



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 104<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 141

WASHINGTON, WEDNESDAY, MAY 17, 1995

No. 82

## Senate

(Legislative day of Monday, May 15, 1995)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, You have shown us that You want to guide what we pray, so that You can grant us the desires of our hearts. We begin this day with King Solomon's response to Your question, "Ask! What shall I give you?" Then Solomon asked for what we desire for the work of this day. He confessed his own inadequacy and need for strength to grasp the challenges of being a leader. Then he asked for an "understanding heart." We are moved by the translation of the Hebrew words for "understanding heart," meaning a "hearing heart." Solomon wanted to hear both Your voice and the voice of the people expressing their needs, and be able to respond and speak to those needs out of the depth of wisdom that came from a heart tuned to Your spirit's supernatural power. May the response You gave to Solomon be the response You give to the women and men of this Senate who long to know and do Your will: "See, I have given You a wise and understanding heart." The heart of the matter is the heart: Your heart speaking to our hearts. Help us to listen, Lord. Amen.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

### MORNING BUSINESS

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

The Senator from Illinois.

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

The PRESIDING OFFICER. The Senator from Pennsylvania.

### WHERE IS BILL?

Mr. SANTORUM. Mr. President, I appreciate the opportunity to talk about an issue that greatly disturbs me at a time when we are debating in this country how we are going to get to a balanced budget and what steps we need to take and the tough decisions in setting priorities about where Federal spending should go in the next 7 years.

We had a process that went through here in the Senate and over in the House that just came from the conference committee to cut \$16 billion, \$16 billion of funding that has been appropriated by this Congress over the past year or two—a truly minor downpayment on reducing the Federal budget deficit. It is about 1 percent of what we will spend this fiscal year. We are talking about cutting 1 percent, not just in this fiscal year but this fiscal year and the next combined. About \$16 billion is what the rescission package will do.

I see the headline in the Washington Post, not the one I am particularly proud of, which is "Capitals Dismantled by Penguins," which I am happy to see that, but one which greatly disturbs me under that which is, "Clinton To Veto \$16 Billion Rescissions Package." The President—who has presented a budget that is going to add almost \$2 trillion to the national debt over the next 7 years, who refuses to come to the U.S. Congress and present a balanced budget, who says there is no problem in Medicare, who says that everything is just fine—now decides he cannot support cuts in spending. He cannot support cuts in spending: That \$16 billion is too much. We just cannot do it. We cannot tighten our belt to do that.

So he is going to go to some group. I am sure he will wrap himself—I do not know, I did not read this completely—wrap himself with either a group of seniors or a group of children because that is what you do when you do not want to change things. You hide behind children or you hide behind seniors, and you say: "We cannot hurt these vulnerable in our society." But the fact of the matter is this is a drop in the bucket. These are spending cuts, many of which he advocated, to programs many of which do not work.

Sure there are some tough cuts in here, things I am uncomfortable with. We cut, in this bill, low-income home energy assistance, not this year which I am happy to see, but next year, by \$300 million. I think that is a painful thing. But we have to share. We cannot do everything. We cannot continue to spend everything we are spending now. I think that is a good compromise.

There are other things in there that cause me some problems. They may be good programs but we have to be able to say we are going to tighten our belts

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



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a little bit. And here you have a President who is holding dialogs with himself about his relevancy, showing he is not going to be relevant to balancing the budget, he is going to stand in our way every step of the way to block any kind of reducing the size of Government or cutting spending here in Washington, DC.

Mr. President, \$16 billion out of \$1.6 trillion and we cannot do that. It is too tough. I think the American public should see this for what it is, a President who just wants to blame the other side for being mean and being cruel and offers nothing in return, who offers no balanced budget to this body, who says he is not for the balanced budget amendment to force us to get there, who says there is no problem in Medicare when it is going to go broke in 7 years. His own trustees say it is going to go broke in 7 years. Denial, denial, denial; no, no, no.

Where is the President? You know, we had the great debater from the State of Massachusetts, Senator KENNEDY, stand up and say, "Where is George? Where is George?"

Where is Bill? Where is Bill? Where is he going to be if we are going to balance this budget? Where is he going to be if we are going to put this country back on sound footing again? Is he going to continue to hide behind the status quo, to be the President who goes down defending this policy that has just continued to pile up debt after debt after debt?

Where is Bill? Where is he when it comes to setting this country back on the course of fiscal responsibility?

I will tell you where he is, hiding behind a group of people, vetoing legislation to get us back on the right track. We deserve better.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. Under the previous order, the Senator from North Dakota [Mr. DORGAN] is recognized to speak for up to 30 minutes.

Mr. DORGAN. Mr. President, it is always entertaining to listen to the morning discussions on the floor of the Senate. I should not say always entertaining. It is at least occasionally entertaining. As to the question of "Where is Bill?"—which I assume really asks "Where is the President?"—he is at 1600 Pennsylvania Avenue. He was there yesterday. I assume he is there this morning, reachable by phone if someone really wants to visit with him about policy issues.

But I would say that at least yesterday, when some of us visited with the President about the budget issues, we talked about a lot of things. There is

no disagreement, in my judgment, among those of us in the Senate or with the President or Members of the House of Representatives about the goal. We have a budget that is out of balance and it must be balanced. We must, it seems to me, develop a plan that is thoughtful, that establishes the right priorities, but especially in the end balances the budget.

It is interesting. I hear people stand up here on the floor of the House and bellow and crow about how they are the ones that have all the answers, they are the ones that know how to balance the budget, they are the ones with the guts, and they are the ones with a plan. What a bunch of nonsense. Add it all up, just back up and add it up, and you will find that there is not a nickel's worth of difference between Members on either side of the aisle, in the House or the Senate, about how much money they want to spend. Oh, there is a big difference in how they want to spend it. Some want to build more jet airplanes, jet fighters, and bombers, and build more missiles. Some want to stay as deep in debt as we are; that we ought to rebuild star wars right now. That is a proposal before us.

So they want to spend money, all right. Others of us want to make sure that a poor kid gets a hot lunch in the middle of the day at school, or that we have a Head Start that is fully funded, or a WIC Program that works, or health care available to the elderly when they need it. So there is a difference in how we want to spend money. There are differences in our priorities. But there is no difference in appetite.

Do not let anybody tell you different. Add up the priorities in the 1980's, and you will see that those who call themselves conservatives have an unending appetite to spend the public's money just on different things. This is evident even now. As tough as times are in this country, they are over pushing to cut back on the hot lunch program, and they have decided that it should no longer be an entitlement for a hot lunch for a poor kid in the middle of the day at school. But if a hot lunch for a poor kid in school is not an entitlement, they sure want to build star wars at a time when there is no longer a Soviet Union. That is the difference. There are differences in priorities.

No one should believe that there is not a grim determination on both sides of the political aisle in the House and the Senate this year to balance this Federal budget with a plan that gets there in a real and in an honest way. The quarrel is about priorities. It is a legitimate quarrel. We sometimes fight for and believe in different things. We come from different parts of the country. We represent often different ideologies. But the quarrel is not the goal. The destination is something that I think is well accepted. We must get to a balanced budget.

I sent earlier this month recommendations to the Senate Budget Committee totaling nearly \$800 billion in spending cuts. I want to send them some more. There are plenty of spending cuts—some of them very aggressive, some of them controversial—that should be, could be, and I hope will be made in order to reach a balanced budget. I happen to think it is a priority as a goal.

But these days when we find ourselves in a circumstance where we are up to our necks in debt, spending more than we take in and charging the balance to our kids and grandkids, some say what we really need to do is to have a tax cut. They construct a middle-income tax cut. In fact, I was asked by a radio moderator the other day about what I think of the middle-income tax cut or the middle-class tax cut passed by the House of Representatives. I said, "Gee, which tax cut could you be referring to?" The middle-class tax cut passed by the House of Representatives provides, on average, a \$124 tax cut for those families with incomes under \$30,000 a year, and an \$11,000 tax cut for those families with incomes over \$200,000 a year. That is what they define in the House as middle income? They have been reading different math books than I have been reading, I guess.

I do not think a tax cut is advisable at the moment. I think the first job is to reduce the deficit, not to run over and curry favor with popular programs like tax cuts. But if we were going to have a tax cut, we ought to have a tax cut that benefits working families, not just the upper income families, not just the affluent in our country.

So I would like folks to take a look at this chart. This chart shows the kinds of priorities that some stand up here and bust their buttons about, calling them middle-class priorities. This tax cut is a tax cut that benefits disproportionately the most affluent in this country and gives a few pennies to the rest.

I do not happen to think we ought to have a tax cut at this point. I think we ought to keep our nose to the grindstone, cut spending, and use the revenues to reduce the Federal budget deficit. When we have that done, I will join others in this Chamber to propose a tax cut that then will be helpful to middle-income families. But to decide you ought to have a decrease first—let us go ahead and serve dessert at this meal first, which is a tax cut, because that is enormously popular—that has a ring to it that is only political, not substantive. That says let us curry favor, and not do the hard work of dealing with the deficit.

At the same time that some who propose a contract say let us have a tax cut that they call middle class but really, as you can see from the chart, benefits the most affluent in our country, they say we have a plan to cut Medicare. But they do not have a plan to protect health care for the elderly.

They would just cut the dollars. More and more people are growing old in this country. Some months—most months, in fact—we have 200,000 Americans in 1 month become eligible for Medicare. Why? Because America is growing older.

So as more and more people become eligible for Medicare, to cut the funding without worrying about how an elderly person gets health care is hardly a priority I think which stands the test of good sense. And if you say to a country that faces real challenges in its future that the way to face them is to make it harder for a kid to go to college and cut back on money for student aid, then you are not in my judgment investing in our future.

Why do that? We do that at least in part because some want to give a big tax cut to the most affluent in America. Again, I do not quarrel with the goal. I think the goal of balancing the budget is a goal we must march toward and meet. That is our challenge, and that is our test. I think there is substantial room to quarrel about the priorities at this point. There is a right way to do this and a wrong way to do it. And the right way to do it is to understand that the economic engine in this country is the working family. You do not help the working family in this country by doing the kinds of things that they are talking about in this budget. That is the wrong way.

I would say that maybe 50 or 60 percent of the budget recommendations brought out by the Budget Committee make a lot of sense, and I would sign up immediately for them. I support a lot of those proposals. A lot of them are good. I give Senator DOMENICI and other members of the Budget Committee great credit for some of those provisions, and I will support them in a minute and vote for them. But I am just saying that in the Contract With America in the House and also in the Senate, there are some provisions that reflect in a traditional way the difference in priorities.

We believe in education. Let us invest in education and not withdraw the help for those who want to learn, those who want to produce, and those who want to go on to become citizens who will help build this country. Let us not withdraw health care assistance from the elderly and the poor who need it. Let us not increase taxes for the low-income working families, which is also a part of this budget proposal. But there are many other areas where we can cut, and cut significantly, and cut much more than is now proposed by the Senate Budget Committee recommendation.

So I hope when we get this to the floor, I hope you will not hear one word from any Member of the Senate who quarrels about the goal. We must balance the budget by 2002. It is doable. It is doable without the greatest of effort by Members of the Senate. But it ought to be done right away, investing in the right things still for this country, even

as we cut those things we no longer need, those things that waste money and those things that are extravagant.

#### TRADE WITH JAPAN

Mr. DORGAN. Mr. President, I want to turn to one other very brief subject, and that is the issue of trade with Japan.

I intend to provide a discussion tomorrow at some greater length about our trade situation. But I noticed that the Trade Representative has announced potential sanctions in the future against Japanese trade with the United States if Japan does not open its market further to United States goods.

The fact is the trade situation in this country is serious. We talk a lot about the Federal budget deficit, but we have another deficit that is serious and troublesome. We have a trade deficit that is the most significant trade deficit in this country's history. The merchandise trade deficit last year was \$166 billion, and I have a chart that shows our trade picture in this country. I would like to hold it up.

This chart shows with whom we have trade deficits and those with whom we have trade surpluses. We have almost no surpluses, and those countries with whom we have a surplus, it is a very, very minuscule surplus, but you will see what is happening with respect to deficits.

All of our major trading partners are countries with which we now have a trade deficit, and that now includes Mexico, for all those who said we were going to have all these new jobs and bountiful trade with Mexico. What a bunch of nonsense that was. We have turned a trade surplus with Mexico into a very significant trade deficit. Most experts suggest the deficit with Mexico will turn out to be anywhere from \$12 to \$16 billion. It was the last remaining major trading partner we had with which we have had a surplus, and we have turned that into a deficit, unfortunately, with NAFTA and the subsequent devaluation of the peso, and so on.

But you will see in this line a growing, escalating trade deficit with Japan even as the dollar was weakened against the yen, even when you would expect the trade circumstances to move in the other direction. Our trade deficit with Japan is unsustainable, and it is not fair. The Japanese expect their products to come into the American market unimpeded, and they do. We have a wide selection of brand names from Japan in virtually every area of consumer products. So they access our marketplace. And what happens when we try to access theirs? We find impediment after impediment after impediment, and we cannot get American goods in any significant quantity into the Japanese marketplace.

I have a very small chart I would like to show on auto parts and on cars and

trucks, and I hope that this can be picked up. But this shows the percentage of auto parts by country, and I wish to show you the import share. The United Kingdom has 60 percent—60 percent of the auto parts in the United Kingdom are imports; 32 percent in the United States; 49 percent in France; 16 percent in Italy; 2.4 percent of the auto parts in Japan are imported—2.4 percent. All the rest are produced in Japan.

Now, is that an accident? No, it is not, because they keep auto parts out of Japan. You cannot get them in. They can move them to the United States, but we cannot move them to Japan.

How about cars and trucks? Mr. President, 4 percent of the cars and trucks sold in Japan are imports. And you look at the rest of the countries: 35 percent in Italy; 54 percent in the United Kingdom; 30 percent of the cars and trucks sold in the United States are imports; 4 percent of the cars and trucks sold in Japan are imports.

Now, is that because no one has figured out a way to sell in Japan? No. It is because Japan keeps them out. Japan has a one-way trade strategy that says we want Japanese producers to be able to sell in your markets, but when your producers want to sell in Japan, we want to keep them out.

This President, to his credit, has begun to stand up to other countries, including Japan, saying we are sick and tired of one-way trade relations. When we have these trade deficits, it means lost jobs in America—lost jobs, lost income, lost opportunity, and lost hope. The President is saying we expect and demand reciprocal trade policies. Japan, we want you to open your markets.

We are not saying we want to shut off access to Japanese goods in the United States. That is not the point. The United States has demonstrated for many, many years that we want our consumers to have the widest possible choice of goods, including goods from around the world. But it is long past the time when our country should accept a trade relationship that is unfair to our people, unfair to our country, unfair to our wage earners.

This President is saying to Japan, we are going to hold up a mirror. We treat you well. Our borders are open to you. You move your goods here in increasing quantities. We expect your borders to be open to us. We expect American producers and the product of American workers to have access to the consumers in Japan. And he is the first President for some long while to have the nerve to stand up and to have the nerve to confront the Japanese on these issues.

It is not just the Japanese. We also have to confront the Chinese, whose \$30 billion trade surplus with the United States is growing at an alarming rate. We must be able to penetrate those markets and have fairness in the world and world trade.

Ambassador Kantor and the President, I know, are embarked on a nervous time, and I know it is very controversial. But I would say, whether it is a Republican or a Democratic administration, this country needs to stand up for its economic interests. It needs to stand up for jobs and opportunity here. I think President Clinton, in calling the Japanese on these trade policies, is beginning to do that on behalf of this country.

I do not want a trade war. A trade war will not benefit anyone. It will hurt the world. But by the same token, we cannot have a post-Second World War trade strategy which is essentially only a foreign policy by which we pay and everyone else wins. That is a strategy that continues to weaken our country. We ought to say our borders are open but yours must be, too. We believe in reciprocal trade policies. We believe in open trade and free trade, yes, but we, most importantly, insist on fair trade. It is long past the time when our country needs to stand for that. I am pleased that President Clinton is taking some action to confront the Japanese and now next it will be a number of other countries that treat us in exactly the same way.

Mr. President, with that, I yield the floor.

#### VETO OF THE RESCISSION BILL

Mr. GRAMM. Mr. President, President Clinton announced today that he is going to veto the rescission package. President Clinton is going to veto our effort to reduce Government spending by \$16 billion. President Clinton, who continues to talk about deficits, is going to veto a bill that cuts more spending than any rescission bill in the history of this country.

Why is he going to do that? He is going to do it because he is committed politically to the special interest groups who stand to lose from our putting the Federal Government on a budget like everybody else. I think Bill Clinton should start representing the public interest and not the special interests that support the Democratic Party.

I think it is outrageous, when we are running a \$175 billion deficit, when the deficit is heading toward \$350 billion, and the President, to defend things the way they are in Washington, DC, is going to veto a bill that cuts 16 billion dollars' worth of Government spending.

The President should sign the rescission bill. He should join our effort to put the Federal Government on a budget like everybody else. Ultimately, we have to make a decision. Are we going to change the Government in order to bring back the American dream, put the Federal Government on a budget, let families keep more of what they earn, or are we going to continue to support business as usual in Washington, DC?

When Bill Clinton vetoes a \$16 billion cut in Government spending to protect

a few pet programs, he is putting the political interests of his administration and his party in front of the interests of the people of America. I do not think the American people are going to like it; I think they are going to react negatively to it; and I think they should.

President Clinton can stop us on the rescission bill. He can get Democrats to vote and sustain his veto. I think it is important that we pass the bill, that we challenge him, and that we try to override this outrageous veto. But for next year, beginning in October, we are going to be writing the appropriations bills, and so the President is not going to have the ability to veto bills unless he wants to shut down Federal departments.

I think we are fast coming to the moment of truth. Are we serious about dealing with Government spending? Are we serious about putting the Government on a budget like everybody else? Or are we committed to the same old special interest groups that have dominated American Government for 40 years?

By vetoing an effort to reduce Government spending to protect special interest programs, President Clinton is saying he is willing to protect business as usual in Washington. I think this is something that we have to fight because I think we are down to the basic principle on which the American people cast their votes in 1994, and I think they expect us to stand up, speak out, and fight for putting the Federal Government on a budget like everybody else.

I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

#### SPECIAL INTERESTS

Mr. PRYOR. Mr. President, I wonder if my friend from Texas would answer a question if I were to propose a question?

Mr. GRAMM. I might. I would like to hear it first.

Mr. PRYOR. Yes.

I read in the Washington Post this morning about the \$5 million Republican fundraiser that was held last evening. I want to congratulate the Senator from Texas for putting this enormous fundraiser together. It may have been the largest of its kind in history.

I wonder if the Senator from Texas would be so kind as to answer this question of the Senator from Arkansas: Were there any special interests represented at this fundraiser?

Mr. GRAMM. Let me first respond by saying, I appreciate your generosity in suggesting that I might have put on such a grand fundraiser. In fact, I am no longer chairman of the Republican Senatorial Committee. I did attend. We had a lot of people there from all over America.

Mr. PRYOR. Were there any special interests there at the fundraiser?

Mr. GRAMM. Clearly, many of them were there. They came to the event. Each individual group represents a special interest.

But let me tell you the difference. What we told them we were going to do there is put the Federal Government on a budget. We were not promising to give anything away last night. We were promising to stand up for the vital interests of this Nation and, remarkably—maybe it is not true in your party, but in my party when you stand up and fight for America, there are people that are for you.

I am proud of the fact, as my colleague, I am sure, knows, that in the last election cycle, when I was chairman, the average contribution to the Democratic Senatorial Committee was 10 times as large as the average contribution to the Republican Senatorial Committee because we have grassroots support.

And, given the President's veto, given the President's veto of our effort to control spending, I can see why we have grassroots support and the Democratic Party does not.

Mr. PRYOR. Mr. President, I appreciate my friend from Texas and neighbor trying to answer that question.

I am going to ask him another question.

Were there grassroots supporters there at this \$5 million fundraiser last evening?

Mr. GRAMM. They were from all over America. In fact, I saw a lot of them from Arkansas.

Mr. PRYOR. That is right.

And how much was each ticket for the fundraiser, if I might ask?

Mr. GRAMM. It varied, depending on whether it was individual money or whether it was—

Mr. PRYOR. Whether it was grassroots or special interest, is that the case?

Mr. GRAMM. No. It varied on whether it came out of your checking account or out of the checking account of your company or your organization.

You hold similar events every year, but, because the American people no longer support your agenda, your attendance is falling off. Ours is rising. But I do not feel sorry for you.

Mr. PRYOR. Oh, no, do not feel sorry for us yet. You know, we still have a few kicks left in the dog here.

But I would just like to ask my friend from Texas, the special interests you referred to that support President Clinton, would you please be so kind as to enumerate those special interests?

Mr. GRAMM. I certainly would.

The Legal Services Corp., the Corporation for Public Broadcasting, the broad-based coalition of people who are riding in the wagon as opposed to the people who are pulling the wagon in America.

Our objective is to try to put the Government on a budget, so we can let working people keep more of what they earn, so that we can have decisions made not by Washington but by American families.

