given the relief from RCRA manifesting, storage, and inspection requirements currently enjoyed by private vessels. For munitions, EPA will issue rules defining when military munitions become hazardous waste and providing for safe transportation and storage of that wastes. Finally, with regard to mixed waste, although the bill intends to ensure greater compliance by Federal facilities with hazardous waste laws, it also recognizes DOE's claim of a current lack of mixed waste treatment capacity by providing Federal agencies relief for 3 years from punitive fines and penalities for mixed waste storage violations on section 3004(j) while they reach agreeements with affected States for addressing their mixed waste.

The issue relating to the storage prohibition of section 3004(j) for mixed wastes at commercial facilities is currently the subject of litigation in the U.S. Court of Appeals for the District of Columbia Circuit in *Edison Electric Institute et al.* v. *EPA* (No. 91-1586). Nothing in this legislation is intended to affect that pending litigation in any manner.

The solution in this bill for these issues deals with concerns raised by the administration, and also takes into account the responsibility of EPA and the States for administering the RCRA program. The bill is designed to ensure that authority to enforce Federal facilities' compliance with State or Federal hazardous waste provision accompanies the responsibility for administering those provisions. In almost every case this means the States, which is entirely consistent with the underlying intent expressed by Congress in RCRA that the States be the primary implementers of this country's hazardous waste laws.

The bill is also mindful of the plight of our small towns in trying to comply with the host of Federal environmental laws. It requires EPA to establish a small town planning program, in-

cluding a small town ombudsman, to assist small communities in planning and financing environmental facilities and to introduce into EPA's regulations greater appreciation and consideration of the problems faced by small communities in complying with the panoply of environmental requirements.

In conclusion, this is a good bill. It will minimize further litigation between the States and the Federal Government and significantly improve Federal facility compliance with hazardous waste laws. It is my hope that it will also facilitate greater cooperation among all affected parties and result in strong, workable agreements. If help is needed, I stand ready to assist in bringing the parties together to initiate the necessary dialog to achieve the goals of this bill.

Today Congress will do its part and pass this bill. Now it is time for President Bush to live up to the statement he made in Seattle, WA in May 1988 prior to his election acknowledging the serious environmental compliance problems at Federal facilities:

Unfortunately, some of the worst offenders are our own Federal facilities. As President, I will insist that in the future Federal agencies meet or exceed environmental standards. The Government should live within the laws it imposes on others.

I could not agree more, and urge him to sign this bill expeditiously.

Mr. SWIFT. Mr. Speaker, I reserve the balance of my time.

Mr. RITTER. Mr. Speaker, I yield myself such time as I may consume.

□ 1040

Mr. Speaker, I rise in support of the conference report to accompany H.R. 2194, the Federal Facilities Compliance Act of 1992. After nearly 6 years and much hard work, Congress has finally reached agreement on the language of the Federal Facilities Compliance Act.

Mr. Speaker, I want to commend the chairman of the subcommittee, the gentleman from Washington [Mr. SWIFT], the gentleman from Ohio [Mr. ECKART], and the gentleman from Colorado [Mr. SCHAEFER], for their excellent work in bringing this legislation to the floor.

I believe this legislation is a significant step in restoring our Nation's environmental quality. The enforcement provisions contained in the conference report will give States and the EPA the tools they need to ensure that all branches of the Federal Government comply with the Resource Conservation and Recovery Act, or RCRA.

The guiding principle of this legislation, Mr. Speaker, is that the Federal Government should be subject to all the requirements of RCRA, and Government agencies should be treated no differently than private entities. The only exceptions to this policy should reflect situations where the regulations issued for the private sector do not take into consideration unique features of wastes produced by the Government.

Two examples of this are mixed wastes and military munitions. In both these cases, the applicable RCRA regulations were promulgated without adequately taking into consideration the unique features of the wastes.

However, outside of these limited exceptions, I believe this legislation sends an important signal that the Federal Government should be a leader in environmental compliance and environmental quality.

Mr. Speaker, we have come a very long way from the consideration of this legislation earlier in this Congress. At the committee hearings and markup, and again on the floor of the House, I pointed out that the legislation needed to be amended to take account of concerns of the Department of Energy and the Department of Defense and their unique waste situations.

In a letter dated February 21, 1992, the Secretaries of Energy and Defense and the Administrator of the Environmental Protection Agency describe their concerns with the bills passed by the House and the Senate. This letter details their views on the issues of mixed waste, munitions and ordinance handling, public vessels, federally owned wastewater treatment works, fees, employee liability, facility inspection, and the definition of person.

I note that the conference report moves a long way toward addressing these concerns. It includes a provision that allows the Department of Energy 3 years to enter into compliance agreements for the storage of radioactive mixed waste with the affected State. This provision is intended to get all affected parties to take a good look at the national problem posed by mixed hazardous and radioactive waste generated through the production of nuclear materials.

The report further provides that hazardous waste on public vessels will be considered generated only when the waste is offloaded in port or the ship is no longer in service. This provision is necessary to allow the U.S. Navy to carry out its vital national security role without unnecessary regulation. Yet, it makes clear that when wastes are transferred to port facilities, they become subject to the full force of our environmental laws.

Section 3022(a)(2) is intended to preclude the long-term waterborne storage of waste by successive transfers between public vessels. It is not intended to authorize routine inspections of public vessels under RCRA nor to authorize inspections to verify that no waste is held for greater than 90 days.

The report directs the Environmental Protection Agency to issue regulations to resolve the issue of when a military munition becomes a waste and thus subject to the jurisdiction of RCRA. The rule will also provide for the safe transportation and storage of these wastes and remove conflicts with safety concerns caused by existing RCRA transportation and storage requirements.

The intent of this provision is to avoid the patchwork of jurisdictional tests for RCRA that would likely result if this issue is resolved through piecemeal litigation. During the period prior to the promulgation of the rule, the interested parties should avoid this type of piecemeal litigation and use the rulemaking process to develop a uniform national approach for determining when a military munition becomes subject to RCRA.

The conference report also provides that federally owned treatment works be included within the domestic sewage exclusion to RCRA, so long as applicable pretreatment standards are met. This provision is necessary to avoid unnecessary dual regulation of these facilities under RCRA and the Clean Water Act. The intent of this provision is that federally owned treatment works be dealt with in the same manner as publicly owned treatment works.

Finally, I would note that this is a forward looking bill. It is not designed to impose retroactive liability. The phrase "continuing violations" as used in this legislation, refers to violations occurring after enactment. It is not intended to sanction fines or punitive penalties, or to sanction citizen suits, for violations occurring prior to enactment.

Mr. Speaker, I believe the conference report is a real improvement over the House-passed version and goes a long way toward addressing the real problems that would have been posed by applying the House version to mixed waste, Navy vessels, military munitions, and federally owned treatment works. I urge my colleagues to support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. SWIFT. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Speaker, I thank my colleagues and my chairman, the gentleman from Washington [Mr. SWIFT] for his yielding to me.

Mr. Speaker, hypocrisy suffers from many definitions. The American Heritage Dictionary defines it as "the feigning of beliefs, feelings, or virtues that one does not hold."

I define hypocrisy in a somewhat different way. I define it as the Federal Government's practice of routinely penalizing and enforcing violations of the Nation's environmental laws against private companies, small businesses, State and local governments; yet at the same time our own Federal Government, the Nation's largest polluters, will not enforce those same laws, same fines and penalties against itself.

The reality of the matter is that what we have had for too long in the enforcement of the Nation's environmental laws is an attitude that says, "Do as I say, not as I do."

And of course the EPA and the Federal Government have condoned the practice of wanton pollution of our environment by taxpayer-supported Federal facilities.

That is why almost 5 years ago in conjunction with my colleague from Colorado, Mr. SCHAEFER, I introduced legislation to end this hypocritical double standard, to say that business as usual where the Federal Government pollutes its own neighbors and causes problems in its own back yard, have to come to an end and that the same environmental requirements that the Federal Government was forcing on every other person, locality, and industrial facility in this Nation really ought to be applied to individuals within the Federal Government as well.

Mr. Speaker, this bill has enjoyed a long string of support, passing the House several times, and the Senate as well. In my view, it should not have even been necessary. But a recent Supreme Court decision affecting my State, Department of Energy versus Ohio, a decision that I believe was erroneous in its application, made it clear that the Congress indeed had to act. There are hundreds of Federal facilities around this Nation's environment and some are the worst polluters in the Nation. And, as then-Vice President George Bush said in 1988, he will insist that future Federal agencies meet or exceed environmental standards. He said, and I quote, "The Government should live within the laws it imposes upon others."

Today we take now-President Bush at his word. This bill primarily, clearly, and unambiguously waives Federal sovereign immunity for civil and administrative penalties and fines, including penalties and fines that are putative or coercive in nature.

We need to correct the recent Supreme Court decision. We need to make sure that this is effective on the date of the enactment. We, as my colleague from Pennsylvania, go so far as to ensure that the Department of Energy has a real 3-year plan and the concerns of the Pentagon are equally well addressed, as well.

□ 1050

We need to make sure that the neighbors and friends who find themselves perhaps working at, but nonetheless living near, a Federal facility know that it will be operated as safely and cleanly and in an environmentally sound way as any other facility or business in their backyard.

Mr. Speaker, this has been a long and arduous journey. I want to pay special tribute first to my colleague, the gentleman from Colorado [Mr. SCHAEFER], my Republican colleague, who through some difficult times and circumstances has been willing to express a view that at times perhaps may have been difficult for him in his caucus. He has stood strong and tall and for that the environment of Colorado will be better off and the Nation will be better served.

The gentleman from Washington [Mr. SWIFT] and the gentleman from Michigan [Mr. DINGELL] on the Democratic side, as my subcommittee and full committee chair respectively, have hung long and tough in there 4 or 5 years, and the passage of this bill is a testimony to their dedication as well.

The gentleman from Maine, the majority leader in the other body, Senator MITCHELL, as the original Senate sponsor of this bill, has made it clear that it is one of his priorities and has endured when the Senate activities made it difficult to do so.

But most importantly, Mr. Speaker, I want to thank a couple of folks who have shared this long travail with me, Dick Frandsen, Anne Forristall, Karen Cleveland of our staff, and David Eck from the staff of the gentleman from Colorado [Mr. SCHAEFER], all who labored mightily and long in the vineyards of difficult times when perhaps they wished they had either another boss or a different idea.

The reality is, though, that the staff, I am fond of saying, is the difference between a Member being good and an idea being great. You have taken a mediocre Member, given him a good idea, and with your hard work made all the difference in the world.

We will end business as usual for me personally in a few days, but for the Nation, as well as we more importantly end the practice of allowing our Government to pollute its neighbors. The passage and signing, I hope, of this bill will send a strong and clear message that the taxpayers of America deserve as much protection from their own Government as they, in fact, do when they support their own Government.