See, we have this idea that Democrats rejected about 40 years ago, and that is families can do a better job of spending their own money than you do for them.

Now that sounds alien in Washington, DC, but in Little Rock, AR, people are beginning to think maybe that is the way we ought to do things.

Mr. DORGAN. I wonder if the Senator from Arkansas would yield to me?

Mr. PRYOR. I do not have the floor, actually.

Mr. GRAMM. I have to go to a hearing on Legal Services, to let them know the bad news.

The PRESIDING OFFICER. The Chair would say, the hour of 10:30 having arrived, morning business was to close.

Mr. PRYOR. Mr. President, seeing no other Senators desiring recognition, I ask unanimous consent that the Senator from North Dakota be allowed to proceed for 3 minutes.

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

Mr. DORGAN. Mr. President, I was curious about the question asked by my colleague from Arkansas.

Our colleague, Senator GRAMM from Texas, said that at this fundraiser they were not giving anybody anything. I assume he forgot, probably, that in the vote in the House of Representatives on the Contract With America, just to name one little piece of that, they eliminated the alternative minimum tax for corporations.

You remember those stories in the old days about a big corporation that earned \$3 billion in earned income, net profit, and paid zero in Federal income tax. Well, the Federal Government said they wanted to correct that, so they set up what was called an alternative minimum tax, so you could never zero it out, talking about the real big corporations now.

Well, in the House of Representatives, in the tax bill under the contract, they zero it out and they say, "No more alternative minimum tax. You big companies, you make \$5 billion, it is all right if you pay zero in taxes." But at same time they do that, they say, "But we can give those companies"—incidentally, about 2,000 companies—"the equivalent of \$2 million each in tax breaks. We can afford to do that, but we cannot afford to provide student aid, as we used to, so we will have to ask kids who are going to go to college who do not have any money to pay for it, we will make it harder for kids to go to college because we cannot afford investing in kids who go to college, as we used to, but we do have the money to provide the equivalent of a \$2 million tax break for each of 2,000 corporations by saying to those corporations, You no longer have to worry about a little thing called the alternative minimum tax. You can zero it out, if you like."

I am guessing the Senator from Texas just forgot about that.

And there are a dozen more like it, little old things that I am sure folks

would show up to show their appreciation for, but they are the kinds of things that represent priorities—the priorities that say we really believe in the big interests here, we really think the big interests need a lot more help because if we rain on big interests somehow it will all seep down to the little folks that are trying to send their kids to college. That is what I think has been forgotten in this equation and this discussion between the Senator from Texas and the Senator from Arkansas.

Mr. President, I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

Under a previous order, the Senate will now proceed to the consideration of a resolution to be submitted the Senator from New York [Mr. D'AMATO].

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. D'AMATO. Mr. President, I have a resolution which I will shortly be sending to the desk. May I ask, what is the pending business?

The PRESIDING OFFICER. The pending business is the resolution to be considered by the Senator from New York.

Mr. D'AMATO. I believe we have agreed that there will be no more than 2 hours.

The PRESIDING OFFICER. That is correct, from the time you bring it up.

Mr. D'AMATO. Will the time start to run as of now?

The PRESIDING OFFICER. It is when the Senator submits the resolution to the desk.

#### ESTABLISHING A SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER DEVELOPMENT CORP. AND OTHER MATTERS

Mr. D'AMATO. Mr. President, I send the resolution to the desk on behalf of myself and Senator DOLE—and I know others would like to join—and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 120) establishing a special committee administered by the Committee on Banking, Housing, and Urban Affairs to conduct an investigation involving Whitewater Development Corp., Madison Guaranty Savings & Loan Association, Capital Management Services, Inc., the Arkansas Development Finance authority, and other related matters.

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

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

Mr. D'AMATO. Mr. President, Whitewater is a very serious matter. Some questions raised by Whitewater go to the very heart of our democratic system of government. We must determine whether the public trust has been abused. We must ascertain whether purely private interests have been placed above the public trust. The American people have a right to know the full facts about Whitewater and related matters.

After the Banking Committee's hearings last year, many important questions still remain. The American people have a right and a need to know the answers to these questions.

Congress has the responsibility to serve as the public's watchdog. We would be derelict in our duties if we did not pursue these Whitewater questions. The Senate must proceed in an evenhanded, impartial, and thorough manner. We have a constitutional responsibility to resolve these issues.

Mr. President, we now bring before the Senate a resolution that authorizes a special committee administered by the Banking Committee to continue the Whitewater inquiry that was started but not completed during the last Congress.

I thank my distinguished colleague, Senator SARBANES, for his hard work and cooperation in the preparation of this resolution. We have jointly prepared a resolution that is balanced and fair and that will allow the special committee to search for the truth. I am confident that Senator SARBANES and I will continue the Banking Committee's bipartisan approach to the Whitewater matter.

Mr. President, our pursuit of these questions must be and will be fair, straightforward, and responsible. The American people expect and deserve a thorough inquiry committed to the pursuit of truth. That is the American way.

Last summer, the Banking Committee met these vigorous requirements. Our examination of the Whitewater matter was impartial, balanced, and thorough. That is our goal in this Congress. I am confident that we will meet these goals.

During last summer's hearings, many facts were uncovered. We learned that certain top administration officials were not fully candid and forthcoming with the Congress. That is an undisputed fact. The public has a right to expect more from those in positions of trust. We also learned that senior Treasury Department and Clinton White House officials mishandled confidential law enforcement information concerning Madison Guaranty. That is another undisputed fact. Madison is now defunct; it is a defunct S&L at the heart of the Whitewater matter. The failure of this Arkansas S&L eventually cost American taxpayers more than \$47 million.

Mr. President, the American people have a right to know the answers to

many serious questions still remaining about Whitewater and related matters. We have a constitutional obligation to seek the answers to these questions. That is why I am offering this resolution today.

Now I will briefly outline some of the matters that this resolution authorizes the special committee to investigate. We will begin with the handling of the papers in deputy White House counsel Vince Foster's office following his death. Who searched Mr. Foster's office on the night of his death? What were they looking for? What happened to Mr. Foster's papers? Were any papers lost or destroyed? And who authorized the transfer of Mr. Foster's Whitewater file to a closet in the First Family's residence? The public has a right to the answers to these questions.

Mr. President, this resolution encourages the special committee to coordinate its activities with those of the independent counsel, Kenneth Starr. Senator SARBANES and I have met with the independent counsel. Judge Starr has indicated to us that he has no objection to the special committee's plan to inquire into the handling of Mr. Foster's papers. Senator SARBANES and I are committed to coordinating the committee's activities with those of the special counsel.

This resolution authorizes the special committee to pursue answers to other questions raised during the Banking Committee's hearings last year.

We will explore the scope and impact of the improper dissemination of confidential law enforcement information concerning Madison Guaranty. How widely did the Clinton administration officials communicate this confidential information? Did any high-ranking officials inform targets of criminal investigations? If so, did this impact any ongoing investigations? The public has a right to know the answers to these questions.

The special committee will also examine whether there were any improper contacts between the Clinton White House and the Justice Department regarding Madison Guaranty.

We know that Paula Casey, the U.S. attorney in Little Rock, declined to pursue criminal referrals involving Madison. That is an undisputed fact. We also know that Webster Hubbell, who has pleaded guilty to mail fraud and tax evasion, was the No. 3 official at the Justice Department at this critical time. This is another undisputed fact.

The committee will ascertain whether Mr. Hubbell contacted Paula Casey about Madison. And who else, if anyone, knew about these contacts with the U.S. attorney. The public has the right to know.

Mr. President, this resolution authorizes the special committee to explore whether the Resolution Trust Corporation and other officials in Washington tried to interfere improperly with RTC staff in Kansas City responsible for investigating wrongdoing

at Madison. If such interference occurred, who authorized it, and why? The public deserves answers to these questions.

During last summer's hearings, the Banking Committee learned that the Treasury inspector general furnished the Clinton White House, at the White House counsel's request, transcripts of the inspector general's depositions. That is an undisputed fact.

The committee will now look into whether these deposition transcripts were used to coach administration witnesses before they appeared in front of the committee. That would be wrong. The public has a right to know if it happened.

All of these matters that I have discussed so far involve events that occurred after January 1993 when President Clinton took office. There are also serious questions regarding events that occurred in Arkansas in the 1980's when President Clinton was Governor. This resolution also authorizes the special committee to examine these matters. Some of these Arkansas matters are complex and will require the committee's close review of many thousands of pages of documents.

We will review the operations and regulations of Madison Guaranty. Did James McDougal, Madison's chairman and Governor Clinton's business partner, improperly divert Madison's funds to himself and others? Did any of this money find its way into the White House real estate project in which McDougal and Governor Clinton were partners? Did McDougal misuse Madison funds to cover any losses the First Family suffered on their Whitewater investment? The public has a right to know the answers to these questions.

Mr. President, the resolution further authorizes the special committee to examine the Rose law firm's representation of both Madison and RTC, and senior partners at the Rose law firm, including Larry Rodham Clinton, Webster Hubbell, and Vince Foster. The committee must ascertain whether the Rose law firm properly handled the RTC civil claims concerning Madison.

Did the firm have a conflict of interest, and did American taxpayers lose money in the process?

We will also examine Capital Management Services and its president, David Hale, a former Arkansas judge and Clinton appointee. Hale has publicly charged that the President pressured him to make Small Business Administration loans that were used to prop up Madison.

Did this happen? Did Hale also make improper Small Business Administration loans to current Arkansas Gov. Jim Guy Tucker?

Then there is the matter of the financing of the 1990 Arkansas gubernatorial campaign. We now know that the president of the Perry County Bank, Neal Ainley, has pleaded guilty to violating Federal laws in connection with the handling of certain large cash transactions for the Clinton campaign.

Ainley claims he did so at the direction of campaign officials. The public has a right to know who authorized this activity and why.

Mr. President, this resolution will authorize the special committee to examine these and related matters. We will take every reasonable step to complete this inquiry promptly. We hope that the administration cooperates with us in this regard. But we also intend to be thorough and comprehensive.

This resolution provides \$950,000 to fund the special committee through February 29, 1996. If additional money is needed, the special committee will make a recommendation not later than January 15, 1996, and the majority and minority will meet to determine the time for any vote.

Mr. President, we expect to hold public hearings into the handling of the papers of Vince Foster's office in late June or early July. We will continue our inquiry by subject matter until it is completed. In doing so, we will make every effort not to interfere with the independent counsel's criminal investigation.

Mr. President, the American people deserve to know the full facts about Whitewater and related matters. As I said at the outset, we will conduct this inquiry in a fair, evenhanded, and impartial manner.

That is what the American people want, expect, and deserve. I urge the approval of this resolution.

I see that my distinguished colleague and ranking member, Senator SARBANES, is here. We have allocated up to 2 hours, equally divided.

I yield the floor.

Mr. SARBANES. Mr. President, may I ask what the time situation is?

The PRESIDING OFFICER (Mrs. HUTCHISON). There are 2 hours, of which 15 minutes has already been used.

Mr. SARBANES. There is an hour now remaining on this side?

The PRESIDING OFFICER. That is correct.

Mr. SARBANES. I thank the Chair.

Madam President, it is not my intention to use the entire hour. I hope at some point both sides might be able to yield back time and proceed to final consideration of the resolution.

Let me say at the outset that the resolution we are considering today, which authorizes a special committee to be administered by the Committee on Banking, Housing, and Urban Affairs, is really a carrying out of resolutions that were adopted last year by this body. I think it is important to consider this resolution in the context of those resolutions—actions taken by the Senate last year.

On March 17, 1994, a little over a year ago, the Senate adopted a resolution by a vote of 98-0 expressing the sense of the Senate that hearings should be held on all matters relating to Madison, to Whitewater, and to Capital Management.

Then, to carry out that resolution, at least in part, on June 21 of last year,

the Senate agreed to Senate Resolution 229, which authorized hearings to be held into certain areas. Those hearings were done last summer. We had 6 days of public hearings. We had extensive analysis of documents that were provided to the inquiry committee in order to enable it to carry out its responsibilities.

Now, one of the things that was authorized to be looked into by the June 21 resolution was the handling of the Foster documents. That was later deferred, in response to a request from the independent counsel who contacted the committee and indicated that, given the nature of his inquiry, it would be preferable if the Committee did not go ahead with that hearing. Accordingly, we held off.

Now the distinguished chairman has indicated that it would be the first item which will be considered in the hearings that will now take place under the resolution we are considering here today.

So this resolution is in effect a continuation of our earlier work. It authorizes the completion of work specified in last year's resolution, as well as matters developed during and arising out of the hearings that were held last summer, and also a number of matters my colleague has enumerated that carry forth on the sense-of-the-Senate commitment last year to investigate all matters pertaining to Madison.

I want to go through some other aspects of this resolution, just to lay them out on the record. The chairman of the Banking Committee, Senator D'AMATO, has gone through a number of matters that have been provided for in this resolution to be examined by the special committee. The special committee, administered by the Banking Committee, shall consist of all of the members of the Banking Committee plus two members added from the Judiciary Committee. The chairman and ranking members of the Committee on the Judiciary, or their designees, will join with the members of the Banking Committee to constitute the special committee which will be administered by the Banking Committee. So it is essentially—or primarily, let me say—a Banking Committee activity, since most of the areas to be examined clearly fall under the jurisdiction of the Banking Committee. But we did add from the Judiciary Committee last year. A member came on in order to help carry out the inquiry. And there are some matters that are contained in the resolution, to be examined that, it could well be argued, are under the jurisdiction of the Judiciary Committee. So, to bring that together, we are bringing on two members from the Judiciary Committee, the chairman and ranking member or their designees. They will be designating someone else to handle this responsibility if they choose to do so, and I do not know at this point what Chairman HATCH and ranking member BIDEN intend to

do in that regard. But obviously we will abide by their decision.

We have also provided in the resolution which is now before us, and which shortly will be adopted, for rules and procedures of this committee which essentially will be the rules and procedures of the Senate, the Standing Rules of the Senate, and the rules of procedure of the Committee on Banking, Housing, and Urban Affairs. That is, in effect, the rules framework, procedural framework within which we will operate. There are in the resolution sections that cover aspects of the process that the special committee will follow; these are matters it was deemed important that we spell out in the resolution how they were going to be dealt with. Those involve questions of subpoena powers, questions of how the hearings will be conducted—important questions about immunity. I want to underscore that because that is a matter we have had to address before.

We provide that to grant a witness immunity—I want to read this section because it is an important matter. The special committee has the power: "To grant a witness immunity under section 6002 and 6005" of title 18, United States Code, "provided that the independent counsel has not informed the special committee in writing that immunizing the witness would interfere with the ability of the independent counsel successfully to prosecute criminal violations."

We also provide for staffing of the committee. There is power to appoint special committee staff including consultants, assistance from the Senate legal counsel, assistance from the Comptroller General. There is a provision whereby the committee can draw on other Government agencies, Government personnel, and on other congressional staff. And we hope, through a combination of all of these sources, that we will have an adequate staff to carry out a proper inquiry and investigation.

There is also, of course, special provision for the protection of confidential information, since we will be interacting with the independent counsel and others and we think it is important to have such provisions.

Finally, the money asked for in this resolution, just under \$1 million, \$950,000, is to cover the salaries and other expenses of the special committee carrying out this inquiry, beginning on the date of the adoption of this resolution—I assume today—and ending February 29, 1996.

If it is judged that additional money is needed, that the inquiry needs to go forward and additional money is required in order to fund it, the special committee will recommend that. Of course there will have to be a further vote for the providing of additional moneys to the special committee.

Mr. President, let me just make a couple of further, more general observations. I have very quickly gone through the resolution and I think

most of it is straightforward. I think Members of the Senate upon reviewing it will conclude that is the case. Many of the provisions are what one might call boilerplate for such an inquiry, and track previous provisions that have been used in various Senate resolutions establishing committees to carry out inquiries or investigations of the sort that is being authorized here.

I listened to the chairman with great interest and I was particularly encouraged by his very strong statement of the need to conduct impartial, balanced and thorough hearings, which is exactly what I think needs to be done. There are a lot of allegations that are swirling around and there are a lot of questions that are being raised. We see them from time to time raised in the press and in the media. And, of course, one could sit around all day long and conjure up one question after another. It is not difficult, it is very easy. It is not difficult just simply to say, "Well, suppose this happened or suppose that happened; or if this or if that." Of course, one of the purposes of these hearings is to get a good, tough-minded examination of these various allegations to see if there is anything to them. It needs to be appreciated, that it is very easy to make the allegations. Whether the allegations are in fact substantiated by the facts is a tougher question to determine, and that does require an impartial, balanced and thorough hearing. In fact, the President himself has said the best way to address these matters is to look at the facts candidly, and that is what I very much hope and expect that this committee will be able to do.

I do think last summer we conducted hearings that were perceived by all as being thorough and fair and impartial. We went at it, in effect, to find out what the facts were, to ascertain the truth. I think we pressed that issue in a resolute manner, and I would expect the special committee will do so in the case that is—in the instance that is before us.

These hearings will make an effort to get the facts out fully and impartially. We anticipate that the administration will cooperate with this effort. They certainly have indicated that is what they intend to do. Last year they made every document available that was requested, as I recall. I think I am correct in that statement. Now the time has come to move forward, to begin our hearings, to begin, in effect, to examine these various questions and allegations and ascertain with respect to each of them whether there is any factual grounding behind them or whether they simply raise questions that people can ask. And that, of course, is the purpose of the inquiry which we will be undertaking here with this provision of \$950,000 to carry out this investigation in the period between now and February 29. The resolution provides that the special committee shall make every reasonable effort to complete,



not later than February 1, 1996, the investigation, study, and hearings authorized by section 1.

This resolution does provide the basis for carrying out a full and proper, impartial, and balanced hearing.

I think our challenge now is to move ahead in carrying out our responsibilities in the special committee. It is a heavy burden to add to the responsibilities that Members already have but is one that obviously we are charged with responding to.

As I said, we adopted resolutions last year addressing this matter. This, in effect, carries forward on those resolutions. It is a continuation, in effect, of that work. But I hope that if we apply ourselves to it over the coming months, we will be able to work through all of these matters and, in effect, bring this issue to closure in the sense that the Members of the Senate and the American people know that the various questions have been raised and thoroughly examined, that it has been done with a great deal of balance and fairness and impartiality, and that these are what the facts are as a consequence of that investigation and inquiry.

Madam President, I yield the floor.

Madam President, I suggest the absence of a quorum. Will time be equally charged?

The PRESIDING OFFICER. Only by unanimous consent.

Mr. SARBANES. I ask unanimous consent to put in a quorum call and that the time be equally charged to both sides.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered. The time will be charged to both sides equally.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from North Carolina?

Mr. D'AMATO. I yield to the Senator from North Carolina whatever time he needs, Madam President.

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

Mr. FAIRCLOTH. Madam President, I want to begin my remarks by saying that I plan to enthusiastically support the Whitewater resolution.

I think it is a good resolution. I am concerned, however, that a few key things have been left out of it. Nevertheless, I think that before the hearings are over, we will wind up working them in.

Nothing in this resolution allows us to probe the circumstances surrounding the death of Vince Foster. When we held the hearings last year in the Senate, a key witness, Captain Hume, sim-

ply did not show up at the hearings the day he was supposed to be there. The hearings had been planned for months. Captain Hume was out of town that day. He was supposed to be there. Our ranking member at the time demanded that they bring him back for several days. But they did not bring him back. The hearings adjourned and we never heard from him. I do not think this was a thorough airing of the issues, and I think we need to do it again.

I understand that Mr. Starr is looking at this again. I hope that he will, given the miserable job that Mr. Fiske did of investigating.

Madam President, the Congress also needs to probe the \$100,000 profit in the commodities market that came to Mrs. Clinton courtesy of Red Bond and Jim Blair, the general counsel of Tyson Foods. This is not mentioned in the resolution, and it should be.

Just recently, I discovered that a friend of the Clintons, Barbara Holum, was conveniently installed as acting head of the CFTC before the story of Mrs. Clinton's commodity trades broke.

There are many confusing issues. Now we find that Red Bond, who did the commodity trading, who is practically bankrupt, was able to pay off \$7 million in back taxes just 2 months before the commodity trading story became public. To me, the evidence on this is just too much to believe that all of this is a coincidence.

Madam President, this resolution does not allow us to probe the failure of First American Savings & Loan in Illinois.

If you can believe this, Vince Foster and Mrs. Clinton were hired by the Federal Government to sue Dan Lasater. The same Dan Lasater that was a close friend of the Clintons. That is right, Mrs. Clinton was hired by the Federal Government to sue Dan Lasater in connection with the failure of First American Savings & Loan in Illinois. Mrs. Clinton participated in the decision to lower the amount of money the Government would recover from Dan Lasater from \$3.3 million to \$200,000, and we do not know yet what percentage of that went to her as attorney's fee because the records were sealed.

The Government spent over \$100 billion to resolve the savings and loan crisis. With crooks like Dan Lasater involved and with Mrs. Clinton acting on behalf of the taxpayers, suing a friend, it is no wonder the cost was so high.