Mr. RITTER. Mr. Speaker, I yield 4 minutes to the gentleman from Colorado [Mr. SCHAEFER], a Member who has worked long and hard on this issue and who deserves a lot of credit.

Mr. SCHAEFER. Mr. Speaker, I certainly appreciate the gentleman yielding me this time.

First of all, I certainly also want to thank the gentleman from Pennsylvania [Mr. RITTER]. He has been very supportive of this for a long, long time. We have been able to work out a number of differences in this legislation as time went on. Sometimes the House was more inclined to be a little bit more stringent than the Senate, and therefore we reached a compromise eventually over a period of time.

Mr. Speaker, I rise in support of the conference report.

The legislation before us, the conference report on H.R. 2194, hopefully marks the end of a 5-year process. It was that long ago that the gentleman from Ohio [Mr. ECKART] first introduced a bill requiring Federal facilities to comply with the Nation's environmental laws. Many pitfalls and legislative hurdles later, we stand on the verge of sending this important bill to the President.

The fact that H.R. 2194 has reached this point is, in part, a testament to the dedication and commitment of its lead sponsor. But more than that, it is evidence that a good idea whose time has come is a difficult thing to keep down. The belief that Federal facilities should be subject to the same fines and penalties as their private counterparts is such a fundamental matter of fairness that no opposing argument could stand in its way. Instead, the legislation picked up more bipartisan support, passing the committee and the House by ever-increasing margins.

At the same time, the need for the bill became all that more apparent. In the 5 years since its first introduction, a great deal has happened to change the landscape surrounding this issue. An FBI raid at the Rocky Flats plant just outside my district for serious violations of waste disposal laws occurred. The continuing refusal of the Department of Energy to enter enforceable Federal facility compliance agreements, and Supreme Court case siding with DOE that sovereign immunity was not expressly waived under RCRA. Each of these developments make what we are doing today of even greater significance.

To be honest, the conference report is something less than I had hoped for. Certain provisions of the legislation reflect a DOE-generated fear that the States will use their fine and penalty power irresponsibly. In this regard, the conference agreement is marginally weaker than the House-passed bill.

But what is still intact is the strong underlying message of H.R. 2194: That the days of double standards and no accountability for our Federal agencies are over.

From now on, should this conference report become law, DOE's promises of a change in attitude had better be accompanied by a change in behavior. Otherwise, it will quickly discover that its once toothless watchdog—the States—are not so any more.

This is how it should have been all along. In passing this legislation, I can not help but wonder how much contamination resulting from improper waste disposal could have been prevented had it been in place sooner. Unfortunately, neither this bill nor any other can erase the mistakes of the past. That is the sad reality.

Contractors should be much more sincere in then liability knowing that a proper environmental plan is in place—but passage of the conference report can make certain that those mistakes do not happen again. By setting up a procedure—and more importantly the proper incentive—for Federal Agencies to enter enforceable agreements with

the States, the legislation guarantees that progress toward environmental compliance continues to be made. While it may not happen overnight, at least we are moving in the right direction.

Mr. Speaker, environmental compliance at the Nation's Federal facilities is not a partisan goal. Nor is it inconsistent with our national security interests. Rather, it is a sound priority from not only an environmental perspective, but an economic one as well.

After all, while the cost of complying with waste disposal laws may be significnt, they pale in comparison to the cost of cleanup.

In closing, I would like to thank Chairman DINGELL and SWIFT and ranking Republicans LENT and RITTER for their leadership on this important issue. But I would especially like to commend and congratulate the gentleman from Ohio [Mr. ECKART] for a job well done. It is only fitting that his career in the House, one marked by a strong commitment to the environment, ends with such a notable accomplishment.

I urge a vote in favor of the conference report.

Mr. RITTER. Mr. Speaker, I want to just again commend the gentleman from Colorado and the gentleman from Ohio for knowing how to move the process forward. I have stated that I think the compromise with the Senate gives us stronger legislation, that it is going to be more workable; we'll get more cleanup for our dollars. The gentleman from Colorado and the gentleman from Ohio are certainly not part of the gridlock used to describe this Congress. Particularly the gentleman from Ohio, over the years, has shown a unique capability to fight hard, but to make sure that the process does move when it needs to move to get legislation that works for the country. We'll miss him on the Energy and Commerce Committee and in this House.

Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. BILIRAKIS] who has been a strong proponent of this legislation.

Mr. BILIRAKIS. Mr. Speaker, I rise today to join my colleagues in strong support of this conference report on the Federal Facility Compliance Act, and I urge its swift passage by this body.

The basic tenets of this important legislation have been well-described by my colleagues, and, therefore, I would like to focus on one specific provision regarding environmental restoration.

I was pleased to offer this provision as an amendment 2 years ago when this bill was being considered in the House. It was accepted in the House and later preserved in conference and I want to thank my fellow conferees from both bodies for so preserving it in the conference report.

Federal facilities always have been bound by environmental laws that govern the disposal of hazardous and solid waste and that allow the Government to order hazardous waste cleanup. These laws include the Resource Conservation and Recovery Act and the Superfund law.

However, these same facilities have claimed immunity from fines or court penalties levied by States and even other Federal agencies seeking to speed up cleanup efforts. Court opinions have varied on this issue, and that is why we are here today.

Today, we seek to sweep away that immunity once and for all. We—in effect—seek to grant the States broad authority to hold these facilities to account for any environmental damage that may have resulted from their operation.

Indeed, for too long some of these facilities have not followed the mandates of our environmental laws and have created hazardous waste management and cleanup problems of monumental proportions. They should be held to account.

My provision asks of these States in return only that any funds collected from fines and penalties of this nature be employed for environmental projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.

In passing this legislation today, the Federal Government basically is waiving its right of sovereign immunity in this instance—we are giving the States a right they do not now have—and, in fact, have been seeking for years. As a condition of granting them this right, we are simply asking that any fines or penalties collected in the name of the environment be returned to the environment.

I believe that this provision makes the conference report an even more important step in ensuring full compliance with the environmental laws at Federal facilities than it otherwise would be—which already is considerable.

It, in effect, keeps this legislation a strong environmental restoration statement.

This clearly is an issue of environmental equity. If States receive money because a Federal facility has harmed the environment through a violation of RCRA, the money collected through fines ought to be used for environmental redress.

I do not consider it to be an action usurping States rights. The Federal Government is granting the States the right to secure Federal money through fines and penalties for environmental damages, negligence, and so forth. I believe it is more than reasonable to expect that any funds so collected be spent on their intended purpose.

The provision allows enough flexibility for the State to designate the types of environmental restoration projects on which such funds collected will be spent, but it does require that the States spend the money on the environment.

It also contains a narrowly drawn exemption for States with constitutional requirements that such funds be used in a different manner.

This exemption also extends to a limited number of States with a statute in effect on the date of enactment of the legislation before us today. The exemption merely covers a State statute that specifically dictates that funds collected through fines and penalties not be subject to earmarking.

To me, this is more than fair.

Such fines and penalties should have some link to the violations; the restitution is supposed to be a disincentive for particular behavior. This link would have been destroyed by declaring open season on the Federal Government for environmental damages and then not linking them to the funds collected.

Again, I strongly support this conference report and urge my colleagues here in the House to support it as well.

□ 1100

Mr. SCHAEFER. Mr. Speaker, will the gentleman yield?

Mr. BILIRAKIS. I yield to the gentleman from Colorado.

Mr. SCHAEFER. Mr. Speaker, I just want to thank the gentleman from Florida [Mr. BILIRAKIS]. His idea on allowing the fines and the penalties to go for environmental purposes is a great idea.

I know we had some problems with that, trying to get it all the way through, but it makes a lot of sense to me. I know it made sense to the gentleman from Ohio [Mr. ECKART] and the members of the majority, and I just want to thank the gentleman for Florida for his cooperation and his dedication in getting his amendment on this particular piece of legislation.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman from Colorado [Mr. SCHAEFER] for those kind words and particularly for his objectivity and openmindedness on this issue. I also thank the gentleman from Washington [Mr. SWIFT], of course, the gentleman from Pennsylvania [Mr. RITTER], and the gentleman from Ohio [Mr. ECKART] for their openmindedness and their assistance.

Mr. RITTER. Mr. Speaker, I reserve the balance of my time.

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is not the last time that the gentleman from Ohio [Mr. ECKART] is going to be on the floor in this Congress, but it probably is the last time he will be here on a bill that he has introduced, that he has worked on, that he has conferenced, and is now being sent to the President and will become law.

Before it became a trend around here, Mr. Speaker, the gentleman from Ohio [Mr. ECKART] announced that he would retire at the end of this Congress. It goes without saying that he will be missed. Many of our colleagues who are leaving us will be missed. But the retirement of the gentleman from Ohio [Mr. ECKART] from Congress is a personal loss to me as a colleague.

I say to my colleagues, "He and I have been in a number of legislative foxholes together. You can't find a better ally in those situations."

But more importantly, I think, Mr. Speaker, is the loss to the institution, and, as you know, the world was spinning pretty well when most of us got here, and it is going to spin pretty well when all of us are gone, and that is true with DENNIS. But the House itself is going to be diminished by his departure. Its future is going to be just a little less bright.

I tell the gentleman that, as we wish him well in what is going to be a very exciting future for him, we will also miss the intelligence, and the energy, the principled instincts, and the fairness that he has brought to the institution. We wish him well.

Mr. SCHAEFER. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Colorado.

Mr. SCHAEFER. Mr. Speaker, I thank the gentleman from Washington [Mr. SWIFT] for yielding to me, and I could only duplicate what the gentleman is saying.

Mr. Speaker, I, over a period of time, have gotten to know the gentleman from Ohio [Mr. ECKART], and I would say to my colleagues, "When you look at this body, a lot of people on the outside think that everything is partisan, that everything is done either from the Democratic side or the Republican side, and it's certainly not true."

Mr. Speaker, I have had the opportunity to meet and know DENNIS' family, to be in his district, to be with him on a number of social occasions, whether it is hunting, or fishing, or whatever it is, and to work with him on a number of issues, and he has been in my district. He has stayed at my home, he has dined at my table, he knows my family, and it is one of those things that builds over a period of time in this Congress, and that goes unrecognized in the outside world.

Mr. Speaker, I would hope that the American public understands that, that we form special relationships. We work together, and, even though philosophically we may disagree on certain pieces of legislation, we certainly are allied on a lot of others, and, when it comes to personal relationships, that is another thing.

I think that is what makes this body work. I think that is what makes this Congress work and what makes our Government work.

I say to the gentleman from Ohio, "It's a great loss to the Congress, certainly to the State of Ohio, and I would hope that your replacement will be able to at least half fill your shoes when the reelection time is over."

Mr. LENT. Mr. Speaker, I first want to thank the gentleman from Washington [Mr. SWIFT] for his leadership on this issue. I also want to recognize the efforts of Mr. RITTER, the ranking Republican member on the Transportation and Hazardous Materials Subcommittee, as well as the gentleman from Ohio [Mr. ECKART] and the gentleman from Colorado [Mr. SCHAEFER] for their efforts to remedy current shortcomings in Federal facilities environmental compliance.