I want to again state my strong support—and I say this not necessarily in the language as we often use in the Senate—but of my good friend, fellow member of the Banking Committee and our chairman, ALFONSE D'AMATO. He truly is a good friend, and he has given us the leadership we need.

I hope, and I know that before this hearing is over, under his leadership, we will have probed all aspects of Whitewater in a fair manner so that the American people understand what

happened, when it happened, and who knew it when it happened. I look forward to the hearings.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Madam President, I know of my good friend, Senator FAIRCLOTH's concern that there be ample scope to look into all of the matters that are relevant, and I share that concern. I think that this resolution very fairly embodies us with the authority—and I would refer to page 4.

As my friend raises, we did not attempt to spell out every single area. Page 4, line 12, says:

Subsection 3. To conduct an investigation and public hearings into and study all matters that have any tendency to reveal the full facts about . . .

Then we go through all of the various areas. There are other Senators who are going to speak, but I believe it is important to summarize those areas. Senator SARBANES has. The fact is that we include the ability to look into the bond underwriting contracts between the Arkansas Development Finance Authority and Lasater & Co., and all of those activities to which my friend has referred. But there must be a connection, and if there is a connection, well, then, we will look into the area, and I will touch on these areas in more detail before our time is up.

So I share my friend's concern. This will be thorough. It will be thoughtful. And when subpoenas are issued—and I must tell you that the specific instance that he raises is troubling, that of a witness who failed to respond to a subpoena, especially one who works for the Government, who was given notice, and who gave the committee, either the majority or the minority or our staff, no reason to believe that he would not be there. That will not be tolerated. If we run into a situation like that, I can assure you, and I know that the ranking member shares this same concern, we want people to respond to subpoenas. We will not issue them frivolously.

I think in that case a subpoena might not have even been issued because we assumed that he was going to be there. So it is not a bad track record to have almost everybody respond, including even those who were not subpoenaed. But, we will remain vigilant in seeking this kind of cooperation.

I see that Senator BOND is in the Chamber, and he is on the Banking Committee and was an integral part of last year's hearings, and I yield to him 10 minutes from my time.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Madam President, I thank my good friend, my colleague from New York.

Madam President, as we begin the debate on this resolution authorizing a second round of Whitewater hearings, I thought it would be helpful to review why the Senate and the committee need these issues to be aired.



I wish to summarize for my colleagues some points that are particularly important to me and have come from my experience with the first round of hearings and also with the hearing back in February where we asked the questions that began some of the process in finding out what has gone on in the administration.

As most of the Nation now knows, Madison Guaranty was a Little Rock savings and loan which went belly-up at the cost of nearly \$50 million, and was owned by James McDougal—the business partner of the Clintons' in the Whitewater real estate deal.

Madison Guaranty was the classic S&L story of insider dealing, reckless loan policies and ultimate failure with the U.S. taxpayers picking up the tab. It is a part of the \$105 billion cost of the S&L debacle, and in that way is a story repeated in many communities around the country.

But one part of this case has made it famous—many of its borrowers, directors, and counsel were prominent figures in Arkansas politics and government.

The tangled web of Madison, Jim McDougal, and the Clintons has led to two sets of criminal referrals, an ongoing civil liability investigation by the RTC, a potential conflict of interest case for the First Lady's former law firm, a conviction of a Little Rock judge who improperly loaned SBA money to McDougal and Whitewater, several other recent guilty plea agreements and an ongoing investigation by independent counsel Starr.

Since these issues first came to light, I have said over and over that the American people have a right to know what happened to the millions of dollars lost, and we, in Congress, must fulfill our obligation and get the facts out into the open.

Last year the Senate was engaged in a lengthy struggle over what questions and areas the Banking Committee would be allowed to address as Whitewater—Madison hearings begin. Unfortunately, the Democratic leadership at that time did everything in their power to limit the scope of the hearings, and to block our efforts to get at the truth—particularly as it relates to what Clinton administration officials have done to control or interfere with investigations.

The questions we asked last year remain as relevant today as they did last May:

Did Whitewater Development Corp. benefit from taxpayers insuring of Madison Guaranty deposits?

Did any of Madison's federally insured funds go to benefit the Clinton campaigns?

Were the bank regulatory agencies operating in an impartial and independent manner as they handled Madison Guaranty?

How did the Resolution Trust Corporation handle the criminal referrals on Madison—both under the Bush administration as well as the Clinton administration?

How did the Resolution Trust Corporation and the FDIC handle potential civil claims against Madison—both under the Bush administration as well as the Clinton administration?

How did the Department of Justice handle the RTC criminal referrals it received, again both under the Bush administration and the Clinton administration?

What were the sources of funding and lending practices of Capital Management Services, and how did the SBA regulate and supervise it, particularly as it related to loans to Susan McDougal and her company, Master Marketing.

Full hearings on the Whitewater—Madison affair are needed so that all these questions can be fairly asked and answered. What happened in Arkansas, what happened in the 1992 Clinton campaign in their efforts to keep the lid on about the actions in Arkansas, and what has the administration done to manage the Madison—Whitewater issues since they took office.

If we are to finally get to the bottom of the story as to what happened with the criminal referrals, I believe that we need to start with the first criminal referral on Madison Guaranty which was already in the Justice Department awaiting action when the Clinton administration took office.

Remember, Madison Guaranty had failed in 1989 and had been first taken over by the FDIC, and then in August 1989 when Congress passed the S&L bailout bill the newly created RTC took over Madison.

The RTC's mission was to close down failed thrifts, sell the assets, pay off the depositors and then seek out criminal or civil wrongdoing that may have occurred. If they found criminal wrongdoing—fraud, or attempts to enrich, they referred their findings to the Department of Justice for further action.

If they found civil wrongdoing—for example, law firms or accounting firms who helped institutions stay open by providing misleading, incomplete or incorrect information to regulators or the S&L's board members—the RTC would pursue those cases.

Thus from August 1989 the RTC had Madison Guaranty on its plate. No action was taken by the RTC on potential civil claims, but several criminal referrals were developed. In one case Jim McDougal and two others were accused of fraud, but were acquitted, in another case a board member plead guilty to falsifying documents.

Then came March 1992 when the New York Times reported a series of potential misdealings in Madison Guaranty and spurred the RTC to take another look at the institution. This second look caused the first criminal referral to be sent to Justice in the fall of 1992, and it was this referral which awaited final action when the Clinton administration came into office in January 1993.

I give this brief history in order to put things into perspective. Last year,

Senator SPECTER and I offered amendments to the Whitewater Committee resolution which would have allowed the Banking Committee to pick up story at this point, and follow the trail of the first referral as it made its way through the Government, and then to follow the trail of the second referral as it was developed throughout 1993, up to and including the improper contacts by Treasury officials with White House staff. This of course would entail questioning the RTC officials involved, Justice Department officials involved, as well as Treasury and White House staff.

Because we must remember that on the day that the Clinton administration officials walked in the door on January 21, 1993, a criminal referral on Madison Guaranty was sitting in the Department of Justice.

I for one still want to know:

How did the Department of Justice handle this referral?

Was the White House informed and if so when and by whom?

Who in Justice was assigned to monitor the Madison case, and what actions did they take?

And then, as we know now, just months after taking office, a second set of referrals was being developed—and it too was sent off to the Clinton Justice Department by RTC officials in Kansas City.

I want to know why the RTC decided to stay on the case. What happened to get a series of RTC officials reassigned and taken off the case? Is there a pattern of special treatment for politically sensitive cases? And again, how did the Department of Justice handle the second referral?

I want to know why did the Clinton appoint Little Rock U.S. attorney Paula Casey, along with Webb Hubbell, delay their recusals until after the decision not to prosecute Madison was made? I also want to know the details about Paula Casey and Webb Hubbell's phone contacts during the period when Casey was deciding what to do with the referrals, and did either one of them have any contact with the White House on the referrals at any time?

And now, just in the past weeks we have seen reported by the Associated Press that:

Preparing for televised Whitewater hearings last summer, White House attorneys consulted confidential depositions from a Treasury investigation in an effort to reconcile differing accounts of administration officials who were about to testify.

Former White House counsel Lloyd Cutler acknowledged this week that the depositions were used to identify discrepancies in the recollections of presidential aides before the congressional hearings.

White House lawyers would then "confront" the aides with information they had obtained from the depositions without revealing the sources, he told The Associated Press.

"If we found inconsistencies, we would go back to White House officials, and go back over testimony they gave us," Cutler explained. "and then we would say 'we have heard other reports.'"

This of course brings into play several other issues which I have been following since the close of the hearings last August. As we know now, confidential information was again turned over by Treasury to the White House—this time under the guise of a Treasury Department inspector general's investigation.

This calls into question not only the independence of the IG, but also the willingness of this administration to politicize what is supposed to be an internal watchdog.

It also calls into question the entire testimony offered by White House officials before the Senate Banking Committee—as they were given another heads up in order to best tailor their testimony to help the boss.

Last November I wrote to then Chairman Riegle and ranking member D'AMATO about what I had discovered. In my letter I stated:

As you know, over these past several months I have continued my efforts to resolve outstanding questions which were raised during the Banking Committee's Whitewater hearings. Initially I became concerned upon discovering during our hearings that the Treasury Inspector General had turned over to the White House—at Lloyd Cutler's specific request—transcripts of all the testimony taken by the investigators a full week before the Office of Government Ethics (OGE) report was made public. At the time we learned this, several former Inspectors General expressed amazement at this unprecedented action. However, no further review of the incident was undertaken.

During my investigation of this disclosure, I discovered that not only were the documents released to the White House at the specific request of White House Counsel Lloyd Cutler, but, in doing so, the Treasury turned over confidential RTC information to the White House.

On Saturday, July 23, 1994, the Department of the Treasury gave the White House all of the sworn depositions of Treasury, White House, and RTC personnel. These depositions were unedited.

According to the RTC, it was not until July 26 or 27 that the RTC became aware of the fact that RTC depositions had been provided to the White House.

July 26, after reviewing the information provided by the Treasury I.G., Lloyd Cutler testified before the House Banking Committee.

July 28 and 29, Counsel to the RTC Inspector General Patricia Black redacted all the Treasury, RTC, and White House depositions in order to remove confidential RTC information.

July 31 the OGE report, with edited testimony, was provided to Congress and subsequently made public.

Given that the focus of our hearings this past August was the improper transmittal of confidential information from the RTC to the White House regarding Madison Guaranty and the Clintons, I must tell you I am appalled that the same Treasury Department, acting under specific direction from Secretary Bentsen, would again provide nonpublic information about the Madison Guaranty case directly to the White House.

In addition, I found it extraordinary that the White House, which was itself under investigation, would be given nonpublic information prior to Congressional hearings—particularly when Congress itself was not given the information.

And now of course we have discovered that Mr. Cutler and others used this information not only to assist in the drafting of Mr. Cutler's testimony—but to help White House staff with the inconsistencies in their own stories.

I find this entire episode just another example of the extraordinary lengths the White House was willing to go to keep the facts from Congress, keep the facts from the American people, and ultimately to protect the administration.

As I have said on this floor before, breaching the public trust is as serious an offense as committing a crime, or being found liable for financial penalties. Governments in free societies have a fundamental pact with the governed. In exchange for the powers and responsibilities which is given the Government, the people expect fairness, evenhanded justice, impartiality, and they held the innate belief that those in power can be trusted to be good stewards of their power.

Our form of democracy relies on checks and balances to keep too much power from ending up in just one place—and Congress, as the people's closest link to their Government has the responsibility to keep a sharp eye out for abuses and breaches of the people's trust.

Thus every Member of Congress takes an oath of office, to uphold the Constitution—and certainly part of that duty to be ever watchful for abuses of power. Interestingly, and not surprisingly, it nearly always falls to the party out of power to be the more diligent in watching out for abuses.

No one disputes this.

But one other fact should also be noted. As important it is for the general public to believe in and trust that their elected leaders are performing their jobs in an ethical, truthful, and fair manner—we, in Congress, must also believe that those in high positions of responsibility are telling us the truth. When we ask questions or make inquiries we must trust that administrations will tell the truth, will be honest, and that when we get an answer, it is a full and complete one.

Unfortunately, Madam President, it is this standard that inevitably some administration officials seem unable to comprehend.

Instead of cooperation and truthfulness we have seen evasions, omissions, misstatements, and possibly outright lies.

And the story of potential abuse of the public trust, the politicization of independent agencies and investigations, the use of confidential material for political gain—it only seems to get worse the deeper you look.

Madam President, the next rounds of hearings will go a long way toward clearing the air, and I commend the chairman of the Banking Committee for brining this matter back into the public eye.

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

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Madam President, I yield 5 minutes to the distinguished Senator from Connecticut.

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

Mr. DODD. Thank you, Madam President, and I thank my colleague from Maryland.

Madam President, let me begin these brief remarks by commending our colleagues from New York and Maryland for what I think is a very fair and balanced resolution. Obviously, matters such as this are a source of deep controversy and can get out of hand. The fact that they have presented us with a resolution that is balanced and fair is a credit to both the Senator from Maryland and the Senator from New York. Any discussion of this ought to begin with an expression of appreciation on the part of all of us in this body, particularly those of us who will serve on the special committee and who will be working during this calendar year to carry out the mandates and requirements of this resolution. Now I would like to make a few brief observations about the resolution.

As my colleagues know, Madam President, there was a vote by 98 to 0 on March 17 of last year to look into these matters, and what we are talking about here is a continuation of that process. This resolution is simply another step in a process designed to help the American public know the facts about Whitewater.

Second, I would like to point out, Madam President, that the President has fully cooperated in this process. We ought to commend him for this unprecedented level of cooperation.

Many of us recall other Presidents who, when confronted with similar situations, have clogged up the courts of this land, fighting everything along the way. This administration has not done that. In fact, the administration has been entirely forthcoming.

As we discuss these matters, it is important to make it clear that, unlike previous situations where there was a constant conflict between the executive branch and the legislative branch over documents and testimony, that has not been the case here. The administration has complied with every document request, answered every question that has been submitted to it, and I am confident is ready and willing to cooperate in this second stage of the proceeding.

I think that is an important point to make because, as we look down the road, there is the potential for a prolonged and nasty conflict between the executive and legislative branch.

Third, Madam President, I think last year's hearings, despite moments of passion and emotion, were credible and fair. I think it is important to point out and to state emphatically that it was the conclusion of the committee

last year that there had been no violation of criminal statutes or ethical standards.

Of course, individual Members may have their own particular opinions on those matters, and certainly that is their right. But, as a conclusion of the committee, let me restate, Madam President, there were no violations of any criminal statute or any ethical standards. That was the conclusion of last year's hearings.

Now we are going to go to a second phase. I have listened to some who are suggesting that there must have been some wrongdoing, or, even worse, they have already reached the conclusion that there was wrongdoing. Quite simply, that is inappropriate. The purpose of the hearings is to determine whether there was wrongdoing—we must not prejudge the matter.

We do not want to end up appearing like that famous character from the West, Judge Roy Bean. Everyone will remember Judge Roy Bean. He used to say, "We'll hang 'em first and try 'em later."

Sometimes that can happen in congressional proceedings, and I know it is not the intention of anyone on the committee to have that be the case.

So let us avoid partisan wrangling and get the facts on the table. Now the presumption of innocence may not apply to congressional hearings in the same way as in our court system, but there ought to at least be an effort to fully consider matters, and let people have their say, before we reach any conclusions.

Last year, the Senate held thorough hearings, as I mentioned earlier. The committee heard from 30 witnesses, generating 2,600 pages of testimony; 38 witnesses were deposed, generating some 7,000 additional pages of testimony.

It is very difficult to sort through that much material and I want to thank the staff for the work they did. That was a herculean effort. Both the majority and minority staff had to work extremely long hours on this matter, Madam President, and they deserve our appreciation.

Obviously, Madam President, the Senate's integrity and credibility are at stake. The American public has a right to know the facts about Whitewater and the Senate has a constitutional obligation to see that they do.

Last year, the facts were presented fully and impartially. That must be our goal this year. The public, in my view, is fed up with the partisanship that seems to cloud every issue.

As we go through this process, I urge my colleagues to avoid that partisan pitfall. Because we are entering a presidential campaign cycle, that may be difficult for some. But we must all try. The President is sadly correct, and I suspect most of my colleagues, regardless of their political persuasion, would agree when he says that the politics of personal attack are alive and well. I

agree with the President that the best way to put this matter behind us is to address the facts candidly.

Madam President, I ask for 2 additional minutes.

Mr. SARBANES. I yield whatever time the Senator requires.

Mr. DODD. I thank my colleague. I will wrap this up.

Madam President, the public wants us to present the facts impartially, come to our conclusions and then move on. And it bears repeating that after going through such a process last year, the Banking Committee concluded that there had been no violation of criminal statutes or ethical standards.

During this next stage, we must not get into political diversions and drag this thing out. The American people want us to get on with the business of creating jobs and expanding economic opportunity, of dealing with health care issues and education. They want us to tackle the hard problems that they face every day.

I think it was there sense of frustration with politics as usual, more than anything else, that created the changes in the Congress. We now have a Republican leadership, and every committee is chaired by that party. They now have an even greater responsibility to the public. They must elevate the good of the nation above politics and I hope that they will do so in proceeding with this matter.

Once again, I commend Senator D'AMATO and Senator SARBANES for putting together a fair resolution and for stating their determination to wrap this matter up by February of next year. I hope we can stick to that schedule and finish this job efficiently.

Finally, while the subject of the independent counsel statute is not the subject of this particular resolution, Madam President, I want to suggest that we revisit that legislation as soon as we can.

The idea of appointing an independent counsel was to keep politics out of these issues. Unfortunately, it seems that the statute may invite fishing expeditions. We need to be very careful about spending the taxpayers dollars in this way. Otherwise we will have some questionable expenditures. I was told the other day that someone was looking at a witnesses' grade school and high school transcripts. I hope that report is inaccurate because there is just no way to justify that kind of expenditure.

There is the potential for an independent counsel to run wild and we need to carefully monitor these matters. I caution those who would like to use independent counsels for political gain—regardless of whether it was a previous administration or this administration—that whatever goes around comes around. We would be well advised, in my view, to take a hard look at how some of these operations are being run.

Of course, Congress spends a great deal of money on these investigations.

The Banking Committee spent about \$400,000 last year, and this resolution authorizes another \$950,000. But even that amount is only a fraction of what the independent counsel is spending. We are looking at almost \$10 million spent by the independent counsel and that is just the beginning of it. That figure will go higher.

Of course, the Federal Government must investigate serious accusations of wrongdoing to maintain the public trust. But when it appears there are more Federal agents operating in Little Rock than there are in high-crime areas in certain parts of our country, then one ought to pause and look carefully at what we are doing.

Again, I know that the independent counsel statute is not the subject of this resolution. I do not want to inject a whole new subject of debate. But I think we ought to take another look at that law and make sure it is operating properly.

Again, I commend the chairman of the Banking Committee, my friend from New York, Senator D'AMATO, and my colleague and friend from Maryland, Senator SARBANES, for the fine job they have done in working out this resolution. We have a very difficult job in front of us. Hopefully, we will conduct our work thoroughly, fairly, and promptly, and in a manner that brings credit to this great body. I look forward to the effort.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Madam President, at this time, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO. I yield to the Senator from Pennsylvania 10 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania has 10 minutes.

Mr. SPECTER. Madam President, I thank the distinguished chairman for yielding me this time. I support the resolution and commend the chairman and the ranking member of the Banking Committee for presenting a resolution which I understand will have wide bipartisan support.

I believe it is important to have a congressional inquiry on this in the broad terms which are described in the resolution. It is with some regret, I note, that it has taken us more than a year to get to this point. But it is better late than never, and these are matters where congressional oversight is important.

I recognize the sensitivity of a congressional inquiry on a matter which is being handled by an independent counsel, also known as the special prosecutor. But the functions are very, very different where you have an investigation which is handled through grand jury proceedings which are secret and which are directed at indictments. I know that field with some detail, having been a district attorney myself and

having run grand jury investigations. That is very, very different from a congressional inquiry where we are inquiring into matters in the public record for the public to see what is going on in Government with a view to legislative changes.

The thrust and focus are entirely different between a grand jury investigation conducted by independent counsel and a congressional inquiry which will be handled through the Banking Committee. I am glad to see that the composition of the committee will be expanded to include the chairman and ranking member of the Judiciary Committee, or their designees.

Madam President, the issues involved here have long been a concern of many of us in this Chamber, and I refer to statements which I made last year dated March 17, June 9, June 16, and June 21. I will not incorporate them because that would unduly burden the RECORD, but a good many of my thoughts were expressed last year on the matter.

I was particularly concerned about issues involving the RTC as to their inclusion, which was not handled last year, and I am glad to see that the Resolution Trust Corporation is included in the scope of the inquiry which we are about to undertake.

This matter was one that I focused on when we had an oversight hearing on the Department of Justice on July 28 of last year, and I ask unanimous consent, Madam President, that a number of documents be printed in the RECORD which have not been made a part of the RECORD heretofore: My letter dated July 26, 1994, to Attorney General Reno; the attachment of a list of documents which I had wanted to inquire into during the proceedings before the Judiciary Committee; the response which was made by Robert Fiske, who was then independent counsel; and a portion of the transcript dated July 28, 1994 before the Senate Judiciary Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.  
(See exhibit 1.)