I believe the Federal Government has a clear obligation to comply with its own environmental laws. The historic failure to meet that obligation requires congressional action. This legislation will give to the States and the Administrator of the Environmental Protection Agency the tools needed to ensure that Federal facilities are treated on an equal basis with the private sector. That is the guiding principle of this legislation.

This legislation will allow the EPA to issue unilateral administrative orders to Federal facilities to comply with RCRA [the Resource Conservation and Recovery Act]. It will allow States to impose fines and penalties on Federal agencies that violate environmental laws, just as the case is with the private sector.

Just as this legislation grants States new rights to enforce environmental laws against Federal facilities, I believe it carries with it a corresponding duty, that State officials act responsibly in exercising those rights.

I am pleased to see that all of the problem areas I identified when the House passed its version of this legislation have been addressed in the conference report. The legislation now identifies several areas where existing environmental regulations do not seem to fit the types of facilities or wastes subject to this legislation.

In particular, the conference report addresses the areas of mixed waste and military munitions. Regulations in these areas were developed with no thought that they might someday be applied to enforcement situations made possible by this legislation. The conference report wisely provides special rules in these areas.

With respect to federally owned treatment works, the goal of the conferees is to put federally owned treatment works [FOTW] on an equal footing with publicly owned treatment works. The provision prohibiting the introduction of hazardous waste into FOTW's must be read in the context of the rest of section 3023 as amended. It should not be construed to prohibit the introduction of treated hazardous waste into the sewage treatment system at a Federal facility if done in accordance with RCRA treatment standards or Clean Water Act pretreatment standards as provided for in section 3023(a) as amended.

With respect to the provisions on military munitions, the requirement to issue regulations for determining when a munition becomes a waste and on transportation and storage of these wastes is not intended to limit in any way the ability of EPA to revise other waste management regulations already authorized by RCRA.

In revising any regulations governing military munitions, EPA must give precedence to the explosive safety rules of the Department of Defense while the munitions are still in explosive form. We cannot afford to increase the possibility of a catastrophic accident as we attempt to limit the possibility of chronic environmental degradation.

Mr. Speaker, I believe this legislation is a significant step forward in building environmental compliance at Federal facilities and urge my colleagues to support it.

Mr. MORAN. Mr. Speaker, I rise in strong support of the Federal Facilities Compliance Act. This legislation is important to our Nation because of the thousands of Federal facilities across this country that will now have to comply with basic environmental laws that apply to the private sector.

It is about time that Federal facilities must comply with the same basic environmental laws as other facilities. We all have seen the stories of communities left with toxic waste sites after bases close in their area. The Federal Government should not walk away from its responsibility to monitor these sites and ensure that basic environmental concerns are met. Much of the work done in these facilities is done for the benefit of our Nation, through defense and other programs, but we must also ensure that residents living in these areas are not left with toxic waste sites on their hands that have to be cleaned up with scarce State and local dollars.

Along with ensuring that Federal facilities meet basic environmental laws, this legislation also encourages the Federal Government to begin recycling programs and rather than forcing agencies to put money made from these recycling programs back into the general fund, it allows agencies to keep the money and expand recycling programs. Any agency that does not recycle will have its name published in the Federal Register. We know that recycling programs can work, reduce waste, and thus decrease the rubbish going to our landfills. A good example is the General Services Administration, which began a recycling program just over a year ago at 150 of its facilities. In their first year, GSA collected 15,000 tons of office paper for recycling, a savings of nearly 50,000 cubic yards of landfill space. About $1 million was generated for the Government from the sale of the paper to recycling facilities. In fact, if Federal agencies recovered all of their recycable paper, they could save 5 million cubic yards of scarce landfill space annually. Such a savings could mean a lot to residents of my district, where a landfill is located that receives most of the Federal waste products.

That is why I am particularly proud that parts of the Metropolitan Waste Management Study Act, which I introduced in the House, were included in this legislation. Provisions included in this bill ensure that the Federal Government takes responsibility for the I-95 landfill located on Federal land in Lorton, VA. This landfill has been the repository for ever-increasing amounts of solid waste from the District of Columbia where many Federal facilities are located.

This legislation ensures that when the landfill reaches capacity in 1995, it will close, un-

less a full environmental impact study is completed. It is particularly important to ensure that this landfill is not expanded unless an EIS is done, because much of the leachate coming from this landfill goes into Mills Branch stream, a tributary of the Chesapeake Bay. I appreciate the inclusion of the Waste Management Act in this bill and rise in strong support of this proenvironment, good government measure.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise to address provisions in the conference report on H.R. 2194, the Federal Facility Compliance Act of 1992.

As a conferee from the House Public Works and Transportation Committee, I can say many of my colleagues have worked hard to address various concerns raised by the administration and others. Members of the conference are to be commended for their efforts. A few provisions, however, need further elaboration to clarify the conferees' intent.

Section 102 addresses Federal facility provisions in the Solid Waste Disposal Act—particularly with regard to sovereign immunity and EPA's administrative enforcement authority. In large part, we are clarifying the act in response to the recent Supreme Court decision, *U.S. Department of Energy* v. *Ohio*, (503 U.S., 118 L. Ed. 255 (1992)). Admittedly, that case involved both the Solid Waste Disposal Act and the Federal Water Pollution Control Act, the Clean Water Act. This legislation, of course, addresses authorities, responsibilities, and liabilities only with regard to the Solid Waste Disposal Act.

Nothing in section 102 address or modifies in any way the provisions and authorities in the Clean Water Act. Any reference in H.R. 2194's legislative history to the Clean Water Act or the case, *Gwaltney of Smithfield, Ltd.* v. *Chesapeake Bay Foundation, Inc.* (484 U.S. 49 (1987)), is merely for illustrative purposes and has no direct or indirect bearing on the Clean Water Act or on Congress' intent regarding Clean Water Act reauthorization in the future.

Section 104, facility environmental assessments, requires EPA to conduct a comprehensive ground water monitoring evaluation at certain facilities under certain circumstances. Such evaluations are to ensure compliance with requirements under the Solid Waste Disposal Act. Nothing in the bill requires the evaluations to address compliance with other Federal environmental laws such as the Clean Water Act, Superfund, and the Oil Pollution Act of 1990.

Section 108, federally owned treatment works, clarifies and expands the "domestic sewage exclusion" to apply to federally owned and operated facilities treating wastewater. This provision was included initially to address concerns of the administration. While not perfect, it does help to level the playing field so that federally owned treatment works and other "treatment works" regulated under the Clean Water Act are dealt with on a more equal basis. The provision leaves in tact the existing pretreatment regulatory program under the Clean Water Act.

Section 109, small town environmental planning, establishes an EPA program to help small and rural communities plan, finance, and manage environmental facilities. This is an important, though modest, effort to address the myriad of environmental requirements and fiscal challenges facing small towns.

Our Committee on Public Works and Transportation is deeply concerned about the many regulatory requirements and financial constraints imposed upon small and rural areas. Laws such as the Clean Water Act, particularly the section 404 wetlands permitting program, Superfund, and the Safe Drinking Water Act present major challenges to small towns. Perhaps section 109 will help to address the all-too-common situation of having to comply with Federal mandates without Federal dollars.

Section 109 also represents an opportunity for EPA to pursue worthwhile initiatives regarding risk-based and watershed-based approaches to environmental protection. EPA and the task force should use this section to promote improvement and regionalization of environmental treatment systems and infrastructure, multimedia permitting, effluent trading and other market incentives, and public-private partnerships. Such mechanisms can help small and rural areas comply with environmental requirements while meeting infrastructure needs.

Unfortunately, the conference agreement does not include provisions from the Senate-passed bill relating to surety bonds. Our Committee on Public Works and Transportation, with its jurisdiction over the Superfund Program, has looked at this issue closely. Response action contractors, other cleanup workers, insurers and sureties face significant liabilities when responding to hazardous waste sites. Section 109 of the Senate-passed bill could have helped remove some of the disincentives and legal impediments in order to expedite cleanups. I know our committee looks forward to addressing this issue again—either during reauthorization of Superfund or in some other context.

With that, Mr. Speaker, let me conclude and thank you for the opportunity to discuss some of the provisions in this legislation.

Mr. SLATTERY. Mr. Speaker, I would like to take this opportunity to commend the work of my colleagues on this bill. In particular, I would like to recognize the leadership and the hard work of Chairman DINGELL, Chairman SWIFT, Representatives ECKART, RITTER, and SCHAEFER and their staffs. This is a very important piece of environmental legislation and I was pleased to work with them as a conferee in resolving some very tough issues.

This bill primarily addresses the issue of immunity which Federal agencies have claimed from fines and penalties levied by the Environmental Protection Agency and States under hazardous waste laws. For decades, the Departments of Defense and Energy, DOD and DOE, have used waste disposal methods that have allowed dangerous substances to pollute the soil and ground water. It is a very sad fact that many of the Nation's most contaminated sites are located at DOD and DOE facilities.

I am pleased that the conference agreement maintains the House language providing that Federal facilities are subject to all Federal, State, interstate, and local laws and regulations governing solid and hazardous waste management—including reasonable service charges such as permit fees, and enforcement mechanisms such as fines, penalties, and administrative orders requiring corrective action. This bill expressly waives the Federal Government's right to claim sovereign immunity from such enforcement mechanisms. By removing this double standard for Federal facilities we should see a stronger environmental record demonstrated by these agencies and a safer environment for communities near these sites.

I would like to highlight one issue in particular, the issue of mixed waste management and storage at Federal facilities and the language agreed to in this report. Resolving this issue was a particularly difficult one but I believe the mixed-waste provisions in this bill ultimately achieve a reasonable compromise. I would merely like to point out that this agreement does not address the issue of commercial facilities' handling and storage of mixed wastes. It is my understanding that in circumstances where commercial facilities have no option but to store mixed wastes because of the current lack of qualified treatment or disposal capacity, such storage should not be prohibited under section 3004(j). The language in this agreement has not specifically addressed this issue because this legislation is limited solely to the application of Federal environmental laws to Federal facilities.

Overall, I believe this agreement embodies a fair, workable, and balanced approach to environmental compliance at Federal facilities. I urge my colleagues to support it and the President to sign it.

Mr. SWIFT. Mr. Speaker, I have no further requests for time.