Mr. SPECTER. I thank the Chair.

Madam President, these documents will show on their face concerns which were on the record and which were apparent from such documents: that there were considerable issues to be investigated in the RTC at that time. It is unfortunate, in a sense, that there has been the long delay, because we all know, as a matter of investigative procedure, that leads grow cold and witnesses' memories diminish and that the best investigation is a prompt investigation. But the time factor is something that cannot be altered at this time, and at least now we will have a congressional inquiry which will move forward into these very, very important matters.

I agree with the distinguished Senator from Connecticut when he talks about the presumption of innocence. I think that is indispensable as a matter

of fairness to all concerned. But these are questions which need to be answered, and questions do not imply an answer of any sort; they raise issues which ought to be answered. We ought to let the chips fall where they may. And in a Government based on a Constitution which elevates the separation of powers among the Congress in article I, and the executive branch in article II, and the judiciary in article III, the congressional oversight function is a very, very important function. Now, finally, we will be in the context where we will be able to inquire into these matters and to find out what those answers are.

I am confident that there will be a fair, judicious, quality inquiry conducted by the committee, and this resolution is one which I think ought to be supported broadly by the U.S. Senate.

I thank the Chair and yield the floor.

#### EXHIBIT 1

U.S. SENATE, COMMITTEE ON THE JUDICIARY,  
WASHINGTON, DC, JULY 28, 1994

(The following is a partial transcript of the above proceedings)

Senator SPECTER. Thank you, Mr. Chairman. Attorney General Reno, as you know, I had intended to ask you questions about the handling by the Department of Justice in the matter involving David Hale in this oversight hearing, and I may be able to cover the principal points of my interest without undue specification, or at least undue specification from your point of view.

At the outset, I would like to put into the record my letter to you dated July 26, 1994, together with the chronology of events and all the attachments which I sent over to you, except for numbers 20 and 21. I may get into 20 and 21. I think the balance have been in the record in one form or another, and even if they haven't I think they are appropriate for the public record.

[The letter referred to follows:]

U.S. SENATE,  
COMMITTEE ON THE JUDICIARY,  
Washington, DC, July 26, 1994.

Hon. JANET RENO,  
Attorney General, Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL RENO: I have just noted that you are scheduled to testify before the Judiciary Committee on Thursday, July 28, at 2:00 p.m. at an oversight hearing.

In that hearing I intend to ask questions on the Justice Department's role in investigations of Madison Guaranty and/or "Whitewater." While I have not had access to many of the relevant documents, I have seen a few and am alerting you to those documents which will formulate at least some of the basis for my questions.

Some of the documents are referred to in my floor statement on June 21. Other documents that I may refer to are listed on the attached index.

Sincerely,

ARLEN SPECTER.

Senator SPECTER. I would also want to put into the record the faxed letter from Robert Fiske, Independent Counsel, to me, dated July 27, 1994.

[The letter referred to follows:]

U.S. DEPARTMENT OF JUSTICE,  
OFFICE OF THE INDEPENDENT COUNSEL,  
Little Rock, AR, July 27, 1994.

Hon. ARLEN SPECTER,  
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: The Department of Justice has sent over to me a copy of your letter of July 26, 1994 to Attorney General Reno, together with the index of documents enclosed with it.

It is apparent from a review of the documents on that index that they relate to the handling by the Department of Justice of a particular criminal referral from the RTC. Based upon interviews we have had with representatives from the Kansas City Field Office of the RTC, we are currently actively investigating this matter. Accordingly, I would respectfully request that you not go into this subject with the Attorney General at your hearing tomorrow since to do so might prejudice our ongoing investigation. (For similar reasons we request that you not go into the matter referenced by documents #20 and #21.)

We have made a similar request to both the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs which, as you know, are in the process of conducting Whitewater hearings. Both of those Committees have agreed not to go into this subject until we have completed our investigation.

Respectfully yours,

ROBERT B. FISKE, Jr.,  
Independent Counsel.

Senator SPECTER. At the outset, I want to say for the record that I do not agree with the deference which the Congress has accorded the independent counsel because I believe that Congress has independent status, and at least equal status, if not more important status, on matters of public policy than the criminal prosecutions. But the Senate has decided otherwise as a political matter, in my opinion.

As I reviewed the charter of Mr. Fiske, it seemed to me that questions about oversight on what happened with David Hale were not within his charter, his charter being to investigate matters of possible criminal or civil wrongdoing. I am advised to the contrary on that, and we may get into that in some specificity.

So let me start in an effort to ask the questions in a generalized way, but candidly as they arise on David Hale's matter. I refer to a memorandum from RTC investigator Jean Lewis to Richard Iorio which quotes officials within the Department of Justice, which is why I ask you about this; specifically, Ms. Donna Henneman in the Office of Legal Counsel. Without making anything more specific as to the Hale matter, my question to you as a general matter is, any time a referral comes in to the Department of Justice that would make the Department look bad or has political ramifications, it goes to the Attorney General. Is that true?

Attorney General RENO. I don't know whether any time something comes in to the Department that would make the Department look bad it comes to the Attorney General.

Senator SPECTER. Well, if you don't know, who does, Attorney General RENO?

Attorney General RENO. I would suspect that each one of the 95,000 people who hear something that might make the Department look bad. I think your question is a little bit broad. I cannot answer it. As I have tried to say from the very beginning, when I appointed Mr. Fiske I tried to make sure that he was as independent as possible. I have continued to try to do that, and I think the

worst thing that I could do would be to comment or talk about matters that he is pursuing. I should be happy, because I have great respect for the Senate and for you, at the conclusion of the matter to try to respond to anything, including the specifics.

Senator SPECTER. Well, I don't think that is sufficient, Attorney General Reno, because I think this is a legitimate matter for Judiciary Committee oversight, and we don't have very much of it. But I accept your point that my question was too general, so I will be specific.

The investigator, L. Jean Lewis, of RTC, had many conversations with representatives of the Department of Justice, as reflected in the number of the memoranda which I sent on to you. So if it is too general as to whether any time a referral comes in that would make the Department look bad or has political ramifications it goes to the Attorney General, I would ask you, were you personally informed about the referral from the RTC on the check kiting case involving Madison Guaranty?

Attorney General RENO. As I indicated to you, Senator, I made a determination when I appointed Mr. Fiske that I would not comment or make any comment. He has expressed to you that he would prefer that I not comment on the specific matters. I do not want to do anything that would impair his independence. I do think you have an oversight function with respect to the Department of Justice, and when it would be appropriate for me to comment I would look forward to the opportunity to do so.

Senator SPECTER. Well, tell me, Attorney General Reno, has would it impair Mr. Fiske's investigation or prosecution for you to answer a question as to whether you had personal knowledge of a referral to the Department of Justice?

Attorney General RENO. I can't tell you, sir, because I have tried to do everything in my power to make sure that Mr. Fiske's investigation is independent and I don't know what his investigation involves. Therefore, I am not going to say anything that could possibly interfere with his investigation.

Senator SPECTER. Well, my question to you is how could it possibly interfere with his investigation to answer a question as to when you had knowledge of a referral to the United States Department of Justice.

Attorney General RENO. I don't know, sir, because I am not going to take the chance of interfering with it. You would have to ask Mr. Fiske because I don't want to do anything at this time that would interfere or impair that investigation. I do not know the nature of the process of that investigation and it would be inappropriate for me to comment, but I do—

The CHAIRMAN. Put another way, Senator, how would it shed any light in this oversight if the Attorney General answered that question? What the hell difference does it make now?

Senator SPECTER. Well, the hell difference that it makes now is on an earlier question which I asked that whenever there is a matter with political ramifications that it goes to the Attorney General—and I asked that question in its broadest terms and was told that it was too general, so that is when I came back to the specific question.

The CHAIRMAN. Let me ask the question the other way to the Senator. Mr. Fiske's investigation in this matter is likely to be wrapped up. He has been moving expeditiously. Does it matter to the Senator whether or not the Attorney General speaks to this issue today or in two weeks or a month, or whenever it is when Mr. Fiske settles this part of his investigation? I don't know when he is going to settle that, but I mean he has been moving very rapidly.

In terms of oversight for next year's budget and last year's actions, it seems to me the Senator would have plenty of time to ask these questions as it would impact on the outcome of the Senator's view as to what the Attorney General should or shouldn't do in the future.

Senator SPECTER. Well, I would be glad to respond to the chairman. It does make a difference to me, and it makes a difference to me because this is an oversight hearing and the request to the committee chairman to have oversight on these matters was declined. There has been a charter which is very, very narrow before the Banking Committee, and this does not involve, to my knowledge, a matter which is within the charter of Mr. Fiske until when I sent a letter to the Attorney General, I suddenly find a reply from Mr. Fiske.

I had two detailed conversations with Mr. Fiske, the thrust of which—and I would be glad to detail them—led me to the conclusion that there was absolutely no interference with the criminal prosecution, a subject that I have had some experience with.

So when I asked the Attorney General a question as to when she has knowledge of a referral, I can't conceive that it interferes with an investigation, and that is why I am asking an experienced prosecutor who is now the Attorney General how could it conceivably interfere with a pending investigation.

Attorney General RENO. An experienced prosecutor, Senator, doesn't comment about something that she doesn't know about. I don't know about the details of Mr. Fiske's investigation. But if Mr. Fiske doesn't have any problem with it, what I would suggest that we do is prepare the questions, submit them to Mr. Fiske. If he has no objection to my answering them, then we will try to answer them because I honor your oversight function and I would want to be able to honor that and to not interfere with Mr. Fiske's investigation.

Senator SPECTER. Attorney General Reno, I did not say that Mr. Fiske did not have a problem. He specifically told me that he would like the field to be totally left alone. What I said to you was that after talking to Mr. Fiske, I had no doubt that these questions were appropriate, in my judgment, on oversight by the Judiciary Committee.

Let me ask you this, Attorney General Reno. In terms of the charter that Mr. Fiske has about investigating matters which may involve a violation of the criminal or civil law, is the handling by the Department of Justice of David Hale's matter something that falls within that charter?

Attorney General RENO. I have tried to, again, let Mr. Fiske define that based on the charter that we described so that I would not in any way impair his independence.

Senator SPECTER. Well, do you have any interest in whether any current employees of the Department of Justice are subject to an investigation which might be within Mr. Fiske's charter for possible criminal wrongdoings?

Attorney General RENO. Yes.

Senator SPECTER. Well, if that were so, would you have a duty as the head of the Department of Justice to take some action on those matters before a long investigation was concluded?

Attorney General RENO. It depends on what they are, sir.

Senator SPECTER. Well, suppose they were obstruction of justice?

Attorney General RENO. It depends on the nature of the facts and the circumstances, sir.

Senator SPECTER. Well, do you know anything about that on the Hale matter?

Attorney General RENO. Again, sir, I can't comment on the Hale matter.

Senator SPECTER. I am not asking you to comment on the Hale matter. I am asking you whether you know anything about the Hale matter.

Attorney General RENO. That would be commenting, sir, and what I would suggest, if we want to pursue this, is that you pose the questions and then let's see whether Mr. Fiske thinks that they would in any way interfere with the investigation. I am delighted to answer them if they don't interfere.

Senator SPECTER. Well, I am not going to follow the way you would like me to proceed. I make a judgment as to what I think a Senator ought to do by way of oversight, and if you have a concern about that I am prepared to discuss it with you, but I am not prepared to take your instruction or your suggestion.

The question that I pose on an investigation by Mr. Fiske as independent counsel within his charter to investigate crimes, obstruction of justice, within the Department of Justice is not something which bears on anything which could conceivably implicate the underlying facts on what David Hale is doing.

Is Ms. Paula Casey—I understand that she is, but can you confirm for me that she is still the United States attorney?

Attorney General RENO. Yes, sir, she is.

Senator SPECTER. Is she the subject of a criminal investigation by Mr. Fiske?

Attorney General RENO. You would have to talk to Mr. Fiske.

Senator SPECTER. Do you know whether or not she is the subject of a criminal investigation by Mr. Fiske?

Attorney General RENO. You would have to talk to Mr. Fiske. I have avoided having anything to do with Mr. Fiske's investigation in terms of any information that he may have so that I do not impair his independence.

Senator SPECTER. Would you continue a United States attorney operating actively if that United States attorney were the subject of a criminal investigation?

Attorney General RENO. It would depend on the circumstances.

Senator SPECTER. Well, under what circumstances would you terminate such an attorney?

Attorney General RENO. It would depend on the circumstances. Again, you get into a situation of hypotheticals and it is far better that we look at the actual facts, and I would be happy at the appropriate time to do that with you.

Senator SPECTER. Well, Attorney General Reno, I consider your responses, as I see them, totally unsatisfactory, and I consider them totally unsatisfactory because I am not asking you anything about a pending investigation. I am asking you questions as to what came to your knowledge as the Attorney General of the United States Department of Justice.

I am asking you questions about what you know and about what your policy would be if there were charges of criminal wrongdoing, and I don't ask these questions in a vacuum or for no purpose. I ask these questions in the context of having initiated an inquiry on oversight on something which is outside the charter of the independent counsel.

The CHAIRMAN. In your opinion, Senator, right, is that correct? In your opinion?

Senator SPECTER. Everything I say is in my opinion. You can add that to everything. I don't speak for anybody but myself, but I do speak independently for myself.

I took a look at an extensive series of correspondence which has gotten to the Department of Justice and gotten to the FBI and gotten to the United States attorney's office and gotten to the executive office and gotten to the Office of Legal Counsel, according to these documents, which I sent to you as soon

as I knew there would be this hearing so you would have an opportunity to review them. I promptly advised the chairman as to what I intended to do there would be no surprises about it.

The CHAIRMAN. That is correct.

Senator SPECTER. When I pursue the matter and find I have a telephone call and a letter from the independent counsel, I call him and then I am told that it is within his charter, that there is an investigation which is underway for obstruction of justice.

As I review the facts of this matter, I am struck with wonderment as to how officials in the United States attorney's office decline to have immunity granted to David Hale, and then independent counsel comes in and in a short time has a grant of immunity. Then officials in the United States attorney's office in Little Rock recuse themselves in a later matter, and I wonder how can they recuse themselves in a later matter without having recused themselves in an earlier matter, given their relationship to subjects of the investigation.

I ran a big office myself as a prosecutor, and if I had any reason to believe anybody in my office had any problem, I wouldn't wait for anybody to cleanse it totally and thoroughly and immediately. I do not believe that the charter to the independent counsel takes away any of the authority or the responsibility of the Attorney General to act in that circumstance.

In my opinion—everything I say is in my opinion—the questions which I have asked you are entirely appropriate questions, and I give some additional background because I think these are matters which ought to be answered, and I intend to pursue them and I don't intend to wait.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

General, I think you have answered totally appropriately, in my opinion. I think were you to do otherwise, in light of Mr. Fiske's comments, you would be excoriated by Mr. Fiske and anyone else. I guarantee you, you would have an article saying that you have interfered if you went in and, quote, "cleansed," were there a need to cleanse. You would be accused of whitewashing to avoid Mr. Fiske being able to fully look at the matter.

You are answering, in my opinion, totally appropriately, and you have done what I don't know many others have been willing to do. You have said to this committee, without having to have some big show on the floor, that when Mr. Fiske says he is finished with this phase of the investigation you will come back and you will answer questions. It seems to me you are being totally appropriate, but that is why there are Democrats and Republicans, chocolate and vanilla, good and bad, right and wrong, different points of view. Our opinions are different.

I respect this man. He did notify me. Stick to your guns, don't answer his questions, in my opinion.

Senator SPECTER. If I might have just one sentence?

The CHAIRMAN. Yes. You may have more than one sentence.

Senator SPECTER. I don't think this matter has anything to do with good and bad or chocolate and vanilla.

The CHAIRMAN. Well, it may not have to do with good and bad, but it has to do with what one considers to be the appropriate way for you to respond. I think you are responding appropriately because I think you are in the ultimate catch-22 position. At the request of all of us in the Senate, you appointed a Republican named Fiske. Now, the Republican named Fiske tells you, please don't respond to anything having to do with this. You are being asked to respond to

something having to do with this, and if you respond or don't respond, you are in deep trouble in the minds of whoever wants to view you as being in trouble. I think you are doing just fine. My view is worth no more, probably a little less in this circumstance, than the Senator from Pennsylvania's, but good job, General.

#### INDEX

1. RTC-KC Chronology of Criminal Investigation.

2. Letter of September 1, 1992 from L. Richard Iorio (RTC-KC) to Steve Irons (FBI) transmitting criminal referral.

3. Letter of September 1, 1992 from L. Richard Iorio (RTC-KC) to Charles A. Banks (DOJ) transmitting criminal referral.

4. RTC Internal Memorandum, May 3, 1993. Background remarks and conversation with AUSA Bob Roddey's Office re: Madison Guaranty Savings referral.

5. RTC Internal Memorandum, May 19, 1993. Additional conversation with Office of Legal Counsel for U.S. Attorney's U.S. Justice Department, Washington, D.C. No record of Madison criminal referral at Washington DOJ.

6. RTC-KC E-Mail, May 19, 1993. Madison matter forwarded to Donna Henneman in "Legal Counsel." Referral submitted to that office "because of the political ramifications and political motivations."

7. RTC-KC E-Mail, May 26, 1993. Follow-up call from Donna Henneman (DOJ). RTC advised by an FBI agent in Little Rock that it was a "very solid case of check kiting, and was highly prosecutable." Henneman was growing increasingly frustrated by the situation, because she had seen the information, knew that it had come in, and couldn't understand why she was having such a hard time tracking where the referral and exhibits had gone.

8. RTC-KC E-Mail, June 8, 1993. Conversation with Donna Henneman (DOJ). Madison Referral has reappeared on her desk. Criminal Division has sent memo to Doug Frazier (in Deputy. Atty. General Heyman's office) advising him that there was "no identifiable basis for recusal of the U.S. Attorney in the Eastern District of Arkansas." Referral sent to Frazier for review and final decision.

9. RTC-KC E-Mail, June 23, 1993. Conversation with Donna Henneman (DOJ). Package returned from Frazier. Frazier appointed U.S. Attorney in Florida.

10. RTC-KC E-Mail, June 23, 1993. Further conversation with Donna Henneman (DOJ). Spoke with Doug Frazier. Decision made to return the referral back to the Arkansas U.S. Attorney. No basis for recusal.

11. RTC-KC E-Mail, June 29, 1993. Source indicates Madison referral has been returned to Little Rock. Acting U.S. Attorney will not act on referral. It is being held until U.S. Attorney designee Paula Casey takes office.

12. RTC-KC E-Mail, September 23, 1993. Conversation with Donna Henneman (DOJ). Washington DOJ would like to be copied on all future transmittal letters concerning Madison referrals with an additional one paragraph summary of the content of the referrals with the transmittal letters, so that Henneman will be aware of those with "sensitivity issues."

13. RTC-KC E-Mail, September 29, 1993. Conversation with Donna Henneman (DOJ). DOJ would like copies of all future Madison referrals sent to Washington in addition to sending to U.S. Attorney in Little Rock. Henneman will confirm this in writing.

14. RTC-KC E-Mail, September 29, 1993. Conversation with Donna Henneman (DOJ). Washington DOJ withdrawing request for referrals to be sent directly to Washington, but would still like copies of transmittal letters with addendum summary paragraph.

15. RTC-KC E-Mail, October 27, 1993. Conversation with Donna Henneman (DOJ). Inquiry on whether declination letter had arrived from Little Rock U.S. Attorney.

16. Letter of October 27, 1993 from Paula J. Casey (U.S. Attorney) to L. Jean Lewis (RTC). Declination letter on the Madison referral.

17. Letter of November 1, 1993 from L. Jean Lewis (RTC) to Paris J. Casey (U.S. Attorney). Confirmation of declination letter and the stipulation from October 27th letter that the matter was concluded prior to the beginning of Paula Casey's tenure and that the RTC had never been advised of such result. Chronology of correspondence between RTC and DOJ.

18. RTC-KC E-Mail, November 15, 1993. Transmittal of white paper outlining chronology of events related to 1992 Madison referral. Challenges news article indicating that decision to decline Madison referral had been prior to Paula Casey's appointment.

19. RTC-KC E-Mail with attachment, January 6, 1994. Discussion of contact with reporter.

20. Letter of September 15, 1993 from Randy Coleman (David Hale Attorney) to Paula Casey. Coleman has been trying to negotiate a plea and senses that Casey is reluctant because of "political sensitivity."

21. Letter of September 20, 1993 from Randy Coleman to Michael Johnson. Reiterates interest in plea negotiations, offering David Hale's information and willingness to participate in undercover activities.

Mr. SARBANES. What is the time situation, Mr. President?

The PRESIDING OFFICER. The Senator from Maryland has 31 minutes; the Senator from New York has 20 minutes.

Mr. SARBANES. Mr. President, I yield 10 minutes to the Senator from Arkansas, Senator PRYOR.

Mr. PRYOR. Mr. President, we have come to a point in this debate when we are about to vote on this particular resolution. If I might, I would like to talk for a few moments about the public's right to know, as the distinguished chairman of the Banking Committee from New York has made reference to.

He says the public has a right to know what happened in the Whitewater matter. The public has a right to know who did what, when, and whatever. I can assure you that the Senator from Arkansas does not disagree.

But I think also the public has a right to know something else. I think the public has a right to know in this case exactly how much money of the taxpayers' dollars we are spending in the so-called Whitewater matter. I think the public has a right to know that with this resolution, if it passes and if the funding goes through—and we all assume it will—the Senate alone will have spent, up through January or maybe February of next year, in the Whitewater matter \$1.350 million of Senate money to investigate this matter. I do not have available the amount of money the House of Representatives has spent and will spend in the future. And we do not know exactly how much the cost of the independent counsel will be. But here are some figures I might throw out for the RECORD at this time. To the best of our knowledge, Mr.

President, thus far, as of August 31, 1994, the independent counsel, Mr. Starr and Mr. Fiske, combined, spent \$1.879 million. Projected funding for the independent counsel for the 1995 fiscal year is \$6.3 million, which is a subtotal of \$8.129 million, and a total, adding all the figures up, Mr. President, for both the Senate and the independent counsel to investigate so-called Whitewater, comes to almost \$10 million in taxpayers' dollars.

Mr. President, I think there is something else the public has a right to know. I think the public has a right to know that this White House, this President, this First Lady, this administration, has never one time been accused of lack of cooperation. In fact, our President has pointed out, as one of our colleagues has already mentioned, that to be candid and truthful in this matter is going to be the quickest and best way to get to the bottom of it.

In the first round of hearings last summer, the committee heard from 30 witnesses generating 2,600 pages of testimony, deposing 38 witnesses, generating 7,000 pages of testimony.

The administration has produced thousands of pages of documents for committee review. This administration has complied with every document request. They have answered every question posed to it. The administration is ready and willing to cooperate on this second round of hearings and it bears emphasis, I think, that after the long days of hearings and pages of documents reviewed, that the Banking Committee concluded at the end of this hearing, in phase 1, that there had been no violation of a criminal statute and no violation of an ethical standard.

Mr. President, I think, too, it needs to be added that at no time during any of these investigations or any of these hearings, whether it be in Little Rock or Washington, the Banking Committee or the special counsel, wherever, to the best of our knowledge, not one witness, not one person has taken the fifth amendment.

I think that this speaks loudly and clearly about this administration's position, wanting to get on with the important business of our country.

Mr. President, let me compliment our friend, Senator SARBANES, for working out what I think—and going forward with—is a fairly reasonable proposal in trying to attack this problem and to set up these hearings. I think that there are some things, however, that I must state that I do not feel are fair. I do not feel that it is fair for one of the members of the committee, as he did earlier in this debate, to come to the floor and say what should have been within the scope of this hearing and then start talking about those particular issues as if to condemn them, even though they are not in the scope of these particular hearings.

Mr. President, I think for a Senator to come to the floor who is a member

of the Banking Committee and to make a statement like he knows for a fact, or he has knowledge that Kenneth Starr, the special counsel, is now going to reinvestigate the death of Vince Foster, I think the public has a right to know how that particular Senator from North Carolina has knowledge of this so-called fact, Mr. President. I think the Senator from North Carolina needs to explain how he knows Mr. Kenneth Starr is now looking or relooking at the death of Vincent Foster.

Mr. President, we hope that these hearings will be fair. We hope they will be soon. We hope that they will be done in a very efficient manner. I am just hoping above all, Mr. President, that in this hearing, these issues are not going to be bogged down in the political morass that we have seen some other hearings conclude with. I would like to say, also, Mr. President, that I think for us to go back to the 1990 Governor's campaign, I think is stretching it a bit. I do not know what that has to do with Whitewater. I think some of my colleagues would like to see us investigate Bill Clinton when he was the attorney general of Arkansas. Maybe we would like to go back to look at his campaign of 1974 when he ran for the U.S. Congress and was defeated. There might be some who have no limits on how far back in time we should go.

I hope we can keep our eye on the ball. I am hoping, Mr. President, that we can keep our eye focused on the issue of Whitewater and the particular mission under which carefully this resolution has basically pointed out would be the scope of this particular hearing.

I am also concerned that one of our colleagues has referred to the "the miserable job of Mr. Fiske." Those remarks were made earlier on this floor. Of course, they refer to Mr. Fiske, who was allegedly fired from this investigation as special counsel because he was not finding out enough, bringing forward enough, to satisfy some of our colleagues.

Mr. President, I will conclude once again, as I have done other times on this floor, by quoting a note that Vince Foster wrote. It is his last note. It was his last sentence in this note, when he said "Here"—reference to Washington—"ruining people is considered sport." Those were the words written by the late Vincent Foster.

I am hoping, Mr. President, that when this investigation begins, every person involved with that investigation, from top to bottom, will realize these are human beings; they have families; they have hopes and desires; they have beliefs; and they have reputations. Hopefully, we will not treat lightly those reputations, and hopefully we will make certain that the character and the nature of these hearings seek fairness and justice.

I yield the floor.

Mr. SARBANES. Mr. President, I yield such time as he may consume to the minority leader.

Mr. DASCHLE. Mr. President, I thank the ranking member. Let me

say, I did not have the opportunity to hear all of his remarks, but let me commend the distinguished Senator from Arkansas for what I have heard him say. Let me associate myself with each and every one of his words. He speaks from the heart, and he certainly speaks for all Members in representing what we hope will be the ultimate goal of this committee as we begin this ever once more.

This resolution provides a sum of \$950,000 for the purpose of completing the work on the Whitewater matter. I think it needs to be emphasized again, as we consider the funding, that this resolution includes every issue related to Whitewater that has any credence whatever. There ought not be any question about its work, its scope, and the effort undertaken after today by the Banking Committee.

The funding will expire on February 29 of next year. It is an adequate amount to fund and an ample allowance of time to permit comprehensive and thorough hearings, while providing also for the completion of this issue.

In the 103d Congress, the Senate voted on March 17, 1994, on a bipartisan vote of 8 to 0, to authorize hearings on the Whitewater matter. Senate Resolution 229, adopted in June of last year, authorized a first round of hearings which were subsequently held by the Banking Committee.

The new resolution creates a special committee, administered by the Banking Committee, to conduct the final round of these hearings. The committee will be comprised of the full membership the Banking Committee, with the addition of one Republican and one Democratic member of the Judiciary Committee.

Chairman D'AMATO will also chair this special committee. Senator SARBANES will serve as the ranking member.

Last year, the Banking Committee heard from a substantial number of witnesses and took thousands of pages of testimony. Last year's hearings were thorough, fair, and bipartisan. They are the model which this year's hearings must emulate.

The majority, which conducted the hearings last year, were fair and judicious in their approach. The new majority in this Senate has the obligation to follow that record in exactly the same manner.

It is important to be thorough and comprehensive, because the American people have a right to know all the facts about this matter; but it is equally important that hearings be fair and responsible. We must all strive to remember and draw the distinction between an unproven allegation and a known, verifiable fact.

What is at stake is the integrity and credibility of the U.S. Senate. The last Senate recognized this by voting unanimously to authorize hearings when questions were raised that deserved examination. This Senate should follow that example.



The Senate has the constitutional obligation to see that the facts are brought out. It has the moral obligation to do so fully and impartially. If we do less, we risk reinforcing the unfortunate impression that Senators care more about partisanship than about conducting the Nation's business in the best interests of all the people.

The President has said that in an era of attack politics, the best way to put this matter behind America is to address the facts candidly. He is entirely right.

The administration cooperated fully and extensively with hearings last year and stands ready to do so again this year. Last year, the President ordered his administration to cooperate and all parties did so. Every document request was honored. Every question raised by the committee was answered.

Americans have the right to know the facts of Whitewater. But Americans care about other matters which are also on the Senate agenda a great deal more than they do about this.

Americans are now facing a budget which seeks to dramatically alter Medicare and student aid programs, as well as virtually every other thing the Government does. They are anxious about the future, because so many millions of Americans are either Medicare enrollees or have parents who are Medicare enrollees. They are anxious to see the Senate begin the debate over the budget soon.

Americans expect the Senate to devote the bulk of our efforts to the issues that are of most importance to the majority of American people. I agree. That should be our priority. Today, no issue is more critical than resolving the budget debate.

Mr. President, I urge prompt action on this resolution. I hope it allows for completion of this matter with fairness and impartiality, so that Senators can focus their attention on the issues that deserve it most, the problems facing the American people.

I thank the ranking member for yielding.

Mr. D'AMATO. Mr. President, I did not mean to unduly delay acting on this resolution, because I think most things that have been said summarize where we are at, what we are attempting to do, and the scope of the investigation and the manner in which we hope to conduct it.

I think it is important to point out that what one of my colleagues, the Senator from North Carolina, Senator FAIRCLOTH, pointed out is a matter of public record. That is that Judge Starr is reexamining all matters reviewed by Special Counsel Fiske, including Vincent Foster's death.

I think he alluded to that, and I think he did so in that context. That is not an area we intend to revisit unless there are some very special circumstances, which I certainly do not envision. However, I think we have to at least put it in that context.

As it relates to what the committee did and did not find last year, I think

it is important to note that the Republican minority did make findings on the three major areas where there were questions of misconduct and malfeasance. I will not attempt to enunciate all of them now, but that was a very strong finding.

I would also like to point out that the majority made some findings and recommendations as it related to the need to indicate very clearly that before Congress, all executive branch members and others who testified are "required to be fully candid and forthcoming," and testify "truthfully, accurately, and completely."

The committee recommends that the President issue an Executive order reinforcing this obligation and setting forth procedures requiring the prompt correction, amplification and/or supplementation of congressional testimony to ensure that it is accurate, thorough and completely responsive.

Why did they do that? Without going through the entire history, it was because it was clear and evident—and, by the way, we have sent to Mr. Fiske and to his successor, Mr. Starr, those areas, we being the Republicans on the committee, the minority—that those areas of concern, that, at the very least, there was testimony that was disingenuous, if not outright false. And that is being reviewed.

So, to say that there were no findings of any wrongdoing, that everything was OK, or to imply that there was nothing wrong, is simply an oversimplification and is not an accurate or fair representation of the situation.

Now, I do not intend, nor is it my job and duty, to defend the work of the special counsel. The special counsel was appointed because the Attorney General concluded that it was necessary. It was not this Congress. I thought it was. I believe it was. There were leading Democrats who spoke to the necessity—Senator MOYNIHAN, Senator BRADLEY, and others—as it relates to dealing with this. But as it relates to the expenditures of money, let us look at the record.

This committee, I think, has been very judicious. The Democratic leadership working with Republicans last year authorized \$400,000. We only spent \$300,000. This year we have set \$950,000. I hope we spend less than that. We have been very judicious in using taxpayers' money. So to date we have spent \$300,000. Although that is not an inconsequential sum, we have been extremely judicious.

With regard to the expenditures and what has taken place with the special counsel, let me just indicate, first, that David Hale pleaded guilty. He was a municipal judge and has made some extremely serious allegations. The special counsel is reviewing his allegations with respect to why he made certain loans that were illegal or inappropriate, who asked him to do so, and so forth.

Webster Hubbell, the third ranking official in the Attorney General's office, pleaded guilty to charges that

emanated, again, from this investigation.

Neil Ainley, president of the Perry County Bank, where large sums of money, \$180,000, were taken out to fund campaign activities, pleaded guilty.

Chris Wade, a real estate agent who was the sales agent for Whitewater Development, pleaded guilty in a bankruptcy matter. Robert Palmer, last December, a Little Rock real estate appraiser, pleaded guilty to conspiracy charges relating to backdating and falsifying appraisals for Madison Guaranty.

I make these remarks because I do not believe that it is fair to leave the impression that this has just been a big waste of time and that there was no wrongdoing. Five individuals, at this early and preliminary stage of these investigations, have already pleaded guilty, some in very high, responsible positions. That is the work of the special counsel. He has to defend the appropriateness of the expenditures which he makes.

However, I think for the record it is fair to reflect that several individuals have pleaded guilty to various charges. As it relates to our work, I am going to reiterate that I believe this committee has properly set forth the venue, the scope and the way in which it intends to move forward in a bipartisan manner to find out the truth and get the facts. Was there an attempt to impede legitimate investigations undertaken at RTC? Why were certain people taken off the case? Why were certain RTC investigators disciplined? Why was information about confidential criminal referrals made public? Was there a failure to go forward? These are legitimate questions. There may be appropriate reasons. But, then again, we might discover inappropriate action.

So these areas are within the scope. We are not going to attempt to dig up something that does not appear to be really connection to the matters that we have set forth. And it is our hope, depending upon the schedule of the special counsel as he goes through the materials, that we can wind this up sooner rather than later, and conduct the business of the people in a manner which reflects credibly on our constitutional obligations as Senators.

Mr. President, I am prepared to yield the remainder of my time. My colleague may have something to do. I am prepared to vote on the resolution.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I will take just a couple of minutes, I say to my distinguished colleague from New York.

First of all, I want to underscore the positive and constructive way in which the chairman of the Banking Committee and members of his staff interacted with us in trying to address the question of working out a resolution that we would bring to the floor of the Senate. Obviously, it is not an easy thing to do, and Members of the Senate have

differing views about this matter. But I do think we were able to, in the end, work out a rational approach to this inquiry and investigation, which I indicated in a sense had been committed to last year.

Obviously, you always have to work out carefully the scope questions, which has been done in this resolution, because the scope could be infinite, in a sense, if you leave it to people's imagination. So there were candidates for scope that I think went beyond the horizon, and they are not included. But we have tried to, in effect, put a focus here.

In fact, some of the questions the distinguished Senator from New York just raised, that he felt emerged out of the previous hearings—and he made reference to last year's minority statement in the report—have in fact been spelled out here as matters that could be looked into under this resolution.

There were other candidates, of course, that were not included. We have tried to be rational here. We have tried to be reasonable. The matters specified herein have been the outcome of that process.

Second, I want to say the resolution has been put together in a way that presumes that the two sides will work together cooperatively in carrying out the inquiry, that the staffs will interact in that fashion, that material will be generally available and so on. We are trying to get an inquiry here in which everyone is joined in trying to find out what the facts are. A lot of questions are raised, and will be looked into. If you did not raise questions, you would not have an inquiry, so I recognize that. But our job, I think, is to probe the factual matter behind those issues.

I was interested that my colleague earlier used the word "allegations," and that is what it is until you actually get the facts that sustain it. And that is the process we are going to engage in. Some things, you know, when you finally examine them, turn out to be fairly innocent. At least I think. We had this point about Captain Hume, who did not appear when he was supposed to be a witness.

Well, what happened—obviously there was a slip-up, but I think that is what it was, a slip-up. Captain Hume was deposed. He had over 300 pages of deposition testimony. Apparently at his deposition he said he was about to take a—go on a vacation. After that the hearing date was set. Everyone sort of assumed that Captain Hume could be brought back in for the hearing. A subpoena, I do not think, was issued for him.

Mr. D'AMATO. I do not think it was issued.

Mr. SARBANES. I do not think it was issued for him so he did not, as it were, ignore a subpoena. And he went on a hunting and fishing trip and could not be located, is what happened.

In the end, I think it was judged that given we had 300 pages worth of deposi-

tion it was not worth having another hearing simply to bring Captain Hume in. I mean it is a small matter, but I only mention it to show that sometimes when you really examine the facts you discover that something that looked amiss at first has a very simple, plausible, and reasonable explanation for it.

We expect, as I understand it, now to move forward with this. I know that the chairman and his staff will be talking with our staff to begin to plan the first set of hearings which I think will probably be in the next month or so, and then we can proceed from there as we schedule other matters which have been stipulated here in the resolution as being within the scope of the inquiry which this special committee will now undertake.

But I do again want to underscore the, I think, responsible way in which the chairman and members of the staff have worked with us in order to try to frame a resolution which we could bring to the floor of the Senate today which I think carries forward the legitimate requirements imposed upon us in terms of carrying out an investigation without straying beyond what most people regard as reasonable bounds.

Mr. President, with that, I made my statement. I see the distinguished Senator from Arkansas, and I would like to yield time to him.

Mr. President, how much time is remaining?

The PRESIDING OFFICER. Ten minutes.

Mr. SARBANES. Mr. President, I yield 4 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I thank the distinguished Senator from Maryland for yielding.

Mr. President, when I was a student in law school I remember studying criminal law. There never had been a lawyer in my family. So I knew nothing about any kind of law. But I remember the professor about the second day said, "Remember, the presumption of innocence is the hallmark of our system of criminal jurisprudence." It is not presumption of guilt.

I asked the question, "Should I defend somebody if they came into my office and told me they were guilty?"

He said that will be a personal call, but you bear one thing in mind. That person may not know whether he or she is guilty under the law. They may think they are and are not.

I am going to vote for this resolution. I have no objection whatever to a fair, open hearing giving everybody a chance to answer the questions of this committee. But I have heard some names thrown around here this morning.

Mr. President, in cases like this, all you have to do is throw out a name. Oftentimes you have destroyed a person or at least destroyed their reputation.

And there has been entirely too much of that surrounding this case.

So let me admonish my friends in the U.S. Senate, and especially on this special committee, lawyers and nonlawyers, to ask yourself when you are making some of these speeches and you are throwing out names, why did not this happen, why did not that happen? Well, hindsight is a wonderful thing. But ask yourself when you are throwing names around and wondering whether or not you are destroying that person, a perfectly innocent person for life, you ask yourself this question: "How would you like to be in that somebody's shoes and hear your name bandied around on the floor of the Senate which carries with it the connotation of some wrongdoing or some guilt?"

I hope the Members of this body will rise above that sort of thing, and when they say something and use some of these names in regard to this hearing, make awfully sure they are not destroying some innocent person needlessly and wrongfully.

I look forward to the hearings. I look forward to the people having an opportunity to say what they want to say and answer the questions of the Members of this committee. But for God's sakes do not prejudge everybody that is going to be called as a witness before they get there and have an opportunity to answer the questions.

I yield the floor.

Mr. SARBANES. Mr. President, I yield 2 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the distinguished chairman for yielding me 2 minutes. I had not planned to speak again. But the distinguished chairman of the committee made reference to three or four individuals who have either pled guilty or have been indicted, et cetera. I would like to talk about some of those.

Neil Ainley worked with a bank in Perryville about 50 miles from Little Rock. He pled guilty to four counts, but not one of those counts related to Whitewater; not even close to Whitewater. One was his so-called failure to file with the Internal Revenue Service a withdrawal of cash for the 1990 Clinton campaign; nothing whatsoever to do with Whitewater.

The second individual the distinguished chairman mentioned is Chris Wade. If I am not mistaken, Chris Wade was a real estate broker I believe in Mountain Home near the Whitewater development area. Chris Wade, subsequent to these many years of dealing with the lots at Whitewater, filed bankruptcy; not related to Whitewater in any way. But in the bankruptcy filing he failed to disclose either an asset or a debt. I do not know all the facts but this matter is unrelated, totally unrelated to Whitewater; no relationship whatsoever to the President and Mrs. Clinton. But yet

the prosecution has now had him plead guilty.

The third person referred to was Webb Hubbell. We know that case. Webb Hubbell has pled guilty. It is a sad day. He is a good friend. But it was nothing that related to Whitewater Development Corp., absolutely nothing that related to Madison Guaranty, nothing whatsoever. Webb Hubbell pled guilty to overbilling his clients; nothing to do with the RTC, nothing to do with Whitewater; totally irrelevant.

If we continue spreading this dragnet out further, if we go after every person that has ever had contact with Bill Clinton or Hillary Clinton or James McDougal or whatever, if they have ever made a phone call to them, if they have ever borrowed money or given them a campaign contribution, Lord only knows how long this investigation is going to go. It will go beyond the year 2000.

I just hope that our colleagues on the Banking Committee will realize that we must focus this investigation as it relates to Whitewater and to its original mission.

Mr. President, I thank the distinguished Senator, ranking member, and the distinguished chairman for yielding me this time.

I yield the floor.

Mr. SARBANES. Mr. President, I am prepared to yield back time.

Mr. D'AMATO. Mr. President, we yield back the remainder of our time.

The PRESIDING OFFICER. All time having been yielded, the question is on agreeing to the resolution.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

The legislative clerk called the roll.

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

The result was announced—yeas 96, nays 3, as follows:

[Rollcall Vote No. 171 Leg.]