Mr. RITTER. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SCHAEFER. 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 403, nays 3, not voting 26, as follows:

[Roll No. 409]

YEAS—403

Ackerman	Baker	Boehner
Allard	Ballenger	Bonior
Allen	Barrett	Borski
Anderson	Barton	Boucher
Andrews (ME)	Bateman	Brewster
Andrews (NJ)	Bellenson	Brooks
Andrews (TX)	Bennett	Broomfield
Annunzio	Bentley	Browder
Anthony	Bereuter	Brown
Applegate	Berman	Bruce
Archer	Bevill	Bryant
Armey	Bilbray	Bunning
Aspin	Bilirakis	Burton
Atkins	Billey	Bustamante
Bacchus	Boehlert	Byron

Callahan	Hammerschmidt	Mineta
Camp	Hancock	Mink
Campbell (CA)	Hansen	Moakley
Campbell (CO)	Harris	Molinari
Cardin	Hastert	Mollohan
Carper	Hatcher	Montgomery
Carr	Hayes (IL)	Moody
Chandler	Hefley	Moorhead
Chapman	Hefner	Moran
Clay	Henry	Morella
Clement	Herger	Morrison
Coble	Hertel	Mrazek
Coleman (MO)	Hoagland	Murphy
Coleman (TX)	Hobson	Murtha
Collins (IL)	Hochbrueckner	Nagle
Collins (MI)	Holloway	Natcher
Combest	Hopkins	Neal (MA)
Condit	Horn	Neal (NC)
Cooper	Horton	Nichols
Costello	Houghton	Nowak
Coughlin	Hoyer	Nussle
Cox (CA)	Hubbard	Oakar
Cox (IL)	Hughes	Oberstar
Coyne	Hunter	Obey
Cramer	Hutto	Olin
Crane	Hyde	Olver
Cunningham	Inhofe	Ortiz
Dannemeyer	Jacobs	Orton
Darden	James	Owens (NY)
Davis	Jenkins	Owens (UT)
de la Garza	Johnson (CT)	Oxley
DeFazio	Johnson (SD)	Packard
DeLauro	Johnson (TX)	Pallone
DeLay	Johnston	Panetta
Dellums	Jontz	Parker
Derrick	Kanjorski	Pastor
Dickinson	Kasich	Patterson
Dicks	Kennedy	Paxon
Dingell	Kennelly	Payne (NJ)
Dixon	Kildee	Payne (VA)
Donnelly	Kleczka	Pease
Dooley	Klug	Pelosi
Doolittle	Kolbe	Peterson (FL)
Dorgan (ND)	Kolter	Peterson (MN)
Dornan (CA)	Kopetski	Petri
Downey	Kyl	Pickett
Dreier	LaFalce	Pickle
Duncan	Lagomarsino	Porter
Durbin	Lancaster	Poshard
Dwyer	Lantos	Price
Dymally	LaRocco	Pursell
Early	Laughlin	Quillen
Eckart	Leach	Rahall
Edwards (CA)	Lehman (CA)	Ramstad
Edwards (TX)	Lehman (FL)	Rangel
Emerson	Lent	Ravenel
Engel	Levin (MI)	Reed
English	Levine (CA)	Regula
Erdreich	Lewis (CA)	Rhodes
Espy	Lewis (FL)	Richardson
Evans	Lewis (GA)	Ridge
Fascell	Lightfoot	Riggs
Fazio	Lipinski	Rinaldo
Feighan	Livingston	Ritter
Fields	Lloyd	Roberts
Fish	Long	Roe
Flake	Lowery (CA)	Roemer
Ford (MI)	Lowey (NY)	Rogers
Ford (TN)	Luken	Rohrabacher
Frank (MA)	Machtley	Ros-Lehtinen
Franks (CT)	Manton	Rose
Frost	Markey	Rostenkowski
Gallegly	Marlenee	Roth
Gallo	Martin	Roukema
Gaydos	Martinez	Rowland
Gejdenson	Matsui	Roybal
Gekas	Mavroules	Russo
Gephardt	Mazzoli	Sabo
Geren	McCandless	Sangmeister
Gibbons	McCloskey	Santorum
Gilchrest	McCollum	Sarpalius
Gillmor	McCrery	Sawyer
Gilman	McCurdy	Saxton
Gingrich	McDermott	Schaefer
Glickman	McEwen	Scheuer
Gonzalez	McGrath	Schiff
Gordon	McHugh	Schroeder
Goss	McMillan (NC)	Schulze
Gradison	McMillen (MD)	Schumer
Grandy	McNulty	Sensenbrenner
Green	Meyers	Serrano
Guarini	Mfume	Sharp
Gunderson	Michel	Shaw
Hall (OH)	Miller (CA)	Shays
Hall (TX)	Miller (OH)	Sikorski
Hamilton	Miller (WA)	Sisisky
Skaggs	Swift	Walker
Skeen	Synar	Walsh
Skelton	Tallon	Washington
Slattery	Tanner	Waters
Slaughter	Tauzin	Waxman
Smith (FL)	Taylor (MS)	Weber
Smith (IA)	Taylor (NC)	Weldon
Smith (NJ)	Thomas (CA)	Wheat
Smith (OR)	Thomas (GA)	Whitten
Smith (TX)	Thomas (WY)	Williams
Snowe	Thornton	Wilson
Solarz	Torres	Wise
Solomon	Torricelli	Wolf
Spence	Towns	Wolpe
Spratt	Traficant	Wyden
Staggers	Traxler	Wylie
Stallings	Unsoeld	Yates
Stark	Upton	Yatron
Stearns	Valentine	Young (AK)
Stenholm	Vander Jagt	Young (FL)
Studds	Vento	Zeliff
Stump	Visclosky	Zimmer
Sundquist	Volkmer	
Swett	Vucanovich	

NAYS—3

Ewing	Fawell	Ray

NOT VOTING—26

Abercrombie	Foglietta	McDade
Alexander	Goodling	Myers
AuCoin	Hayes (LA)	Penny
Barnard	Huckaby	Perkins
Blackwell	Ireland	Sanders
Boxer	Jefferson	Savage
Clinger	Jones	Shuster
Conyers	Kaptur	Stokes
Edwards (OK)	Kostmayer	

□ 1132

Mr. EWING changed his vote from "yea" to "nay."

Mr. DUNCAN changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, I regret I was delayed in a conference on the Senate side and missed rollcall vote No. 409, passage of the Federal Facilities Compliance Act.

I have been a cosponsor of this legislation and had I been present, I would have voted "aye."

APPOINTMENT OF CONFEREES ON H.R. 4250, AMTRAK CAPITAL ACQUISITION AND TECHNOLOGY DEVELOPMENT ACT

Mr. SWIFT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4250) to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Washington?

Mr. LENT. Mr. Speaker, reserving the right to object, and I will not object, I yield to the gentleman from Washington [Mr. SWIFT] to give a brief explanation of the purpose of the unanimous-consent request.

Mr. SWIFT. Mr. Speaker, I thank the gentleman from New York for yielding to me.

Mr. Speaker, this is the Amtrak authorization bill, and the unanimous consent request is to go to conference.

Mr. LENT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

The Chair hears none and without objection, appoints the following conferees: Messrs. DINGELL, SWIFT, SLATTERY, LENT, and RITTER.

There was no objection.

NATIONAL COMPETITIVENESS ACT OF 1992

The SPEAKER pro tempore. Pursuant to House Resolution 563 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 bill, H.R. 5231.

□ 1134

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 bill (H.R. 5231) to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance manufacturing technology development and transfer, to authorize appropriations for the Technology Administration of the Department of Commerce, including the National Institute of Standards and Technology, and for other purposes, with Mr. LANCASTER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Tuesday, September 22, 1992, title III was open for amendment at any point. Thirty-three minutes remain for consideration of the bill under the 5-minute rule.

Are there further amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—MISCELLANEOUS

SEC. 401. INTERNATIONAL STANDARDIZATION.

(a) FINDINGS.—The Congress finds that—

(1) private sector consensus standards are essential to the timely development of competitive products;

(2) Federal Government contribution of resources, more active participation in the voluntary standards process in the United States, and assistance, where appropriate, through government to government negotiations, can increase the quality of United States standards, increase their compatibility with the standards of other countries, and ease access of United States-made products to foreign markets; and

(3) the Federal Government, working in cooperation with private sector organizations

including trade associations, engineering societies, and technical bodies, can effectively promote United States Government use of United States consensus standards and, where appropriate, the adoption and United States Government use of international standards.

(b) STANDARD PILOT PROGRAM.—Section 104(e) of the American Technology Preeminence Act of 1991 is amended—

(1) by inserting "(1)" before "Pursuant to the"; and

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

"(2) As necessary and appropriate, the Institute shall expand the program established under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note) by extending the existing program and by entering into additional contracts with non-Federal organizations representing United States companies, as such term is defined in section 28(d)(9)(B) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(d)(9)(B)). Such contracts shall require cost sharing between Federal and non-Federal sources for such purposes. In awarding such contracts, the Institute shall seek to promote and support the dissemination of United States technical standards to additional foreign countries, in cooperation with governmental bodies, private organizations including standards setting organizations and industry, and multinational institutions that promote economic development. The organizations receiving such contracts may establish training programs to bring to the United States foreign standards experts for the purpose of receiving in-depth training in the United States standards system.".

(c) REPORT ON GLOBAL STANDARDS.—The Secretary, in consultation with the Institute and the Commerce Technology Advisory Board established under section 204 of this Act, shall submit to the Congress a report describing the appropriate roles of the Department of Commerce in aid to United States companies in achieving conformity assessment and accreditation and otherwise qualifying their products in foreign markets, and in the development and promulgation of domestic and global product and quality standards, including a discussion of the extent to which each of the policy options provided in such Office of Technology Assessment report contributes to meeting the goals of—

(1) increasing the international adoption of standards beneficial to United States industries; and

(2) improving the coordination of United States representation to international standards setting bodies.

SEC. 402. MALCOLM BALDRIGE AWARD AMENDMENTS.

(a) Section 108(c)(3) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 206(b)(4) of this Act, is amended to read as follows:

"(3) No award shall be made within any category or subcategory if there are no qualifying enterprises in that category or subcategory.".

(b)(1) Section 108(c)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(c)(1)) is amended by adding at the end the following new subparagraph:

"(D) Educational institutions.".

(2)(A) Within 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report containing—

(i) criteria for qualification for a Malcolm Baldrige National Quality Award by various classes of educational institutions;

(ii) criteria for the evaluation of applications for such awards under section 108(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980; and

(iii) a plan for funding awards described in clause (i).

(B) In preparing the report required under subparagraph (A), the Secretary shall consult with the National Science Foundation and other public and private entities with appropriate expertise, and shall provide for public notice and comment.

(C) The Secretary shall not accept applications for awards described in subparagraph (A)(i) until after the report required under subparagraph (A) is submitted to the Congress.

SEC. 403. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

Section 202(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)), as redesignated by section 206(b)(6) of this Act, is amended by inserting "(including both real and personal property)" after "or other resources" both places it appears.

SEC. 404. CLEARINGHOUSE ON STATE AND LOCAL INITIATIVES.

Section 102(a) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 206(b)(2) of this Act, is amended by striking "Office of Productivity, Technology, and Innovation" and inserting in lieu thereof "Institute".

SEC. 405. COMPETITIVENESS ASSESSMENTS AND EVALUATIONS.