#### YEAS—96

Abraham	DeWine	Inouye
Akaka	Dodd	Jeffords
Ashcroft	Dole	Johnston
Baucus	Domenici	Kassebaum
Bennett	Dorgan	Kempthorne
Biden	Exon	Kerrey
Bond	Faircloth	Kerry
Boxer	Feingold	Kohl
Bradley	Feinstein	Kyl
Breaux	Ford	Lautenberg
Brown	Frist	Leahy
Bryan	Gorton	Levin
Bumpers	Graham	Lieberman
Burns	Gramm	Lott
Byrd	Grams	Lugar
Campbell	Grassley	Mack
Chafee	Gregg	McCain
Coats	Harkin	McConnell
Cochran	Hatch	Mikulski
Cohen	Hatfield	Moseley-Braun
Conrad	Hefflin	Moynihan
Coverdell	Helms	Murkowski
Craig	Hollings	Murray
D'Amato	Hutchison	Nickles
Daschle	Inhofe	Nunn

Packwood	Roth	Specter
Pell	Santorum	Stevens
Pressler	Sarbanes	Thomas
Pryor	Shelby	Thompson
Reid	Simpson	Thurmond
Robb	Smith	Warner
Rockefeller	Snowe	Wellstone

#### NAYS—3

Bingaman	Glenn	Simon
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#### NOT VOTING—1

Kennedy

So the resolution (S. Res. 120) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask unanimous consent to speak as in morning business.

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

Mr. THURMOND. I thank the Chair.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 812 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, it has been our hope that we could work out some agreement on H.R. 483, the so-called Medicare Select bill. I know Senator ROCKEFELLER has some concerns about it. What we would like to do is bring the bill up, and if anybody has amendments, they can offer the amendments and see if we cannot complete action. It is a program that expires on June 30. I am not an expert on the program itself. I think Senators PACKWOOD and CHAFEE will be happy to manage the bill. I will not do that.

I would like to ask unanimous consent that we turn to the consideration of H.R. 483, the Medicare Select bill, but I am not going to make that request yet.

Is the Senator from West Virginia prepared to object to that?

Mr. ROCKEFELLER. I am afraid I will have to.

#### UNANIMOUS-CONSENT REQUEST

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to consideration H.R. 483 under the following time agreement: 1 hour on the bill to be equally divided between the chairman and ranking member of the Finance Committee, with one amendment to be offered by Senator ROCKEFELLER relative to Medicare, 1 hour for debate to be equally divided in the usual form, and that no motion to table be in order; further, that following disposition of the Rockefeller amendment, the bill be advanced to third reading and that final passage

occur without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. ROCKEFELLER. I do object.

The PRESIDING OFFICER. Objection is heard.

#### EXTENDED USE OF MEDICARE SELECTED POLICIES—MOTION TO PROCEED

Mr. DOLE. In light of the objection, I move to proceed to the consideration of H.R. 483.

The PRESIDING OFFICER. The question is on the motion to proceed.

Is there debate on the motion?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, this is not one of the most broadly understood issues. But it is a very important one, Medicare Select. There are, I guess, two issues that concern me. One—and this is less important, but nevertheless important to me—is the area of process. I had written Senator DOLE, the majority leader, a number of months ago asking for a hearing on the subject of Medicare Select. I was told in a letter back from the majority leader that we would have hearings on Medicare, obviously, and that Medicare Select would be a part of those hearings. The Finance Committee has not had any hearings on Medicare Select and, therefore, that constitutes a problem.

Second, there is a study on Medicare Select which is going to be completed by the end of the summer, and it is not a frivolous study or a frivolous problem. It is a serious problem involving seniors and Medicare supplementary insurance. Currently, 15 States are participating in the 3½-year experimental Medicare Select Program. This bill would expand Medicare Select to all 50 States for 5 years.

One of the States that has Medicare Select is, in fact, the State of Florida. I cosponsored legislation sponsored by Senator GRAHAM that would temporarily expand Medicare Select for another year. So this is not just a question of those States that have Medicare Select wanting to continue to expand it, or to make it permanent, or whatever. We have genuine concerns.

There are other issues involved. One of the conclusions of the preliminary evaluation of this study which I have been referring to, which will be completed at the end of the summer—and that is why I hoped we could wait until that time, this being the first year of a 2-year session—was that about half of the savings in the form of cheaper MediGap premiums for beneficiaries came about as a result of discounting payments to hospitals.

Now, theoretically, if seniors are having their care actually managed, the Medicare Program would realize savings from the lower use of health care services.

If, in fact, the savings are merely the result of hospital discounting arrangements, the Medicare Program is not going to benefit at all financially. Again, that is not an overwhelming factor, but a very important factor in view of the overall Medicare cuts we are looking at this year.

CBO, in fact, scored the expansion of the Medicare Select Program as budget neutral, not as saving or costing Medicare, but budget neutral. They said it does not cost and it does not save the Medicare Program any dollars at all.

Now, my colleagues and friends on the other side talk about expanding choice and restructuring Medicare by getting more seniors into managed care in general. Yet Medicare Select, one of the managed care options already available under the Medicare Program in at least 15 States, does not save the Medicare Program money.

So far, therefore, claims from the other side on the so-called magic of the marketplace does not seem to be doing anything to save costs for Medicare. That is the point I am trying to make. Many people believe that managed care is not going to save the amount of money that some people think it is because the elements of managed care are not enough. There is the cost of technology and more people getting older faster—that number is increasing very fast.

The Consumers Union testified before the House Commerce Health Subcommittee that:

Lawmakers should not make permanent a managed care form of insurance to plug gaps in Medicare coverage because of very serious questions about the supplemental's plan deceptive pricing practices and its effectiveness at holding down health care costs. We should not make this program permanent and expand it to other States until we know that it is really a good deal for the customers.

That is all I am saying. I am simply requesting that the study which will be ready by the end of the summer, which is already in progress, which has already issued a beginning report, be allowed to be completed, that we see if, in fact, it is good for consumers, before we take any further steps.

Consumers Union has raised concerns that because of insurance underwriting practices, seniors may be locked into Medicare Select managed care policies and be unable to purchase another MediGap policy.

We looked at MediGap 5 years ago, in 1990. We passed legislation on MediGap. It was very good legislation and it cut down on abuses and consumer confusion. Seniors, for the most part, do have Medicare supplemental policies. Sometimes they use it to help pay part of their premiums. Sometimes they use it to get more services that Medicare does not offer. But it is very, very important.

HCFA, the Health Care Financing Administration, has voiced a concern about a lack of quality assurance requirements for Medicare Select managed care products.

Medicare HMO's are required to have an active quality assurance committee headed by a physician that gathers and analyzes data and works for continuous quality improvement. That is important. There is no comparable requirement for Medicare Select managed care products.

Medicare HMO's are required to provide data on such indicators as waiting times for appointments in urgent care, telephone access to HMO, both during and after hours. There is no comparable requirement for Medicare Select managed care products.

Understand, I am not condemning Medicare Select. Fifteen States are using it. Some of those States want it to be made permanent. Some are less happy about it, but this bill is a major expansion. Therefore, it is something that we need to look at closely.

To go from 15 to 50 without the benefit of at least the study Congress ordered so that we could make an orderly decision about this, just does not seem to me to make sense. It is for that reason that I am here talking, hoping that we can do something about it.

If Medicare Select managed care is to be made permanent as a Medicare option, beneficiaries should be guaranteed the same level of assurance on issues of quality, issues of access, and, for example, grievance rights, as they have already in other Medicare managed care options. That seems sensible. Do the 15 have it? Do all of them have it? Do none of them have it? We need to know.

A preliminary analysis of the Medicare Select experiment that was completed last year by the Research Triangle Institute concluded that from Medicare's perspective, unless Medicare Select reduces use or directs use to providers that cost Medicare less money, it offers little benefit to Medicare.

The preliminary case study also indicates:

Aggressive case management and restriction of networks to the more efficient providers in the communities are rare. Thus, it appears unlikely that Medicare Select will result in claims cost savings for HCFA.

Now, Mr. President, I do not think that these concerns mean that we should end the Medicare Select Program. I want to be very certain on that. I think that experimentation—State experimentation—is tremendously important. I believe in it.

However, I do think that several serious issues have been raised about the Medicare Select Program, and as a result I have grave reservations about extending this program to all 50 States—that would be 35 more States—in 5 years.

Instead, to avoid any potential disruption in those States that currently are participating in the Medicare Select experiment, we ought to extend their programs so that they do not have to stop enrolling new people on June 30, 1995.

Now, that is an important point to make. We have a drop dead date we are

facing rather quickly. They cannot take new enrollees unless we extend the current States that have the programs, which I am very much for doing, so that we can learn more from those programs.

I would sincerely hope that before expanding it beyond those States that now have it, we take a much closer look at the Medicare Select Program in the committee of jurisdiction, which is the Finance Committee.

Then I go back again to the process question. I asked the majority leader by letter if he would hold hearings on this subject. He answered me earlier, some months ago, that we would hold general Medicare hearings in the Finance Committee, and Medicare Select would be part of those hearings.

They have not been part of those hearings. They have not been even mentioned in these hearings. That is important to me because I think that process and the knowledge that one gains from that is tremendously important.

I find it somewhat disturbing that my friends on the other side of the aisle who want to cut Medicare by \$256 billion to balance the budget and pay for tax cuts, and who talk on a daily basis about restructuring Medicare, will not even take the time to consider a final evaluation of the Medicare Select Program. Congress mandated that this study be done. This was not somebody's whim. It was a congressionally mandated study. The Federal Government has already paid for this study to be done. But my colleagues are apparently not willing to wait a couple of months to consider the results of that congressionally mandated study.

In some ways it seems to me that we are here more because the Senate is looking for something to do. I do not think this is the right way to handle the problem of the Medicare Select Program. This came up suddenly and here we are with it.

I want to make it very clear why I have objected to the idea of the Senate simply rubberstamping a bill passed by the other body. There is absolutely no reason for us to be using up the time of the Senate on this at this time. If the majority leader would simply give the committee of jurisdiction the chance to review the legislation and the study through something as basic as a hearing or a partial hearing or a subcommittee hearing, then we could work out a course of action based on a responsible process and careful thought about the substance which I have raised, which is very much in question. The Senate should, I think, not acquiesce to a cavalier way of doing business, and that is what concerns me.

The majority leader wants the Senate to rubberstamp a bill that would turn a limited demonstration program, called Medicare Select, into an open-ended national program. I am very concerned about an attempt to pass legislation affecting the Medicare Program

without having it carefully considered by anyone in the Senate.

I ask my colleagues, who are not present on the floor with the exception of the distinguished Presiding Officer, how many of them can really tell me much about the Medicare Select Program? How many could give me one short paragraph on what the Medicare Select Program is? I would daresay it is probably six people; probably six people. And here we are at a moment when there is not much else to do, awaiting the budget resolution, but with some time to kill, and we are about to expand into a national program something which is being experimented with locally, by the States.

If anything is clear these days, the Senate should know what it is doing when it changes Medicare. We are about to enter into a major debate on Medicare as it concerns the budget resolution. So anything that has the word Medicare in it, we ought to be precise, knowledgeable, and informed rather than having an hour's discussion and then a vote of some sort, affecting profoundly what happens in this country. Medicare affects 33 million people—36 million to 37 million people when you add on end-stage renal disease and the disabled, as well as those over 65. It has enormous consequences. It has enormous consequences.

As we learned during the MediGap debates, it is very hard, often, for seniors to resist buying policies which are constantly offered to them. That was what the MediGap legislation was about. It was to discipline this proliferation of policies to ensure folks could not prey on seniors who could not necessarily understand all the small print, or even read the small print in the policy. So this is about protecting seniors; about not misleading seniors; about making sure that seniors get the quality assurances that are verbally offered to them by those who would sell Medicare Select.

It just seems to me that if we are about to talk about a \$256 billion cut in Medicare, we really ought to know what we are talking about when we do anything about Medicare, much less add on a new program, whether it costs or not.

Just yesterday Dr. June O'Neal, who is the new head of CBO, the Congressional Budget Office, and whom I had not seen before, testified before the Finance Committee that quality—hear this, “The quality will suffer under the Medicare Program if we enact Medicare cuts of \$256 billion.”

She said that seniors will have to pay more to get the same level of quality that they are currently receiving under Medicare. And I think this is a very serious consequence. In fact, by the year 2002, I think they will be paying \$900 more per year and I think on an aggregate basis they will be paying close to \$3,500 more between now and the year 2002. When you consider the fact that only a very tiny proportion of Medicare recipients have incomes of higher than

\$50,000 a year and that the enormous majority of them are way down at \$15,000 or \$10,000 or below, in that area, something like that becomes an enormous consideration. An additional \$3,500? They already spend over 20 percent of their income on health care.

In fact, we had an interesting minidebate yesterday on whether or not the cuts in Medicare will in fact cut Social Security for seniors. Of course, if that were to be the case, that would be a kind of third-rail item on the American scene because cutting into Social Security is something we have all decided not to do. We came up with the judgment, not so much during the hearing but after the hearing, that because of the increases in premiums, et cetera, in copayments, seniors will have to pay for more costs for Medicare, that in effect their COLA increases under Social Security in many cases will be wiped out entirely.

Will seniors see that as a cut in Social Security? I think it is quite possible they will. Because it is interesting—I would not have guessed this, I say to the Presiding Officer—that Social Security and Medicare are looked upon, in many ways, as the same by the people of this country and by the seniors of this country. That whereas we said before “Do not cut Social Security,” people look upon Medicare as the same sort of a sacred contract, so to speak, that the American Government and the American people have with each other, and not another incidental program.

So I think this is a very serious problem. The Health Care Finance Administration, HCFA, has voiced a concern about lack of Medicare Select quality assurance requirements. HCFA is not a radical organization. It is a big organization, 4,000 people, who in fact are very expert. Nobody knows they exist but they do, and they do all kinds of complicated work. They are expressing concern about Medicare Select quality assurance requirements, that they do not exist in this legislation and they do exist for other managed care options. As I said, Medicare HMO's are required by law to have active quality assurance committees.

So I think there is lot at question here, and I just hope we could work this out. I had suggested a variety of alternatives, options; that we could take the States that now have Medicare and extend those for a year and a half or 2 years. Some people say if you extend it for a year, that does not really give the managed care company that is interested in looking at Medicare much incentive to move ahead. It sounds like a year-by-year basis. Maybe we could do it for longer than that. Maybe we could add on some more States, add on four or five more States and allow that to happen.

But to take the entire country and open it up to Medicare Select when a study which has already raised questions is still out there and questions have been raised by health care experts

in HCFA about insurance problems, plus the fact that it is Medicare, which is probably the most sensitive subject that could be discussed on the floor of this Chamber, we ought to be careful. That is why I am not for going ahead at the present time with expanding this the way the majority leader seems to want to do.

I will have more comments. But I do not see anybody at this point who wishes to say anything. So I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROCKEFELLER. Mr. President, I note the presence of the distinguished Senator from Rhode Island on the floor. I know he wants to speak. I will not take long. I talked a moment ago about the concerns of the consumer groups and the Medicare Select Program. One of their concerns is called attained age rating. Just as insurance companies charge older people more for insurance in the under 65 market, MediGap insurers charge older seniors more for their MediGap policies as they grow older. In the under 65 market, insurers claim that age rating is a sound business practice because older people use more health care services and because older people are better off financially than those who are 20 years old or younger. This argument does not work at all for those who are over 65 years old. In that important market, 85-year-olds are generally, as I hope we all know, a lot poorer than 65-year-olds.

Another question that has been raised is the so-called one time open enrollment period. When we worked in the Finance Committee—I know the Senator from Rhode Island worked very hard on that also—on the MediGap legislation in 1990, we required insurers to have a one-time, 6-month open enrollment period when seniors first turned 65 so that they would have 6 months to simply enroll. During this 6-month period, an insurer under the MediGap Program is not allowed to deny insurance to any senior based upon their health status. That is an enormous statement in the health insurance industry. It is an enormous statement. They are not allowed during those first 6 months to make any health status judgments and thus say no to people. Consumer groups have raised a concern that if seniors sign up with a Medicare Select managed care product and decide that they do not like that product, they may be unable to buy a MediGap policy later because the open enrollment period would have gone by, especially, of course, if their health status is poor.

I want to just add those things.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

PRIVILEGE OF THE FLOOR

Mr. CHAFEE. Mr. President, I know the distinguished Senator from North Carolina is waiting to give a brief statement, and then I would like to speak. Let me discuss it with the Senator from Oregon.

But meanwhile, I ask unanimous consent that privileges of the floor be granted to a member of my staff, Douglas Guerdat during today.

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

Mr. CHAFEE. Thank you.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

(The remarks of Mr. HELMS pertaining to the submission of S. Con. Res. 14 are located in today's RECORD under Submission of Concurrent and Senate Resolutions.)

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, let me make a few comments on the so-called Medicare Select policies and explain first what they are.

Medicare does not cover all medical expenses. So a popular policy that is sold in this country is called MediGap. You can buy it. It is voluntary. You do not have to buy it. You can buy it. It basically fills in the holes that Medicare does not cover. There are different kinds of MediGap policies. You can get some that are more expansive and with more coverage than others and they cost a bit more. But I emphasize they are voluntary.

Medicare Select is a particular form of MediGap policy. It is one of the most popular policies that are around. It is about 40 percent less expensive than other policies. It exists now in 15 States. You have to have Federal permission to sell it. The authority to issue these policies expires on June 30 of this year.

The House has passed a bill—let me check my figures—I think 408 to 14, to extend Medicare Select to the rest of the Nation. This is hardly a partisan issue with that kind of a vote. And if we, frankly, get a vote on it in the Senate, it is going to pass probably 80-20 or 90-10, unless I am mistaken. So do not let anybody be of the impression this is a Republican-Democrat issue. This has overwhelming support.

The National Association of Insurance Commissioners is one group that supports it, and they monitor complaints about insurance policies throughout the Nation. There are about 500,000 people enrolled in just these 15 States in Medicare Select, and of those 500,000 policies, in 1994, all of the insurance commissioners in those 15 States had 9 complaints—9—in comparison with 967 complaints against other types of MediGap policies, nonselect MediGap policies.

We passed this in the Senate 5 years ago. We were awaiting a report. The report was due in January. It is not going to be out until next January now. It is late. It is not going to come.

And again, Medicare Select has overwhelming support. I am going to read just a list of the groups that support expanding this to the 50 States: The American Group Practice Association, the American Hospital Association, the American Managed Care and Review Association, the Association of Public Pension and Welfare Plans, Blue Cross and Blue Shield Association, California Association of Hospitals and Health Systems, the Federation of American Health Systems, the Group Health Association of America, the Health Insurance Association of America, the Medical Group Management Association, the National Association of Insurance Commissioners, the National Conference of State Legislatures, and the National Governors' Association.

Now, Mr. President, you are not going to get a much better group than that in terms of breadth and philosophical support. Our problem is that this apparently is going to face an objection to coming up and apparently a filibuster. I have no question but what the filibuster is going to be broken and going to be broken overwhelmingly. We will get the 60 votes. But one of the problems the leader faces, of course, is that once we are on to a bill and once cloture has been invoked, you cannot go to anything else. You can pull it down. And he would like to get onto the budget bill.

I say again, this is the middle of May. The authority for these programs runs out next month. This Congress goes on recess in about 10 days. And so unless we act now, these people who like these policies, to which there is almost no complaint, will be faced with rising premiums because they cannot be sold to anyone else.

So I hope that the leader will be successful in bringing this bill up, that we would have a short debate. I will be happy to agree to a time limit on amendments or a time limit on the bill and get to final passage. I will emphasize again it passed 408 to 14 in the House of Representatives.

I thank the Chair.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I see the distinguished Senator from West Virginia in the Chamber. I would be glad to pose him some questions if he is available to respond.

As the chairman of our committee just pointed out, we are talking about Medicare Select. But what is Medicare Select, anyway?

Medicare Select is the name of a type of MediGap policy. It is something that seniors can buy to cover their Medicare deductibles and copayments.

Medicare Select is a type of MediGap policy that permits managed care; that

is, a managed care MediGap policy. That is what it is.

What was the problem in getting this plan started and why the restrictions? Why could not the insurance companies offer Medicare Select if they wanted to? Because when MediGap legislation was originally passed in the House of Representatives, there were some objections to Medicare Select. A Representative from California did not believe in managed care. Consequently seniors were not able to have these plans.

Well, finally, after patiently working at this several years ago in late evening sessions, we arranged that there would be 15 States that could try this and see how it worked out. And so 15 States have done it, and as the chairman of our committee pointed out, it has worked very well. The trouble is that the option of these 15 States to offer this policy ends June 30; which is what—a month and a half from now.

As the chairman pointed out, there is now a danger that we cannot extend Medicare Select because of having to deal with the budget, and so forth, and then all these people who have these MediGap policies—and, indeed, it is a MediGap policy—will not be able to buy it or renew it.

Indeed, there is question about enrollments right now: Should a senior enroll in a MediGap policy that has this managed care plan or should I not? What happens if the plan is going to disappear?

Our point is not only should we extend Medicare Select but should we also make it permanent.

But what about the rest of the States? Why should not seniors in other States have this option? In my State, for example, why should not my citizens have the option of buying a MediGap policy that is \$25 to \$27 less per month, depending on the situation, than they are paying for other MediGap policies?

Mr. ROCKEFELLER. Will the Senator yield?

Mr. CHAFEE. Let me just finish. The Senator is objecting to that. What I find puzzling is the Senator, a distinguished member of the Finance Committee, has twice voted in the Senate Finance Committee and twice on the floor to pass a permanent 50-State extension of legislation that is before us. What has changed?

Mr. ROCKEFELLER. What has changed, I say to the distinguished Senator from Rhode Island, is that I had correspondence with the majority leader of the Senate, a letter that I ask unanimous consent to have printed in the RECORD, and also the majority leader's response to this Senator.

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

U.S. SENATE,  
Washington, DC, March 21, 1995.

Hon. ROBERT DOLE,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR DOLE: As ranking member of the Finance Subcommittee on Medicare, Long-Term Care, and Health Insurance that you chair, I would like to propose a hearing on the Medicare SELECT program for oversight and an education on its results so far.

As you know, Congress approved a 3-year, 15-state Medicare SELECT demonstration project as part of the Omnibus Reconciliation Act of 1990. Medicare SELECT offers seniors less expensive Medigap premiums in exchange for receiving their health care services from a selected network of health care providers. Under current law, Medicare SELECT's authorization—which was extended temporarily last October—is due to expire on June 30, 1995, unless Congress takes further action.

Personally, I would support extending this program for another six months to maintain program continuity, with a strong interest in avoiding the program's disruption while allowing Finance Committee members an opportunity to fully examine the knowledge available so far on the SELECT demonstration. A temporary extension would give the Subcommittee an opportunity to have a full hearing on the Medicare SELECT program that would include results of a formal evaluation of the demonstration project.

It is my understanding that preliminary results of an evaluation study that is being performed by Research Triangle Institute will be ready by the end of the summer. Information that will be available includes data gathered from insurer and beneficiary surveys, as well as claims analyses that will examine the impact of SELECT enrollment on the use and costs of Medicare services. Therefore, I believe it would not be appropriate or prudent to extend this program on a permanent basis to all 50 states until Finance Committee members have the most up-to-date information on which to base future legislative action.

Thank you in advance for your attention to this matter, and I hope to work with you on this issue. Mary Ella Payne is the contact on my staff.

Sincerely,

JOHN D. ROCKEFELLER IV.

U.S. SENATE,  
OFFICE OF THE MAJORITY LEADER,  
Washington, DC, April 3, 1995.

Hon. JOHN D. ROCKEFELLER IV.,  
U.S. Senate,  
Washington, DC.

DEAR JAY: Thank you for your letter regarding the Medicare Select Program. I agree with you that this issue deserves careful consideration, particularly if Congress intends to extend the program permanently.

I know that the Chairman plans to hold extensive hearings at the full committee level on the Medicare program—it's costs, it's benefits, and what changes need to be made to improve it. I have been assured by the Chairman that through this process we will take a close look at Medicare Select, as we will all parts of the Medicare program.

The Committee will obviously have its work cut out for it this year. I look forward to working with you as we debate some very important and complex issues.

Sincerely,

BOB DOLE.

Mr. ROCKEFELLER. I wrote the majority leader on March 21, and I said this problem is going to be coming up. We know there is a deadline. I am fully aware of that. He wrote back on April

3, and he told me, "I agree with you that this issue deserves careful consideration, particularly if Congress intends to extend the program permanently. I know that the chairman," that being Senator PACKWOOD, "plans to hold extensive hearings at the full committee level on the Medicare Program." And, "We will take a close look at Medicare Select, as we will all parts of the Medicare Program."

What I would say to my friend from Rhode Island is that we have not done that. In the meantime, Congress mandated a study to be done, and the study is in the process of being done. The study has also already raised several questions. Other groups raised other questions about quality, about being able to buy other medigap policies. So there are a number of questions that needed to be answered. I wished to do all of this somewhat earlier, and I was given the promise that we would do this somewhat earlier. It is just that the promise was not fulfilled.

I should say also that a number of questions have been raised which have somewhat changed the atmosphere in the last several months. Before the Senator came to the floor, I talked about questions which had been raised by a number of groups—pricing games, medigap availability, illusory costs, and things of that sort. The Senator from West Virginia wants to be sure.

Mr. CHAFEE. Well, the Senator from West Virginia may wish to be assured, but I do not know how far we have to go. The National Association of Insurance Commissioners supports the extension of this program. We just had the list of those who were supporting Medicare Select read by the chairman of our committee. You can go on and on and find reasons not to do something.

But we are really in a very, very difficult situation here. This program expires in 30 days from now or 45 days from now. It seems to me we ought to get on and extend it, and not only extend it but let the other States in on it.

Some mention was made about the Consumers Union's concerns about Medicare Select. But the fact of the matter is the Consumers Union's problems that were raised apply to all medigap policies, not focused in on Medicare Select.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. CHAFEE. Yes.

Mr. ROCKEFELLER. Mr. President, obviously, we need to work this out. The time problem is not, in fact, a constraint on those States which currently have Medicare Select because I already said I would be perfectly happy to go ahead and extend them.

The question is: How can we, looking at some of these complaints about not being able to change MediGap policies, discrimination of various sorts, how can we arrive at some kind of compromise which gives consumer protection for these Medicare beneficiaries that would choose Medicare Select?

How can we give them some kind of consumer protection over and above what is contemplated in the law that the Senator from Rhode Island wants to get passed right away?

Would the Senator be willing to discuss those matters, if not publicly, privately?

Mr. CHAFEE. Mr. President, the Senator says we have to wrestle with these problems. Who says there is a problem?

Let me just touch on one matter that the Senator raised, and that is the so-called attained-age rating, with a suggestion that Medicare Select, this type of managed care policy, MediGap policy, has this attained-age rating.

Well, the fact is that the attained-age rating is permitted under current MediGap law. It is not restricted. The attained age is not something peculiar to Medicare Select. That is permitted under the current MediGap law.

And so while it is true that most medigap policies and most Medicare Select policies do not use the attained-age method, I do not see why you focus in and say that is something peculiar to MediGap or Medicare Select, because it is not.

Mr. ROCKEFELLER. The Senator from West Virginia did not say it was peculiar, but I said it was a problem as far as the Medicare extension is concerned. Whether it applies to more medigap policies is not, at the moment, of concern to me. I want to make sure that, in Medicare Select, we can.

HCFA has concerns about quality and concerns about access. They are not a frivolous organization.

I just think we have a chance to try to find an accommodation, hopefully in a quorum call, in which we could address some of the consumer concerns and perhaps also accommodate the Senator from Rhode Island, the majority leader, and the Senator from Oregon in the process, since I am, obviously, very well aware of where the votes are in the situation. I just want to do the best I can to build in consumer protection for a program which is young, which is actually only in 14 States, and is not at all in all 50 States.

Mr. CHAFEE. Mr. President, I do not concede that there are all these problems or that there are these problems. It seems to me what the Senator from West Virginia is doing is applying a higher standard to the Medicare Select, these managed care MediGap policies, than he is to the regular MediGap policies. I do not think that is fair. I do not think it is fair to say, "No, in Medicare Select, you cannot have attained age," whereas it is permitted in the other MediGap policies.

The suggestion here is that we ought to have hearings on this. Well, I cannot speak for what the majority leader said, but all I do know is that the Senate has passed a permanent extension of this proposal twice in the past 4 years. It was included in every major health reform proposal last year, including Senator Mitchell's, Senator



DOLE's and Senator PACKWOOD's bill, and in the mainstream coalition bill. All of them had Medicare Select in them. So it is not that we are coming up against some unknown item here that we better be terribly cautious of. As I say, it has been out in these States. In 15 States, it is authorized. I cannot challenge the Senator's information when he says it is actually in practice, I believe he said, in 14 States.

All I know is that I think it is a good option that is less expensive and that we ought to give all the citizens a chance at it. And the citizens from my State would like a chance at this. If they do not want to use it, that is their business. But if they have a right to choose a MediGap policy that is less expensive than the current ones, I think they ought to have it and not be prevented from doing so because this Congress refuses to extend Medicare Select to all the States.

Again, no one is more thoughtful and compassionate in this Senate than the Senator from West Virginia, so I am not sure why he takes this particular position. Because, as we mentioned before, this passed in the House 408 to 14. You could hardly get a motherhood resolution passed by that amount.

Mr. ROCKEFELLER. If the Senator will yield, I think one could practically rewrite the Constitution in the House of Representatives by that vote in the current climate.

If the Senator would further yield, he talked about standards being higher for Medicare Select than for other medigap things. I think high standards are important and I know the Senator from Rhode Island does, too. I want to see the Senator from Rhode Island and his State be able to have this program if that is what the State and the Senator wants.

I think the time crisis that the Senator refers to can be handled in 60 seconds. That can be changed in 60 seconds.

My point is that for 2 months I have suggested extending the program to the 14 States with the program already in effect. What I am really suggesting now is that we first look at the evaluation of the program before we open the door to all the other States. What I am really suggesting is that, if we could perhaps suggest the absence of a quorum, we could work something out on this.

Mr. CHAFEE. Mr. President, our staff asked the Health Care Financing Administration [HCFA] for suggested changes. Any problems? What do you think we ought to do? They did not have any. They had no suggestions for us.

Maybe the Senator from West Virginia can find, what we cannot find, any documented quality problem with this program. Now, some beneficiary somewhere may object, I am sure they have, just like they have objected to a host of other medigap policies.

But, as I say, this has received a favorable report by the Consumers Union

and by Consumers Report magazine and by the State insurance commissioners.

So, I do not have anything particular to offer. I would be glad to talk with the Senator from West Virginia. Whatever ideas we have, we would have to transmit them. Obviously, I would have to speak to the chairman of the Finance Committee, whom I do not see on the floor here.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. The Senator from Rhode Island made mention of no particular problems being raised by HCFA. I think that raises, therefore, this very important point. Because, in fact, Donna Shalala has written to the Honorable BILL ARCHER, chairman of the Committee on Ways and Means, on March 7 of this year.

And one paragraph says:

The case study portion of the Medicare Select evaluation has already raised a number of questions about the Medicare Select demonstration.

That is from HCFA.

As managed care options under Medicare are expanded, we want to ensure that our beneficiaries are guaranteed choice and appropriate consumer protections.

That is precisely what the Senator from West Virginia was asking for.

Donna Shalala goes on:

In addition, many of the select plans consist solely of discounting arrangements to hospitals.

The Senator from West Virginia mentioned that at the beginning.

Donna Shalala goes on:

We would be concerned if the discounting arrangements under Medicare Select were to be expanded to Medicare supplementary insurance part B services. Discounting arrangements, particularly for part B services, may spur providers to compensate for lost revenues through increased service volume. Consequently, we are concerned that such an expansion would lead to increased utilization of part B services rather than contribute to the efficiency of the part B program through managed care.

Then she says:

We would, therefore, oppose such a change.

There is honest and open debate on this matter. I am still willing to talk with the Senator from Rhode Island. I think we can work something out. Again, I, unfortunately, can count the votes, but the Senator would like to have some consumer protection in this, and I think the Secretary of HHS would, too. I think, frankly, George Mitchell, in his bill, had open enrollment and major insurance reforms, and the Senator from Rhode Island knows that well.

The Mitchell bill, in fact, did not propose to make Medicare Select permanent in the absence of coordinated open enrollment.

So I think there is room to work something out here, Mr. President, because I think everybody is talking with good will on both sides on this matter.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the problem here is—I know the Senator is concerned about this—but the points he raises affect not Medicare Select but affect the whole MediGap range. In other words, when he says he is interested in open enrollment, there is no open enrollment now in the MediGap policies. He is saying he wants it for Medicare Select. But that means you want it presumably for all of MediGap.

Now, that is a very big separate issue that can come up any time. You do not have to tag it on to a Medicare Select policy which, as I say, is just one of a whole series of medigap policies.

If the Senator wants to do that, that is changing the rules for the whole series of policies that are issued under medigap.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. CHAFEE. I will make one other point, if I might, and that is, as you recall, when I said my staff spoke to the Health Care Financing Administration, what I said was they asked for suggested changes and none came back. In the letter the Senator quoted from Secretary Shalala, he mentioned somewhere in there concerns about expansion into the part B plan. We do not do that. There is no expansion into that in this Medicare Select.

So I will be glad to talk with the Senator. If he would like, we can suggest the absence of a quorum and have a little chat here.

Mr. ROCKEFELLER. The Senator from West Virginia would like to do that, but if I might add one more thing, that is, the Senator is right about part B, and the Senator from West Virginia just got carried away and read too much of a paragraph, which was a mistake on the part of the Senator from West Virginia.

Donna Shalala, on the other hand, is referring to the Medicare Select evaluation. She is referring to the Medicare Select evaluation in this letter which she wrote back on March 7, which should have been available to all of us.

Bruce Vladeck, in his testimony on February 15 in front of the House Committee on Energy and Commerce, raised a major concern with the adequacy of beneficiary protections under Medicare Select.

If that is not HCFA speaking, I do not know what is. Bruce Vladeck said:

There is no requirement for States to review the actual operations of the Select plans once they are approved to assure that quality and access standards are being met.

He does not like that. He is worried about that, and he says:

We feel strongly that beneficiaries should not have to worry about the quality and access provisions on their Medicare choices. We look forward to working with the subcommittee \* \* \*

And then Bruce Vladeck, the head of HCFA, said:

Our second concern is whether Medicare Select will make any contribution to increasing the efficiency of the Medicare program.

I think that goes off into another area. It is the consumer protection area, I say to my friend from Rhode Island, which concerns me the most.

I might suggest the absence of a quorum in order for some conversation to go on.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Mr. President, the Medicare Select is a demonstration program. Evaluation will not be completed until December 1995. While the demonstration program technically expires on June 30, the regulations governing the program clearly state that insurers must continue their coverage of current enrollees, even if no extension is approved.

There is no overwhelming urgency to pass this legislation. I do favor a temporary extension, and I am prepared to support such an extension today. But I have a number of concerns about permanent extension of the Medicare Select Program.

First, extension of Medicare Select should be considered in the context of a whole range of managed care options we might wish to make available to Medicare beneficiaries. There is a great deal of interest on both sides of the aisle in expanding choice. The administration is working on development of a PPO option. Before we make the Medicare Select Program permanent, we should understand its impact and balance it against other options.

Second, Medicare Select raises significant concerns about beneficiary protections. HHS has stated concerns about quality oversight. Most important, Medicare Select requires enrollees to receive their care from a limited set of providers. This may be perfectly acceptable to younger, healthier, enrollees. As beneficiaries age and become sicker, however, they may find themselves dissatisfied with providers in the select network. They can find themselves permanently locked out of regular MediGap coverage, with no ability to buy a policy to protect themselves from the costs that Medicare does not cover.

This seems to me to be an excessive denial of choice that we should not enshrine in permanent legislation without more consideration.

These concerns have been raised by Consumers Union and other consumer advocates. Consumers Union, Families USA, and the National Council of Senior Citizens all are on record as opposing this legislation. These concerns are serious and they deserve to be addressed.

We must always be especially concerned about the frailest and the most vulnerable elderly. We want to provide options that improve the choices available, not limit them. We want to provide benefits and services that seniors need, not deprive them of necessary care. We should move with great care in considering a measure that might have that affect.

It is not my intention to terminate the Medicare Select demonstration or put it out of business. I would be willing to support the short-term extension of the program or a permanent program if these concerns are considered and addressed.

It is ironic that this particular Medicare issue should surface just a day before we are to consider a budget resolution which would strike a mighty blow at the integrity of the Medicare Program as a whole and at the retirement security of senior citizens it was designed to secure.

This budget plan proposes to break America's compact with the elderly, and all to pay for an undeserved and unneeded tax cut for the wealthiest Americans.

The cuts in Medicare are unprecedented: \$256 billion over the next 7 years. By the time the plan is fully phased in, the average senior is likely to pay \$900 more a year in Medicare premium and out-of-pocket costs.

An elderly couple would have to pay \$1,800 and, over the life of the budget, would face \$6,400 in additional costs. Part B premiums, which are deducted right out of the Social Security check, will rise to almost \$100 a month at a cost of an additional \$1,700 over the life of the budget plan.

The typical senior needing home health services will have to pay an additional \$1,200 per year. Someone sick enough to use the full home care benefit will have to pay \$3,200. The fundamental unfairness of this proposal leaps out from a few simple facts.

Because of gaps in Medicare, senior citizens already pay too much for the health care they need. The average senior pays an astounding one-fifth of their total pretax income to purchase health care, more than they paid before Medicare was even enacted. Lower income older seniors pay even more.

Medicare does not cover prescription drugs. Its coverage of home health care and nursing home care is limited. Unlike virtually all private insurance policies, it does not have a cap on out-of-pocket costs. It does not cover eye care or foot care or dental care.

Yet this budget plan heaps additional medical costs on every senior citizen, while the Republican tax bill that has already passed the House, gives a tax cut of \$20,000 to people making more than \$350,000 a year.

I ask any of our colleagues to travel to any senior citizens' home in their State and have a visit with retirees. Ask the retirees by a show of hands how many pay \$50 a month or more for prescription drugs. Anywhere from 25

percent to 50 percent of the hands will go up in the air. Ask them how many pay \$25 a month or more for prescription drugs, and the spontaneous groan in the audience will be enormous. It is an expression that they are astounded that we do not understand that they are paying at least \$25 a month or more and now 80 percent to 90 percent of the hands go into the air.

What has been the cost of the prescription drugs over recent years? They have been rising at more than double, sometimes even triple, the Consumer Price Index.

Look also at the profits of the major pharmaceutical companies. It is an interesting fact that they are some of the most profitable companies in America, while at the same time the cost of prescription drugs, which are absolutely essential in order to relieve suffering or to even live life in many instances, is going right up through the roof.

Now, that is a real issue for the seniors. That is an issue that we ought to be debating out here this afternoon. That is an issue of prime concern to every senior citizen.

I daresay, if any Member of the Senate went to a group of senior citizens and asked them this afternoon, "What do they want the U.S. Senate to be focusing on? The issue of prescription drugs or Medicare Select?" Ninety-nine percent would say, "Look after the problems that we are facing with prescription drugs." "Look after the problems we are facing in terms of dental care and eye care." Look around the room and count the number of senior citizens who are wearing glasses. Look around the room at the numbers who need help and assistance with dental care. Look around the room at the number of seniors who need the care of a podiatrist.

Our seniors think the U.S. Senate ought to be focusing on Medicare here this afternoon. But we should not focus solely on Medicare Select, until we have a full and complete evaluation of that program, which has the potential of some very important adverse effects, as well as some potentially beneficial effects.

We ought to insist that we have all of the facts before we move forward on a program that will unquestionably mean enormous profits to some companies and industries. It will perhaps give at least the appearance of security to some of our senior citizens for a period of time, but that security will be illusory unless it is carefully crafted and there are built-in kinds of protections which are not evidenced in the proposal that we are reviewing or considering this afternoon.

It is interesting, Mr. President, to compare the generous benefits that the authors of the Senate resolution enjoy under our Federal Employees Health Benefit Program plan available to every Member of Congress to the less adequate benefits provided for Medicare.

We are going to find out that while the measure we will be debating here in

the U.S. Senate cuts back on protections for our senior citizens, we sure are not cutting back on the protections for any of the Members in the U.S. Senate. That is an interesting irony.

We heard so much in the early part of the year about how we will make sure that every law that we pass in the Congress is going to be applicable to the Members of Congress. Remember those speeches? We heard them from morning until eveningtime here in the Senate. And it is right that we do that. But how interesting that we do not say we are going to provide for the American people all the benefits that we have here in the U.S. Senate.

If we wanted to, we could give to the American people the kind of health benefits that we have, by extending the Federal Employees Health Benefit Program. Many of us have supported this in the past; many of us fought last year to try to make this available. FEHBP affects 10 million Americans. We have 40 million Americans who do not have health care coverage, and 16 million of those who are children. We could do very well if we just provided the extension of the Federal Employees Health Benefit Program to all Americans. But, again, we are not debating that issue here. We are not involved in that debate here on the floor of the U.S. Senate.

We are talking about the Medicare Select issue, a very narrow, very defined issue. We will be debating, tomorrow, and perhaps the day after tomorrow, and for a series of tomorrows, the proposed cuts that are coming in Medicare, in the budget proposal, that will not be utilized for health care reform as we tried to do last year. We tried to provide some prescription drug benefit. We tried to provide some home care. We tried to provide some community-based care. We tried to provide some additional protections for our elderly.

But no, this year we are going to go ahead and cut the Medicare Program to set aside a little kitty of \$170 billion that can be used someday in the future for tax cuts for the rich. Take benefits away from the seniors in the Medicare Program, raise their copayments, raise their premiums, raise their deductibles, raise all of their costs so that we can put over here a little saving account that can be drawn down to allow tax cuts for the wealthiest individuals.

That is what we will be debating. And it is also amazing to me that we will have a time constraint on this issue that is going to affect the quality of life for our senior citizens in such a dramatic way. We do not have that time restraint this afternoon, when we are debating Medicare Select, but we will have it when that budget bill is called up.

It is important that we put some of these measures into proportion. This issue, Medicare Select, is being pressed this afternoon. We are on the eve of what will be a very important debate, not only here on the floor of the U.S.