Section 101(e) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 206(b)(2) of this Act, is amended to read as follows:

"(e) COMPETITIVENESS ASSESSMENTS AND EVALUATIONS.—(1) The Secretary, through the Under Secretary, shall—

"(A) provide for the conduct of research and analyses to advance knowledge of the ways in which the economic competitiveness of United States industry can be enhanced through Federal programs, including programs operated by the Department of Commerce;

"(B) as appropriate, provide for evaluations of Federal technology programs in order to judge their effectiveness and make recommendations to improve their contribution to United States competitiveness; and

"(C) prepare and submit to Congress annual reports which describe and assess the policies and programs used by governments and private industry in other major industrialized countries to develop and apply economically important critical technologies, compare these policies and programs with public and private activities in the United States, and assess the effects that these policies and programs in other countries have on the competitiveness of United States industries.

"(2) The head of each unit of the Department of Commerce other than the Technology Administration, and the head of each other Federal agency, shall furnish to the Secretary or Under Secretary, upon request from the Secretary or Under Secretary, such data, reports, and other information as is necessary for the Secretary to carry out the functions required under this section.

"(3) Nothing in this section shall authorize the release of information to, or the use of information by, the Secretary or Under Secretary in a manner inconsistent with law or any procedure established pursuant thereto.

"(4) The head of any Federal agency may detail such personnel and may provide such services, with or without reimbursement, as the Secretary may request to assist in carrying out the activities required under this section.".

SEC. 406. USE OF DOMESTIC PRODUCTS.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—(1) A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under this Act and the amendments made by this Act, including any subcontract under such a contract pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, or any successor procedures thereto.

(b) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the head of each agency which conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c, popularly known as the "Buy American Act").

(2) This subsection shall apply only to procurements made for which—

(A) amounts are authorized by this Act, and the amendments made by this Act, to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(3) The Secretary, before January 1, 1994, shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

(c) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

SEC. 407. SEVERABILITY.

If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application thereof to other persons or circumstances shall not be affected thereby.

The CHAIRMAN. Are there any amendments to title IV? The Chair hears none.

The Clerk will designate title V.

The text of title V is as follows:

TITLE V—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 501. TECHNOLOGY ADMINISTRATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, to carry out the activities of the Under Secretary and the Assistant Secretary of Commerce for Technology Policy, for fiscal year 1994—

(1) for the Office of the Under Secretary, $3,000,000;

(2) for Technology Policy, $5,000,000;

(3) for Japanese Technical Literature, $2,000,000; and

(4) for competitiveness research, data collection, and evaluation, $1,000,000.

(b) TRANSFERS.—(1) Funds may be transferred among the line items listed in subsection (a), so long as—

(A) the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection;

(B) the aggregate amount authorized under subsection (a) is not changed; and

(C) the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) The Secretary may propose transfers to or from any line item listed in subsection (a) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made unless—

(A) a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate; and

(B) 30 days have passed following the transmission of such written explanation.

(c) NATIONAL TECHNICAL INFORMATION SERVICE FACILITIES STUDY.—As part of its modernization effort and before signing a new facility lease, the National Technical Information Service, in consultation with the General Services Administration, shall study and report to Congress on the feasibility of accomplishing all or part of its modernization by signing a long-term lease with an organization that agrees to supply a facility and supply and periodically upgrade modern equipment which permits the National Technical Information Service to receive, store, manipulate, and print electronically created documents and reports and to carry out the other functions assigned to the National Technical Information Service.

SEC. 502. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

(a) INTRAMURAL SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the Institute, $272,500,000 for fiscal year 1994.

(2) Of the amount authorized under paragraph (1)—

(A) $1,000,000 are authorized only for the evaluation of nonenergy-related inventions;

(B) $9,000,000 are authorized only for the technical competence fund; and

(C) $5,000,000 are authorized only for the standards pilot project established under section 104(e) of the American Technology Preeminence Act of 1991.

(b) FACILITIES.—In addition to the amounts authorized under subsection (a), there are authorized to be appropriated to the Secretary for fiscal year 1994 $25,000,000 for the renovation and upgrading of the Institute's facilities. The Institute may enter into a contract for the design work for such purposes only if Federal Government payments under the contract are limited to amounts provided in advance in appropriations Acts.

(c) EXTRAMURAL INDUSTRIAL TECHNOLOGY SERVICES.—In addition to the amounts authorized under subsections (a) and (b), there are authorized to be appropriated to the Secretary, to carry out the extramural industrial technology services activities of the Institute—

(1) for Regional Centers for the Transfer of Manufacturing Technology, $35,000,000 for fiscal year 1994;

(2) for the State Technology Extension Program, $2,500,000 for fiscal year 1994; and

(3) for the Advanced Technology Program, $1,570,000,000 for the period encompassing fiscal years 1994 through 1997, of which—

(A) $150,000,000 are authorized only for Program support of large joint ventures; and

(B) $20,000,000 are authorized only for fiscal year 1994 and 1995 Program support of the Advanced Manufacturing Program established under section 301 of the Stevenson-Wydler Technology Innovation Act of 1980.

(d) TECHNICAL AMENDMENTS.—The American Technology Preeminence Act of 1991 is amended—

(1) in section 104(b)(1)(F), by striking "$12,000,000" and inserting in lieu thereof "$12,200,000";

(2) in section 104(b)(1)(H), by striking "$6,300,000" and inserting in lieu thereof "$6,600,000";

(3) in section 104(b)(2)(B)—

(A) by inserting "and" at the end of clause (i);

(B) by striking "; and" from the end of clause (ii) and inserting in lieu thereof a period; and

(C) by striking clause (iii);

(4) in section 105(b), by adding after paragraph (3) the following:

"Of the amounts authorized under this subsection, $5,000,000 are authorized only for the Institute's management of the programs described in paragraphs (1) through (3)."; and

(5) in section 201(d), by inserting ", except in the case of the amendment made by subsection (c)(6)(A)" after "enactment of this Act".

SEC. 503. ADDITIONAL ACTIVITIES OF THE TECHNOLOGY ADMINISTRATION.

In addition to the amounts authorized under sections 501 and 502, there are authorized to be appropriated to the Secretary—

(1) for the National Manufacturing Outreach Network, $120,000,000 for the period encompassing fiscal years 1994 and 1995;

(2) for the Technology Development Loan Program established under section 331 of this Act, $20,000,000 for fiscal year 1994; and

(3) for the Critical Technologies Development Program established under subtitle D of title III of this Act, $100,000,000 for the period encompassing fiscal years 1994 and 1995. Amounts appropriated under paragraph (2) or (3) shall remain available for expenditure through September 30, 1995. Of the amounts made available under paragraph (2) for a fiscal year, not more than $2,000,000 or 10 percent, whichever is greater, shall be available for administrative expenses. Of the amounts made available under paragraph (3) for a fiscal year, not more than $5,000,000 or 10 percent, whichever is greater, shall be available for administrative expenses.

SEC. 504. NATIONAL SCIENCE FOUNDATION.

In addition to such other sums as may be authorized by other Acts to be appropriated to the Director of the National Science Foundation, there are authorized to be appropriated to that Director, to carry out the provisions of section 208 of this Act, $20,000,000 for fiscal year 1994.

SEC. 505. AVAILABILITY OF APPROPRIATIONS.

Appropriations made under the authority provided in this title shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

The CHAIRMAN. Are there amendments to title V?

AMENDMENTS OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer several amendments.

The Clerk read as follows:

Amendments offered by Mr. WALKER:

Page 108, line 5, strike "$3,000,000" and insert in lieu thereof "$2,000,000".

Page 108, line 6, after "Policy" strike "$5,000,000" and insert in lieu thereof "including competitiveness research, data collection, and evaluation, $4,000,0000".

Page 108, line 8, strike "$2,000,0000" and insert in lieu thereof "$1,500,000".

Page 108, strike lines 9 and 10.

Page 110, line 7, strike "$272,500,000" and insert in lieu thereof "$230,000,0000".

Page 111, line 5, strike "$35,000,0000" and insert in lieu thereof "$25,000,0000".

Page 111, line 10, strike "$1,570,000,000" and insert in lieu thereof "$400,000,000".

Page 113, line 3, after "1995" insert the following: ", except that such amount in each fiscal year shall be limited to—

"(A) amounts derived from amounts otherwise authorized to be appropriated to the Secretary for that fiscal year; or

"(B) the amount requested, in the president's annual budget request to Congress, specifically for such Program for that fiscal year".

Page 113, line 6, after "1994" insert the following: ", except that such amount in each fiscal year shall be limited to—

"(A) amounts derived from amounts otherwise authorized to be appropriated to the Secretary for that fiscal year; or

"(B) the amount requested, in the president's annual budget request to Congress, specifically for such Program for that fiscal year".

Page 113, line 10, after "1995" insert the following: ", except that such amount in each fiscal year shall be limited to—

"(A) amounts derived from amounts otherwise authorized to be appropriated to the Secretary for that fiscal year; or

"(B) the amount requested, in the president's annual budget request to Congress, specifically for such Program for that fiscal year".

Page 113, beginning on line 21, strike all through "Foundation" on line 23, and insert in lieu thereof, "From sums otherwise authorized to be appropriated".

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, and printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, this amendment cuts the funding back to current levels. Let me tell the Members why I think that is important. We are talking about funding which the committee has mandated and on which the House decided yesterday to continue the mandates, so, therefore, it is funding which is going to come out of the hide of the other spending that we are doing at the Department of Commerce. That means that we are going to have a dramatic impact on other very important programs at the Department of Commerce.

What this amendment seeks to do is bring the funding for the programs enumerated in this bill back within current funding projections. What it amounts to is we cut $1.5 billion out of the bill to bring it back to current levels. This eliminates all of the new deficit spending which is in the bill. It lowers the fiscal year 1994 authorizations for the Office of the Under Secretary for Technology Policy and for the Japanese Technical Literature Program to

the fiscal year 1993 levels. In other words, for 1994, it freezes those amounts of money.

The amendment also includes authorizations for the data collection activities in section 405 with the technology policy funding. This amendment lowers the 1994 authorization for NIST's intramural activities from $272.5 million to $230 million. This is still $47 million with a 26 percent increase over the current funding, and it is $28 million more than the amount appropriated by the House for fiscal year 1993 for this program in July.

In other words, for the activities at NIST, we are actually increasing the funding by a little bit, not as much as the committee wants to do, but by a 26-percent increase, which is, I think, fairly generous. It holds the authorization for the regional centers for transfer of manufacturing technology at fiscal year 1993 authorized levels. In other words, there is a freeze here on authorizations.

□ 1140

It holds the 5-year authorization for the advanced technology program grants, freezing them at 1993 levels. This saves over $1 billion in that portion alone.

The first of the three amendments that are included in this en bloc package simply makes the funding for the new programs in the bill, those being the National Manufacturing Outreach, the Technology Development Loan Program, and the Critical Technology Development Program which come from existing spending. That is what we are doing, because the committee has designated no place for this money to come from. The committee has said in earlier versions of this bill that they were going to pay for the money out of the defense spending cuts. That has been taken out of this bill. So this requires that lower priority programs have the resources allocated to these programs so that we do not increase the deficit.

The final limitation amendment says that the funds authorized for the new science foundation centers should come from existing resources.

Let me tell Members why this amendment is important. If we have some belief that as we create new programs we should do so in a fiscally responsible way, this is an amendment Members have to support. A vote against this amendment is a vote for more deficit spending. A vote against this amendment means that you support the creation of new Government programs and the expansion of existing ones without regard to how they are going to be paid for. A vote for this amendment means that no matter how you feel about the programs in the bill, whether you like them or whether you do not like them, you recognize that the Federal Government has limited resources, and that Congress cannot continue to authorize new spending with no regard for the consequences.

In all honesty, I am a little tired of hearing my committee come to the floor suggesting all kinds of wild new spending and then laying it off on the appropriators to do the responsible thing. The responsible thing ought to be done in both places. It ought to be done in the authorization bills; it ought to be done in the appropriation bills. We ought to be saying in authorization bills these are the limits in which the appropriators will act, and then we ought to expect the appropriators to do the right thing in terms of being within the budget.

But this idea that consistently we can come to the floor suggesting that no matter how much we authorize it does not make any difference, because later on the appropriations process will take care of the problem is absurd, and is one of the reasons why we have the deficits that we do today. Here is your chance on this program to say that the authorization levels ought to be at somewhere around a freeze level. Let us freeze in place the spending and then decide how to apportion the money.

A vote for this amendment says that you are looking out for the interests of the American taxpayer, that our problem with debt and deficit is something we want to address. The American people are overwhelmingly saying that debt and deficit are driving this Nation into a situation of national bankruptcy.

If you vote for this amendment we will say in this bill we are going to at least acknowledge that this is a problem and try to deal with it. If you vote against this amendment, you are going to be saying, "Katie bar the door," no spending is too much. Let us just spend the money and forget about debt and deficit worries.

Mr. VALENTINE. Mr. Chairman, I move to strike the last word.

Before the last words uttered by the gentleman from Pennsylvania have echoed from the Hall and have been forgotten, I want to say to him and to my colleagues, and I want to say to those people in the United States who might be watching this program on C-SPAN that the gentleman, according to my information, who stands here in an effort to reduce the appropriation level in this bill to where the legislation would be meaningless, when the House came to consider H.R. 4547 which gave $2.2 billion in direct aid to the former Soviet Union, he was here to cast his vote on it. So the gentleman who comes in here and says that we should not do this little bit for American industry has voted and supported legislation to send $2.2 billion to Russia at a time when he would come in here and shed all of these crocodile tears, Mr. Chairman, about our effort to authorize this little bit of money for American industry.

The gentleman from Pennsylvania, through this amendment, is asking us to reverse all of the decisions which the body authorized, which the body voted for and supported yesterday.

Let me say here parenthetically that when the gentleman from Pennsylvania attacked his own party member, the gentleman from Michigan [Mr. HENRY] with such vehemence about the effort to change the name of the Department of Commerce to Manufacturing and Commerce, we will agree for the report language to show that that change may be implemented maybe in the next administration, when all of the names on the Cabinet officers will be changed perhaps, and that we will agree that it will be implemented only when there is need to buy additional stationery, and only when the paint on the door begins to chip and they write the new name there.

He came in and talked about the millions of dollars that it would cost to do that. What a shame. What a shame. The total amount authorized in this bill is $2.2 billion for fiscal year 1994 to 1997, which is modest when compared to what this body has done for people overseas, with the gentleman's assistance.

These funds would go directly into the economy to create new jobs, Mr. Chairman. The sponsors of this amendment say that the bill adds to the deficit. That is not true, and they know it. We are talking here about an authorization bill. We are saying simply to the appropriators this is what we, the Science Committee, based on evidence produced at these number of hearings, this is what we think we should do for the good of the country.

The amendment would reduce the overall authorization level in the bill from $2.2 billion, Mr. Chairman, to about $690 million. Authorizations for existing programs would be frozen at 1993 levels, and new programs could only be funded from moneys taken from existing programs in the Department of Commerce.

I am unable to get through my head why the gentleman fights with such vigor our effort to make a modest step toward correcting the competitiveness situation in the United States, when he is so free with the taxpayer's dollar when it goes to people overseas.

Mr. BROWN. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

Mr. Chairman, I would ask the gentleman from Pennsylvania [Mr. WALKER] if he would like for me to yield to him?

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. BROWN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding. I wanted to

explain to the gentleman from North Carolina, who did not want to yield because he did not want to hear the explanation, that the money for the Russian aid package did in fact follow exactly the process that is in my amendment. It came out of previously authorized and previously appropriated money. It was not new money. It was exactly what this amendment calls on us to do. So I would say to the gentleman that I am doing exactly what I did at that point in this amendment, and I am sorry the gentleman did not understand the situation.

Mr. VALENTINE. Mr. Chairman, will the gentleman yield?

Mr. BROWN. I am happy to yield to the gentleman from North Carolina.

Mr. VALENTINE. Mr. Chairman, let me ask the gentleman, the money went to Russia, did it not?

Mr. WALKER. If the gentleman will yield, no.

Mr. VALENTINE. Where did it go?

Mr. WALKER. In fact, the money, if the gentleman understood the program, is all going to be spent, or a vast portion of it is going to be spent in this country, on American goods and products. So once again the gentleman does not know what he is talking about.

Mr. VALENTINE. But for the benefit of the Russian people.

Mr. WALKER. The Russian people are in fact going to buy American products with those funds, and a lot of American workers are going to benefit. I wish the gentleman understood more what he was talking about.

Mr. BROWN. Mr. Chairman, I think I should reclaim my time in order to have a brief part of my 5 minutes here. I did rise in opposition to the Walker amendment. I have great respect for his commitment to stimulating economic growth in this country. He is sincere and serious about it, and I think it is a desire that all of us share. But we do have a slightly different concept as to how we should proceed in order to stimulate this economic growth.

It is the view of many in this Chamber and throughout the country that the most important thing that we can do is to reduce the national debt, the annual deficit and the total national debt, and that all savings from existing programs ought to be used for that purpose.

□ 1150

If that were to happen and in the normal course of events, we would continue with our expected budgets; probably in about 10 years we would have brought the deficit, annual deficit, down to a reasonable level, although the total debt would continue to grow, and the economy would probably continue to stagnate, because we would have closed off a lot of opportunities, because of the debt, for investment.

Now, the other point of view is that while it is important and vital, in fact, to reduce the annual deficit and the national debt, we need, through certain investments, to stimulate the productivity and the growth of this country. In the case of Japan, which recently suffered a major economic decline in part for the same reasons, they voted to spend $80 billion in stimulating investments despite the condition of their economy in order to promote a resurgence of growth, and the immediate effect, as I understand it, was a massive surge in the Japanese stock market.

A group of leading economists here in Washington just a few months ago recommended a similar strategy for the United States and suggested a $50 billion investment.

Now, I am not an economist. I have to make this disclaimer. I do not know what is in the best interests of the country, and I have, therefore, supported what I consider to be the cowardly intermediate course of trying to reduce the deficit and make stimulative investments. This bill does that. It does that. It authorizes these investments, very small, as the chairman, the gentleman from North Carolina [Mr. VALENTINE], has pointed out, a couple of billion dollars in the outyears of 1994 and 1995 and so on.

The gentleman from Pennsylvania [Mr. WALKER] seeks to strike that, because, in his philosophy, that will detract from our ability to reduce the Federal debt.

Now, while I respect the viewpoint of the gentleman from Pennsylvania [Mr. WALKER] and others who support him, I think it is the wrong way to go at this particular time. I think a course of moderate debt reduction, moderate investment and improving the quality of American manufacturing, which this bill does, provide opportunities through partnerships with the Federal Government for new advanced technology industries, which is what is going to stimulate productivity, create jobs, build the growth which ultimately is the only way we can make a rapid reduction in the annual deficit which we face at the present time.

To go from a growth rate of about 1 percent, which is what we are now, up to historic averages, which is around 3 percent, would do more to reduce the annual deficit than anything else this country could do, and certainly it is to be preferred over a tax increase. The gentleman from Pennsylvania [Mr. WALKER] and I would agree on that, and I think it is to be preferred, stimulating this economic growth over a program which devotes all of the savings that we can make to a reduction in the debt, which at no time in the future would stimulate the economy and produce the growth that we need.

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words.

I rise to engage in a colloquy with the distinguished chairman of the Science, Space, and Technology Committee, Mr. Brown of California, and diverge for a moment from the debate over the Walker amendment.

Mr. Chairman, I would like to ensure that the program of section 205 of H.R. 5231, establishing Manufacturing Outreach Centers, creates a decentralized structure, similar to that of the highly successful agricultural extension system, that capitalizes on the diverse talents of organizations at the Federal, State, and local levels, rather than creating a centralized new Federal bureaucracy.

It is my understanding, Mr. Chairman, that the legislation calls upon the network of Manufacturing Outreach Centers to utilize and leverage existing organizations, data bases, electronic networks, facilities, and capabilities. It is my further understanding that the intent is that these centers should serve local or regional needs, building upon existing industrial outreach and extension programs and similar efforts. Is that the understanding of the distinguished chairman of the committee?

Mr. BROWN. Mr. Speaker, will the gentleman yield?

Mr. RITTER. I am happy to yield to the gentleman from California.

Mr. BROWN. Mr. Chairman, the gentleman is correct. It is the intent of this provision to create a decentralized structure of manufacturing outreach centers, and not to create a new Federal bureaucracy.

Mr. Chairman, I will make sure, through the oversight work of our committee, that this is, in effect, carried out.

Mr. RITTER. Mr. Chairman, commenting here on this particular amendment, there is a dilemma here.

America has underinvested in manufacturing. Manufacturing has been the orphan child of Federal Government investment for three or four decades. It is really critical that some national investment, whether new resources for investment or redirection of our commitments in the Federal R&D economy of some $75 billion, it is really crucial that America get back to basics, and the basics, the fundamentals of a healthy, modern economy are a strong base in manufacturing. Manufacturing, production, making things, making them better continously. These are the crown jewels of a healthy economy.

If you do not believe that, I have got a five-letter word for you. It begins with "J," ends with "N," and it has a "P" in the middle. Japan's economic miracle is based on investments in manufacturing.

I would like to see, or have seen, the Walker bill pass initially. That took a different road, and that road was to stimulate the private-sector investments through investment tax credits, long-term capital gains, reform of product liability, and the like.

But we cannot pass that bill. The process, as it works here in the House, is so fragmented that this Brown bill is the alternative. This is the one vehicle that we have to say we believe that manufacturing is important; we believe that it is the crux of the modern economy; we believe that it is the source of wealth creation.

So there is this dilemma over the Walker amendment. Yes, the budget must be brought into balance, but we also need to grow our civilian industrial economy and compensate for the lack of investment in production, in manufacturing, in the Federal budget over all of these decades. I understand Members' concerns, but I urge them to think it through.

There is another kind of deficit, and that is a deficit in a Federal partnership with our industry to boost manufacturing. The Brown bill, at least, boosts the Government side of the investment equation in partnership with the private sector.

MODIFICATION OFFERED BY MR. VALENTINE TO THE AMENDMENT OFFERED BY MR. WALKER

Mr. VALENTINE. Mr. Chairman, I ask unanimous consent that the amendment offered by the gentleman from Pennsylvania [Mr. WALKER] and adopted by the committee yesterday be modified.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification offered by Mr. VALENTINE to the amendment offered by Mr. WALKER: Page 99, after line 14, insert the following:

Subtitle A—Miscellaneous Provisions

Page 107, after line 20, insert the following new subtitle:

Subtitle B—Technology Transfer Improvements

SEC. 411. SHORT TITLE.

This subtitle may be cited as the "Technology Transfer Improvements Act of 1992".

SEC. 412. COPYRIGHT FOR SOFTWARE.

Section 105 of title 17, United States Code, is amended—

(1) by striking "Copyright" and inserting in lieu thereof "(a) GENERAL RULE.—Except as provided in subsection (b), copyright"; and

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

"(b) COPYRIGHT OF COMPUTER PROGRAMS.—Each Federal agency may secure copyright registration on behalf of the United States and the United States shall have all copyright rights in and be the owner of any computer program (including instructions necessary to use the program, but not including data, data bases, or data base retrieval programs) authored in whole or in part by employees of the United States Government in the course of work under a cooperative research and development agreement entered into under the authority of section 202(a)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(a)(1)) or a similar agreement entered into under section 203(c) (5) and (6) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c) (5) and (6)), or provided by the United States Government under section 202(b)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(b)(1)), and may grant or agree to grant in advance to a participating party in the agreement, licenses or assignments for such copyrights, or options thereto, retaining such other rights as the Federal agency deems appropriate.".

SEC. 413. AMENDMENTS TO SECTION 202 OF THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.

Section 202 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended—

(1) in subsection (b)(4), by inserting ", including computer software," after "intellectual property"; and

(2) in subsection (b)(5), by inserting "or computer programs described in section 105(b) of title 17, United States Code" after "of the United States".

SEC. 414. DEFINITION OF COMPUTER SOFTWARE.

Section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703) is amended by adding at the end the following new paragraph:

"(14) 'Computer software' has the meaning given the term 'computer program' in section 101 of title 17, United States Code, and includes instructions necessary to use the program, but does not include data, data bases, or data base retrieval programs.".

SEC. 415. ROYALTY PAYMENTS TO AUTHORS.

(a) Section 204(a)(1)(A), (2), and (3) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)(A), (2), and (3)) is amended—

(1) by inserting "or computer software" after "inventions" each place it appears;

(2) by inserting "or computer software" after "invention" each place it appears;

(3) by inserting "or author" after "inventor" each place it appears;

(4) by inserting "or co-author" after "co-inventor" each place it appears;

(5) by inserting "or authors" after "inventors" each place it appears;

(6) by inserting "or co-authors" after "co-inventors" each place it appears; and

(7) by inserting "or author's" after "inventor's" each place it appears.

(b) Section 204(a)(1)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)(B)) is amended—

(1) by inserting "or computer software" after "income from any invention";

(2) by inserting "or computer software was developed" after "the invention occurred";

(3) by inserting "or computer software" after "licensing of inventions" in clause (i);

(4) by inserting "or computer software which was developed" after "with respect to inventions" in clause (i); and

(5) by inserting "or computer software" after "organizations for invention" in clause (i).

(c) Section 204(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(c)) is amended by inserting "or author" after "including inventor".

SEC. 416. TECHNICAL AND CONFORMING AMENDMENTS.

Section 202(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)), is amended by inserting "or computer software" after "inventions" each place it appears.

Amend the table of contents accordingly.

Mr. VALENTINE (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. Is there objection to the initial request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. The amendment is modified.

Mr. ROEMER. Mr. Chairman, I move to strike the requisite number of words.

□ 1200

Mr. Chairman, I rise in strong support of this bill and would like to commend the leadership of our distinguished chairman, the gentleman from California [Mr. BROWN] and the gentleman from North Carolina [Mr. VALENTINE] for working on this bill that I think incorporates some of the most important, innovative, change-oriented ideas that we in Congress need to be working on to get this country moving in the right direction again.

I think it incorporates the words and ideas and new partnerships that people in this country are striving to hear out of Congress.

Mr. Chairman, they want jobs; people in my community and Indiana are no different than people in North Carolina or California; they are discussing jobs, more jobs and job training programs.

In order for us to move from about 16 percent of current jobs located in manufacturing industry, we need to see these new partnership and we need to see new partnerships that target certain industries to help us be competitive. We need to make sure that our business and our Government are working together in new ways. We need to help in the defense conversion industry so that we move from making the B–2 bomber to the next high-definition television.

We need to see jobs that provide the people in this country the opportunity to live in dignity and not have three jobs at $4.25 an hour where they never see their families. The best kind of family value that we can espouse in this country is a job that keeps our families together, a job that rewards people for working hard, a job that allows people to save money to get their children to college and to buy the high-definition televisions to keep our economy moving, to sell that high-definition television to the Japanese and the Germans.

This bill addresses these new ideas. This bill seeks to move our now weakened manufacturing sector from about 16 percent to, hopefully, back up to where it was, about 28 or 29 percent, where the Japanese and the Germans have a large sector of manufacturing jobs.

Finally, too, Mr. Chairman, I would like to commend our distinguished chairman again, the gentleman from California [Mr. BROWN], and the gentleman from North Carolina [Mr. VALENTINE], for incorporating manufactur-

ing centers, for incorporating education, for incorporating job training programs in this bill as well.

Too, I think this is one of the most important pieces of legislation that this Congress can work on. I commend the leadership on both sides of the aisle that has brought us to this point, and I look forward to working with the chairmen in the future on this legislation.

Mr. Chairman, I would first congratulate you and Chairman VALENTINE for bringing this legislation before us today. Congress is overdue in taking an active role in stabilizing, renewing, and energizing our industrial infrastructure, and I am proud to be part of the committee that is taking the lead in this effort.

As I have said before, it is entirely possible that this is the most important work that this committee will do this year. This country can retake its status as the absolute leader in manufacturing and industry, but requires leadership from Congress and the government in order to achieve this goal.

Major manufacturers and their associations believe in this bill because it will enhance U.S. industrial competitiveness through a series of programs that supplement, encourage and facilitate investment in manufacturing infrastructure and in critical civilian technologies.

The United States needs a coherent, long-term technology policy. We are second to none in conceiving new and productive products and processes, and we must have a plan to preserve that leadership through the commercialization process on into the marketplace.

The National Competitiveness Act of 1992 can provide that leadership through expanded technology transfer possibilities, manufacturing outreach centers, standards development, and competitiveness research.

By creating institutional coordination of these issues through the Department of Commerce, creating a financial and resource-based commitment to commercialization, focusing on U.S. friendly overseas standards, and closely evaluating our results, we can live up to our historical promise.

Economic growth is always within the reach of American communities, provided they have the resources, support, and training made available to them as it is in Europe or the Pacific rim.

Part of this effort must be recognition of the need for partnership between business and education, and the role this partnership can play to help us regain our standing as the world industrial leader.

To recognize this need, I am pleased to have authored language that is now part of this legislation which adds educational institutions to the categories of the Malcolm Baldrige Awards for manufacturing excellence. I believe that this bill will showcase the need for business-education partnerships, and that the time has come to get this idea off the drawing board.

Again, Mr. Chairman, I want to express my full appreciation and support for the outstanding leadership opportunity before the committee today in the form of H.R. 5231. I would again congratulate you and Chairman VALENTINE, and the Members on both sides of the aisle who are working to make our Nation's competitiveness the envy of the world.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 246, not voting 24, as follows:

[Roll No. 410]

AYES—162

Allard	Grandy	Nichols
Allen	Green	Nussle
Archer	Gunderson	Orton
Armey	Hall (TX)	Oxley
Baker	Hammerschmidt	Packard
Ballenger	Hancock	Parker
Barrett	Hansen	Paxon
Barton	Hastert	Petri
Bateman	Hefley	Porter
Bennett	Herger	Pursell
Bentley	Hobson	Quillen
Bereuter	Holloway	Ramstad
Billrakis	Hopkins	Ravenel
Bliley	Houghton	Regula
Boehner	Huckaby	Rhodes
Brewster	Hunter	Riggs
Broomfield	Hutto	Roberts
Bunning	Hyde	Rogers
Burton	Inhofe	Rohrabacher
Byron	Ireland	Ros-Lehtinen
Callahan	Jacobs	Roth
Camp	James	Roukema
Campbell (CA)	Johnson (TX)	Saxton
Coble	Kasich	Schaefer
Coleman (MO)	Klug	Sensenbrenner
Combest	Kolbe	Shaw
Condit	Kyl	Shays
Coughlin	Lagomarsino	Skeen
Cox (CA)	Leach	Slattery
Crane	Lent	Smith (OR)
Cunningham	Lewis (CA)	Smith (TX)
Dannemeyer	Lewis (FL)	Snowe
DeLay	Lightfoot	Solomon
Dickinson	Livingston	Spence
Doolittle	Lowery (CA)	Stearns
Dorman (CA)	Machtley	Stenholm
Dreier	Marlenee	Stump
Duncan	Martin	Sundquist
Emerson	McCandless	Tauzin
Ewing	McCollum	Taylor (NC)
Fawell	McCrery	Thomas (CA)
Fields	McDade	Thomas (WY)
Fish	McEwen	Upton
Franks (CT)	McGrath	Vander Jagt
Gallegly	McMillan (NC)	Vucanovich
Gallo	Meyers	Walker
Gekas	Michel	Weber
Gilchrest	Miller (OH)	Weldon
Gillmor	Miller (WA)	Wolf
Gilman	Molinari	Wylie
Gingrich	Montgomery	Young (AK)
Goodling	Moorhead	Young (FL)
Goss	Morrison	Zeliff
Gradison	Neal (NC)	Zimmer

NOES—246

Abercrombie	Bilbray	Chapman
Ackerman	Boehlert	Clay
Anderson	Bonior	Clement
Andrews (ME)	Borski	Coleman (TX)
Andrews (NJ)	Boucher	Collins (IL)
Andrews (TX)	Brooks	Collins (MI)
Annunzio	Browder	Cooper
Anthony	Brown	Costello
Applegate	Bruce	Cox (IL)
Aspin	Bryant	Coyne
Atkins	Bustamante	Cramer
Bacchus	Campbell (CO)	Darden
Bellenson	Cardin	de la Garza
Berman	Carper	DeFazio
Bevill	Carr	DeLauro
Dellums	LaFalce	Reed
Derrick	Lancaster	Richardson
Dicks	Lantos	Ridge
Dingell	LaRocco	Rinaldo
Dixon	Laughlin	Ritter
Donnelly	Lehman (CA)	Roe
Dooley	Lehman (FL)	Roemer
Dorgan (ND)	Levin (MI)	Rose
Downey	Levine (CA)	Rostenkowski
Durbin	Lewis (GA)	Rowland
Dwyer	Lipinski	Roybal
Dymally	Lloyd	Russo
Early	Long	Sabo
Eckart	Lowey (NY)	Sanders
Edwards (CA)	Luken	Sangmeister
Edwards (TX)	Manton	Santorum
Engel	Markey	Sarpalius
English	Martinez	Sawyer
Erdreich	Matsui	Scheuer
Espy	Mavroules	Schiff
Evans	Mazzoli	Schroeder
Fascell	McCloskey	Schumer
Fazio	McCurdy	Serrano
Feighan	McDermott	Sharp
Flake	McHugh	Sikorski
Ford (MI)	McMillen (MD)	Sisisky
Ford (TN)	McNulty	Skaggs
Frank (MA)	Mfume	Skelton
Frost	Miller (CA)	Slaughter
Gaydos	Mineta	Smith (FL)
Gejdenson	Mink	Smith (IA)
Gephardt	Moakley	Smith (NJ)
Geren	Mollohan	Spratt
Gibbons	Moody	Staggers
Glickman	Moran	Stallings
Gonzalez	Morella	Stark
Gordon	Mrazek	Studds
Guarini	Murphy	Swett
Hall (OH)	Murtha	Swift
Hamilton	Natcher	Synar
Harris	Neal (MA)	Tallon
Hatcher	Nowak	Tanner
Hayes (IL)	Oakar	Taylor (MS)
Hefner	Oberstar	Thomas (GA)
Henry	Obey	Thornton
Hertel	Olin	Torres
Hoagland	Olver	Torricelli
Hochbrueckner	Ortiz	Towns
Horn	Owens (NY)	Traficant
Horton	Owens (UT)	Traxler
Hoyer	Pallone	Unsoeld
Hubbard	Panetta	Valentine
Hughes	Pastor	Vento
Jenkins	Patterson	Visclosky
Johnson (CT)	Payne (NJ)	Volkmer
Johnson (SD)	Payne (VA)	Walsh
Johnston	Pease	Washington
Jontz	Pelosi	Waters
Kanjorski	Peterson (FL)	Waxman
Kaptur	Peterson (MN)	Wheat
Kennedy	Pickett	Williams
Kennelly	Pickle	Wilson
Kildee	Poshard	Wise
Kleczka	Price	Wolpe
Kolter	Rahall	Wyden
Kopetski	Rangel	Yates
Kostmayer	Ray	Yatron

NOT VOTING—24

Alexander	Davis	Penny
AuCoin	Edwards (OK)	Perkins
Barnard	Foglietta	Savage
Blackwell	Hayes (LA)	Schulze
Boxer	Jefferson	Shuster
Chandler	Jones	Solarz
Clinger	Myers	Stokes
Conyers	Nagle	Whitten

□ 1225

Messrs. HUCKABY, PARKER, and MONTGOMERY changed their vote from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

Ms. OAKAR. Mr. Chairman, I rise to support the National Competitiveness Act of 1992, H.R. 5231, and urge its immediate enactment in order to improve this Nation's competitiveness, which is one of our highest priorities.

U.S. COMPETITIVENESS PROBLEMS

The United States faces serious problems in adjusting its economy and economic policies to the new competition, which this bill helps to address. Among the most dramatic trends of the past 30 years is the globalization of economic activity. Trade has increased faster than production in all but a handful of years, and these trends have had a major impact on the United States.

Two statistics illustrate the new realities. First, the proportion of the U.S. economy accounted for by international trade has increased from 10.6 percent in 1960 to 24.9 percent in 1990, according to the congressionally created Competitiveness Policy Council—"Building a Competitive America," March 1, 1992, page 2. Second, the Science Committee report accompanying H.R. 5231 points out that, during the same 30-year period, the share of the American market captured by imports has risen from 3 to 9 percent (House Report 102–841, page 35).

These figures mean that competition is being forced upon us. With every passing year, American industry and American workers must become increasingly world class just to maintain our own domestic markets. The Science Committee notes, in section 102 of the bill, that foreign competition has already reduced real wages and the standard of living in this country.

EXPORT POTENTIAL FOR A COMPETITIVE U.S. ECONOMY

As chair of the Subcommittee on International Development, Finance, Trade and Monetary Policy, I am particularly interested in the impact of national competitiveness on the golden opportunities for American industry in international markets. As in the past 5 years, exports can play a leading role in creating jobs for American workers, profits for U.S. businesses and growth in our domestic economy.

A recent hearing before my subcommittee on the Export-Import Bank charter renewal, May 6, 1992, documented the following potential markets worldwide, on an annual basis:

Environmental products and services, including waste disposal and sanitation equipment—$300 billion per year.

Power generation equipment—$100 billion.

Telecommunications equipment—$100 billion.

Commercial aircraft—$45 billion.

To gain and hold our share of these and many other lucrative markets will not be easy. U.S. industry and our workers must demonstrate that we can equal or exceed the quality, price, delivery, financing, and other terms offered by foreign companies.

We know foreign companies will be competing hard for this business. We also know foreign companies will have the compete backing of their governments in these battles.

How is our Federal Government doing in this competition?

According to the Science Committee: The "passive nature of U.S. technology policy has hindered the ability of American companies to compete * * *" (section 102, H.R. 5231).

The story is the same in export policies. The General Accounting Office testified before my subcommittee, in January 1992, that the U.S. Government had no overall export strategy.

In a book on trade policy recently published by the Brookings Institution, the author called the United States the world's biggest export underachiever, pointing out that European nations spend up to eight times more than the United States for export promotion ("Going Global," by Wm. Northdurft, cited in "The United States as Exporter: Superpower or Subpar," Washington Post, September 20, 1992, page H1).

GAO testimony also questions the allocation of the $2.7 billion in funds the United States does spend on export promotion. It seems that the Export-Import Bank—that accounts for 52 percent of the export credits—spends only 12.3 percent of the promotion funds—and the Commerce Department spends another 7.3 percent. Industrial exports account for well over half the U.S. total. In contrast, agricultural exports, accounting for 10 or 11 percent of U.S. exports, benefit from the expenditure of 74.3 percent of promotional funds. This is not my idea of cost-effectiveness or good competitiveness policy.

Let's now take a look at our overall competitive posture.

DECLINE OF U.S. COMPETITIVE POSITION

There are alarming indications that we are not measuring up to the competition to the extent that this country is capable of. Most tellingly, our trade deficits, over the past decade, have totaled more than $1 trillion. During that same period, the United States switched positions from being the world's largest creditor nation to being the world's largest debtor nation.

The highly regarded Competitiveness Policy Council observed that these figures "represent dramatic evidence of our relative competitive decline"—"Building a Competitive America," page 2.

A SHRINKING MANUFACTURING BASE

Another indication of U.S. decline in competitiveness is the status of manufacturing in this country. Manufacturing—the heartland of the economy—is the source of highly paid, high value-added jobs. Over the past 30 years, U.S. manufacturing has fallen from 28 percent of gross national product to 19 percent. At the same time, manufacturing employment fell from 23 percent of total employment to 14 percent—"Focus," National Center for Manufacturing Sciences, May, 1992, page 8. In 1979, 21 million people worked in manufacturing; in July, 1992, the figure was 18.2 million.

A WORRISOME EMPLOYMENT PICTURE

Of special interest is the health of private sector employment. Earlier this month, the New York Times pointed out that there are 38,000 fewer jobs in the private sector now than when George Bush was inaugurated in January 1989. At the end of 1991, for the first time ever, jobs in Government exceeded those in manufacturing in this country—"The Jobs are in Government, not Industry," September 6, 1992, section 3, page 1.

In July 1992, nearly 10 million, 9.760 million, Americans were unemployed, of which 3.6 million were out of work more than 15 weeks—"Economic Indicators," August 1992, page 11.

Americans fortunate enough to have jobs are working longer and earning less than at any time since the beginning of the 1980's, and unemployment is also spreading to white collar occupations—"Workers Generally Worse Off Than a Decade Ago, Study Finds," Washington Post, September 7, 1992, page A25. This study, by the Economic Strategy Institute, found that while America as a whole still enjoys the highest per capita income, median family income grew only $1,528 between 1979 and 1989—the slowest growth for any decade since World War II. Even worse, since 1990, median family income has actually declined by 2 percent.

A DISMAL INVESTMENT PICTURE

Our level of investment determines whether we are upgrading the Nation's physical and human capital to meet the challenges of future competition. Right now, the United States ranks last in the rates of saving and investment among the industrialized countries—"Building a Competitive Economy," pages 18–19. It is disheartening to learn that Japan, with an economy that is 60 percent as large as the United States and a population 50 percent as large as the United States, invested $101 billion more than the United States in plant and equipment in 1990. In fact, Japan has out-invested the United States on plant and equipment in absolute terms for the past 3 years.

LAGGING RESEARCH AND DEVELOPMENT EXPENDITURES

To be truly competitive, U.S. industry must be able to hold its own at the frontiers of commercial product and service sales.

We all know that R&D is the key to economic innovation, growth, and competitiveness. Unfortunately, this country has been underinvesting in civilian R&D for a prolonged period of time. In a statement to the House last year, I pointed out that the military share of U.S. R&D spending averaged almost two-thirds for the past decade, 65.24 percent. This is far out of proportion to the rough 50–50 split that prevailed for the previous 15 years from 1965 to 1980—CONGRESSIONAL RECORD, November 26, 1991, page E–4227.

This division is even more out of balance with the global average. The World Resources Institute estimates that governments worldwide average about 25 percent of their research for military purposes, and that Japan spends only about 4 percent of its R&D budget for defense purposes—"Labs in Limbo," by Jessica Matthews, Washington Post, September 27, 1992, page A29.

In the economically critical area of R&D for civilian purposes, Japan and Germany have steadily increased their investment, to approximately 3 percent of gross national product for Japan and 2.7 percent for Germany, while the United States has been stuck at about 1.9 percent since 1983—"Building a Competitive America," pages 2 and 3.

Just last month, the National Science Board [NSB] issued a report that concluded: "The U.S. Industrial R&D System Is in Trouble." Among the supporting findings were:

U.S. R&D expenditures are lagging foreign competitors.

The balance between defense and nondefense R&D in the United States is disadvantageous compared to foreign competitors.

The growth rate for Federal support of U.S. industrial R&D has dropped to minus 1.7 percent for the 1985–91 period.

Too little is spent on process-oriented R&D versus product-oriented research.

Inadequate effort is devoted to fundamental engineering research.