Senate but across this countryside; whether or not we want to say to our senior citizens we are going to cut your benefits so we can use those savings, those cuts, those resources that we have captured from you to give a tax cut to the wealthiest individuals.

Maybe that is what the election was about last November. It certainly was not about that in my State of Massachusetts. People will say, out here on the Senate floor: They voted for change. Is this the kind of change that the people voted for, Mr. President, \$256 billion in Medicare cuts so we can provide \$170 billion for tax reductions for the wealthiest individuals? Is that what the election was about last fall?

I do not believe so. And I think that is why all of us are seeing, in our own States, that those who are paying increasing attention to what we are debating and what we are acting on, are going to be so concerned by this particular budget proposal.

Sure we have to get some savings in Medicare. Sure we have to have some reductions in expenditures. But what we did last year, when we proposed comprehensive health care reform, was to try to bring about the kinds of changes that over the long term are going to provide important quality health protections for our senior citizens, and second, to get a handle on health care costs. We need to get a handle not only on Medicare and Medicaid costs but also on the total health care system, since Medicare costs are only 15 percent of total national health expenditures. The notion that we can deal with escalating health care costs by cutting Medicare alone, shows a fundamental lack of understanding of the basic elements of the health care debate.

Medicare provides no coverage at all for outpatient prescription drugs, but they are fully covered under the most popular plan in the Federal Employees Health Benefit Program. The combined deductible for doctor and hospital services under the average Blue Cross and Blue Shield plan is \$350; for Medicare the combined deductible is \$816. Blue Cross and Blue Shield covers unlimited hospital days with no copayments; under Medicare, seniors face \$179 per day copayments after 60 days; \$358 after 90 days. After 150 days Medicare pays nothing at all.

Compare the differences between what our seniors are facing and what the Members of the U.S. Senate are facing. Medicare covers a few preventive services but does not cover screenings for heart disease, for prostate cancer, for other cancer tests—all FEHBP benefits. Dental services are covered for Members of Congress. We have them for Members of Congress—not for the Medicare recipients. Members of Congress are protected against skyrocketing out-of-pocket costs by a cap on their total liability. There is no cap on how much a senior citizen has to pay for Medicare copayments on deductibles.

Members of Congress earn \$133,600 a year. The average senior's income is \$17,750. For the limited Medicare benefits seniors receive they pay \$46.10 a month, but for their comprehensive insurance coverage Members of Congress will pay a grand total of \$44.05 a month. Seniors actually pay \$2 more out of incomes about an eighth as large.

Is that something for our seniors to hear about as we are going to be considering a program that is going to cut their programs even more—and yet not affecting the Members of Congress at all? We have had this debate, some of us, for a number of years. Let us just give to the American people what we give to the Members of Congress. But we are not doing that, not with Medicare. We are being told to go ahead and provide additional burdens on the senior citizens that are not being asked of the Members of Congress.

No wonder people wonder what this is about. Is this the change that we voted for? I would love to ask a group of citizens in any State, is this the change you voted for last November? For further cuts on the Medicare benefits, increasing copayments, increasing deductibles to the tune of \$256 billion, taking \$170 billion of it and reserving it over here for tax cuts? Is that what the American people wanted as the change? Or did they believe in what we have as Members of the U.S. Senate, and what more than 9 million other Americans have, the Federal employees? Surely they were thinking when they voted, "OK, if it is good enough for the Members of Congress it ought to be good enough for all Americans, young and old alike?"

This debate is going to be important in these next several days. I hope and urge our seniors to watch this debate and listen carefully. Listen carefully to those who are making recommendations to cut Medicare. Listen to their responses to the challenges about equity to our seniors.

This President has indicated he will listen. He will listen to proposals to cut Medicare if they are about total health care reform. This means that we are going to do something for our seniors that is going to enhance the quality of health care in such areas as prevention, home care, and community-based systems. It means making a difference by reducing deductibles or making payments for pharmaceuticals so seniors will not be distressed every time they take much-needed prescription drugs; so they do not need to decide whether they can afford to go down and get that prescription for \$50, \$75, \$100 per month, when they do not have enough food on their table or heat in their home? We will have the chance to debate that. We welcome the opportunity to do so.

The authors of the budget resolution do not seem to understand how limited the incomes of senior citizens are. Because of their budget, millions of senior citizens will be forced to go without

the health care they need. Millions more will have to choose between food on the table, adequate heat in the winter, paying the rent, or medical care. This budget resolution is cruel. It is unjust. Senior citizens have earned their Medicare payments. They have paid for them, and they deserve them.

Medicare cuts in this resolution harm more than senior citizens. These proposals will strike a body blow to the quality of American medicine by damaging hospitals and other health care institutions that depend upon Medicare. These institutions provide essential care for Americans of all ages, not just senior citizens. And progress in medical research and training of health professionals depends upon their financial stability. The academic health centers, the public hospitals, and the rural hospitals will bear especially heavy burdens. As representatives of the academic health centers that are the guarantors of excellence in health care in America said of this budget, "Every American's quality of life will suffer as a result," because there will be less funding to support the best health professional education and training to the young people of this country, and there will be a diminution in support for the research that is associated with the great medical centers in this country.

In addition, massive Medicare cuts will inevitably impose a hidden tax on workers and businesses, who will face increased costs and higher insurance premiums as physicians and hospitals shift even more costs to the nonelderly. According to the recent statistics, Medicare now pays only 68 percent of what the private sector pays for comparable physician services; for hospital care, the figure is 69 percent. The proposed Republican cuts will widen this already ominous gap.

The impact of these cuts on local communities will be astounding. In my State of Massachusetts we have 123 hospitals. Historically, one of the best and most efficient hospitals has in Barnstable County, not far from my home on Cape Cod. But it has had increasing difficulty serving its patients in recent years. What changed? The doctors have not changed. The nurses have not changed. The ability to get the good kind of equipment has not changed. The training that they went through has not changed. What has changed? The percentage of Medicare beneficiaries being attended to in that hospital changed.

In my State of Massachusetts, any hospital that gets close to 55 and 67 percent Medicare is headed for bankruptcy because of the reimbursement rates. What are we doing? Do you know what happens? Hospitals must cut back on the nurses; they cut back on their outreach programs in the community to work with children; they cut back on their training programs; they cut back, as much as they regret it, on the quality of care people get—not just for

the elderly people, but for all the people being served.

What happens locally? Communities raise local taxes to try to assist hospitals, or they appeal to the State house and try to get additional resources. They try to get the revenues from someplace. Either localities accept a decline in health care quality or they have to raise additional resources locally or at the State level. Maybe some other States are experiencing generous surpluses, but you are not going to find many that are in our region of the country.

Financial cutbacks that have occurred in the past have made it difficult for hospitals to provide the excellent services they are used to providing, and the kinds of cutbacks being discussed by the Republicans now will only exacerbate this problem.

The right way to slow Medicare cost growth is in the context of a broad health reform program that will slow health inflation and in the economy as a whole. That is the way to bring Federal health care costs under control without cutting benefits or shifting costs to the working families.

In the context of a broad reform, the special needs of the academic health centers, the rural hospitals, and inner-city hospitals can also be addressed. Unilateral Medicare cuts alone, by contrast, could destroy the availability and the quality of care for the young and old alike.

The President said that he is willing to work for a bipartisan reform of the health care system, but our friends on the other side have said no. The only bipartisan shift they seem to be interested in is the kind that says, "Join us in slashing Medicare." That is not the kind of bipartisanship the American people want.

The authors of the budget resolution claim to protect Social Security while making draconian cuts in Medicare. But the distinction is a false one because Medicare is part of Social Security. Like Social Security, it is a compact between the Government and the people that says, "Pay into the trust fund during your working years and we will guarantee decent health care in your old age." This Republican budget breaks that compact.

As the ceremonies on V-E Day this past week remind us, today's senior citizens have stood by America in war and in peace, and America must stand by them now. The senior citizens have worked hard. They brought us out of the Depression. They fought in the Second World War. Their sons fought in the Korean war, and the Vietnam War. They have sacrificed greatly to advance the interests of their children. They played by the rules.

If this country is the great country that all of us believe that it is, it is really a tribute to the senior citizens. They have contributed to Medicare. They have earned their Medicare benefits. And they deserve to have them.

This Republican budget proposes to take those benefits away, and it should be rejected.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

#### THE UNITED STATES EMBASSY IN ISRAEL

Mr. SPECTER. Mr. President, I have sought recognition this afternoon to respond to those who have raised an issue about the current efforts to have the United States Embassy moved to Jerusalem, the capital of Israel, instead of its current location in Tel Aviv.

There have been some suggestions that we are motivated for political purposes in 1995 to raise this issue. The history of these efforts conclusively refutes that contention. A bill was introduced on October 1, 1983, S. 2031, cosponsored at that time by 50 United States Senators, which sought to have the United States Embassy and the residence of the American Ambassador to Israel hereafter be located in the city of Jerusalem.

That resolution was referred to committee and was not called for a vote, but it was later noted that in addition to the 50 U.S. Senators, there were 227 Members of the House of Representatives who joined in endorsing that transfer of the U.S. Embassy from Tel Aviv to Jerusalem.

Then on March 26, 1990, Senate Concurrent Resolution 106 was introduced, which called for the recognition of Jerusalem as the capital of Israel, and that resolution was passed in the Senate by a voice vote.

Then, following those actions, on February 24, 1995, a letter was sent to Secretary of State Warren Christopher signed by 92 U.S. Senators evidencing strong bipartisan support, again calling for the moving of the U.S. Embassy from Tel Aviv to Jerusalem.

Mr. President, I was an original cosponsor of S. 2031 which was introduced back on October 31, 1983; supported Senate Concurrent Resolution 106 back in 1990; and joined in the letter of February 24, 1995, evidencing my consistent support for this program.

Recently, the Prime Minister of Israel, Yitzhak Rabin, was in Washington, and the issue was raised as to whether or not action by the Congress of the United States in calling for the removal of the Embassy from Tel Aviv to Jerusalem would be an impediment to the peace process which is ongoing at the present time because obviously we do not wish to interfere with the peace process. At that time, Prime Minister Rabin responded that it was a

matter for U.S. Congressmen, Senators and Representatives, to express themselves as they saw fit. He did not appear perturbed that action in this way would be an impediment to the peace process in the Mideast.

The negotiators of Israel and the PLO are scheduled, as I understand it, to take up the status of Jerusalem approximately a year from now. I think there is no doubt about the Israeli position that Jerusalem is an undivided city, and certainly I think there is no doubt in the Congress of the United States about Jerusalem being an undivided city and it being the judgment of Israel as to where its capital should be. The tradition is, the unbroken tradition is that the embassies are located in the capital city, and it is a fundamental matter therefore that the United States Embassy and the Ambassador's residence ought to be located in the capital of Israel just as the Embassy and Ambassador's residence are located in the capital city of every nation with the host nation determining where its capital should be.

We have to make decisions on matters of this sort, Mr. President, as we see it. There is no doubt about the strong relationship between the United States and Israel, but judgments need to be made by Senators and Congressmen as to what we think is appropriate. Many of us have joined over the years in urging that the Embassy be moved to Jerusalem, and I think that the record is consistent over such a long period of time that there is no appropriate way someone could make a claim that it is a matter for political purposes.

The distinguished majority leader, Senator DOLE, has been singled out in a number of newspaper editorials, others of us less prominent than the majority leader have not been so identified, but I am confident that all of us in exercising our judgment in calling for the location of the U.S. Embassy to be in Jerusalem instead of Tel Aviv are doing it because we think it is the appropriate course of conduct, and no one, no fairminded person, can say that when the record goes back to 1983 in the endorsement of this resolution, there could be any political motivation. I think that ought to be considered and the record ought to be set straight on this issue.

#### CONTRACT WITH THE AMERICAN FAMILY

Mr. SPECTER. Mr. President, I have sought recognition to comment on the proposed Contract With the American Family which was the subject of an early morning "Good Morning America" telecast where Ralph Reed, Jr., appeared as the spokesman in favor of the Contract With the American Family, and I was invited to appear and did appear in expressing my personal views on that subject.

It is my view, Mr. President, that we have the fundamental contract which

governs the relationship of Americans with their Government, U.S. citizens with their Government, and the relationships among U.S. citizens, and that basic contract is called the Constitution of the United States. It is a document which has served this country very, very well since 1787. And there is appended to the U.S. Constitution a Bill of Rights which has served this country very well since 1791.

The first amendment of that Bill of Rights provides for freedom of religion, which is the very basis of our American society—freedom of religion, freedom of the press, freedom of speech, freedom of assembly, freedom of petition our Government.

The United States was founded by the Pilgrims who came to this country in the early 1600's, coming for religious freedom. And if I may on a personal note, Mr. President, say that my parents came to this country in the early 1900's for the same reason.

When the so-called Contract With the American Family calls for a constitutional amendment involving freedom of religion and the first amendment, I believe it is not well placed. I believe that the Jeffersonian wall of separation of church and state is firmly established for the benefit of America, and I think it is most unwise to have an amendment to the first amendment freedom of religion, which is what is called for by this newly drafted Contract With the American Family.

When Mr. Ralph Reed, Jr., speaks on behalf of that contract, and when his mentor, Rev. Pat Robertson, speaks on the subject, Reverend Robertson makes the statement that there is no constitutional doctrine of separation of church and state, that it is a lie of the left, I believe that is directly contrary to the Constitution itself, to the intent of the Founding Fathers. Certainly this is not ARLEN SPECTER's statement. This is the statement of Thomas Jefferson, articulating the doctrine of separation of church and state.

When Mr. Ralph Reed, Jr., articulates a need to change the law of the land as articulated by the Supreme Court of the United States in *Casey* versus *Planned Parenthood* and *Roe* versus *Wade*, which held on a constitutional basis that a woman has a right to choose, there again we are looking for constitutional change, which I submit is unwise and is unwarranted.

There are some parts of the proposals which I think are fine. When they call for an attack on criminals and in support of benefits for victims, I heartily endorse that and have done that for many years since my days as an assistant district attorney, through the DA of Philadelphia, through my service in this body with special reference to the Judiciary Committee.

When they call to crack down on pornography as it relates to children, there is no doubt that the Supreme Court of the United States has set a very rigid standard and we should do all we can to enforce that standard.

There, again, is something I have done personally over the years in the district attorney's office in Philadelphia and here in the U.S. Senate.

And when there is a call to have women who are homemakers have available to them the same opportunities for individual retirement accounts, I say that is just and right.

We have a contract with America in the Constitution which has served this country so well. And in the House of Representatives there has been a Contract With America which has been adopted in large measure in the House and has been adopted to some extent in the Senate and is under further consideration and I think will be adopted with few significant changes.

But if every group comes forward to insist, Mr. President, on their own view of what there should be in the relationship between the Government and its citizens, among its citizens, then I suggest to you that we are going to be a very, very fragmented society, and that it is not wise to have any one group seek to determine the social mores of this country.

This country is strong because it is a melting pot. It is strong because we recognize diversity. America is strong because we do not break into individual groups and have one group seek to impose its ideas on any other group.

So when an idea comes forward that there ought to be an amendment to the Constitution, I say no. When the idea comes forward that there ought to be a change in the first amendment's freedom-of-religion provision, I say no. When the idea comes forward that there ought to be a change in the Constitution as it has been interpreted by the Supreme Court of the United States on a woman's right to choose, I say no.

It is time, Mr. President, in America for unifying actions, not for divisive actions. One Contract With America from the Congress elected by the people of the United States is sufficient. What we really need to do is rely on the basic contract with America, and that is the Constitution of the United States.

Mr. President, in the absence of any other Senator on the floor, I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

#### SCHEDULE

Mr. DOLE. Mr. President, let me indicate to my colleagues that there is an effort underway to come to some agreement on H.R. 483, the Medicare Select bill. Hopefully, we can reach an agreement and pass the bill, maybe with one or two agreed upon amendments. If we can do it by voice vote,

there would not be any additional votes today. We do not have that agreement yet. As soon as we do, I will notify my colleagues. Senator CHAFEE has been working with Senator ROCKEFELLER and others. Hopefully, we will be able to advise our colleagues in 10, 20 minutes.

I yield to the Senator from Rhode Island.

Mr. CHAFEE. The majority leader is exactly right. We are working now with staffs trying to see if we cannot come to an agreement on the problems raised by the Senator from West Virginia, Senator ROCKEFELLER. Everything seems to take longer than anybody thinks around here. So I would say in the next half-hour, I hope, we can have some information on whether indeed there would be the necessity for a vote.

Mr. DOLE. I think everything else that we can take up has been taken up. There is only one nomination on the calendar. There is no other legislation that we can take up at this time.

Tomorrow we will start on the budget. I understand the Democrats will have a caucus at 10:30 in the morning and, hopefully, they will allow us to start on the budget at noon tomorrow. Otherwise, we would have to wait until tomorrow evening to start on the budget. There are 50 hours of debate. Of course, it is more than just 50 hours.

We did indicate to and promise the President that we would try to complete the antiterrorist legislation before Memorial Day. So we would have to finish the budget by next Wednesday night. I think we will need probably a couple of days on the antiterrorism legislation and then there would be the Memorial Day recess, which could be the last recess of the year, but I hope not.

Unless we can work out some accommodation on some of these major bills, the Senate will have no alternative but to stay here for a considerable period of time during what might have been the August recess. If we can start on the budget tomorrow—the House should pass their budget tomorrow. We will start on ours tomorrow and have votes on tomorrow and on Friday and on Monday. If I were Members, I would be back on Monday; if there is ever a Monday on which there will be votes, it will be this Monday on the budget, and on Tuesday and, hopefully, we can complete action on Wednesday. The final legislation would be the antiterrorism legislation.

So I suggest that we complete action on this bill, and if we can do it without votes, we will do it. If not, Members should not leave until they have some final notice.

Mr. WELLSTONE. Mr. President, I want the majority leader to know—and I will share this amendment—I have one amendment which I think may be noncontroversial. I can limit it to 10 minutes. I would like to at least show it to colleagues on the other side of the aisle. It is on the Medicare Select.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call.

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

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

#### A VETO OF THE RESCISSION BILL

Mr. DOLE. Mr. President, I was just reading a wire story here. I find it hard to believe that the House and Senate have just completed action on a rescission bill which would save about \$16.4 billion—actually savings around \$9 billion, because of the \$16.4 billion there is additional money for disaster assistance in Oklahoma City and other programs. I am a little bit bewildered because the President indicates if we send this bill to him—it will be back from the House this week and we will take it up next week—that he will veto it. I am puzzled because the President has said we ought to reduce spending. So we finally get a little reduction in spending and at his first opportunity, he says: No, no; I am not going to sign it. I am going to veto it. And at the very time he is suggesting that he is not going to do anything on the budget, not going to offer any budget of his own. We will have a vote on the President's budget. He is just going to be a spectator and not participate in trying to reduce the deficit.

So it seems to me the President had a golden opportunity here to exercise some leadership and demonstrate to the American people that he wants to reduce Federal spending, but he struck out. He does not want to reduce Federal spending.

So what does he do? He tries to blame Republicans. We have cut too many programs or we have done this or done that. It seems to me the President ought to carefully review what he said today and indicate to the Congress that he will sign this rescission package. It is not easy to save money around here. The taxpayers wonder why we do not do more and this is a good example. We have been working on this rescission bill for weeks and weeks and months, in many cases in a bipartisan way, and before it even goes to the President he says he is going to veto it.

So I think he has missed a golden opportunity and I know he will try to figure out some way to blame Republicans. But we cut programs that were not high priority and in addition we added spending for the disaster in Oklahoma City and other programs the President had requested.

So, Mr. President, if you have an opportunity to look at it one more time, I suggest maybe you might want to reverse your position. Because if you are not willing to even save \$9 billion in Federal spending, we are talking about

many, many, many, many times that much in the budget resolution we are going to start debating here tomorrow.

If this is any indication of the leadership in the White House, it is probably a forgone conclusion that the President will veto anything we send him on the budget process.

So I would hope that this is not an indication of the trend. I think they have blown a very good opportunity here to demonstrate to the American people that if they are serious about cutting spending, serious about reining in the Government, serious about cutting back on some of the Federal Government which the American people are tired of paying for, but unfortunately it appears the President of the United States does not want to cut anything—"Don't touch anything, don't do this, or don't do that"—he will sit on the sidelines and he will watch the Republicans as we try to bring the budget into balance between now and the year 2002.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### EXTENDED USE OF MEDICARE SELECTED POLICIES

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar Order No. 92, H.R. 483, regarding Medicare Select, and it be considered under the following time agreement: 10 minutes on the bill, to be equally divided between the chairman and ranking minority member of the Finance Committee; that one amendment be in order to be offered by Senators PACKWOOD, CHAFEE, ROCKEFELLER, and KENNEDY, on which there will be 10 minutes for debate equally divided in the usual form; and that following the conclusion of time, that the amendment—namely, the Packwood-Chafee-Rockefeller-Kennedy amendment—be agreed to; and that the bill be read a third time and passed and that the motions to reconsider be laid upon the table all without any intervening action or debate.

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

#### ORDER OF PROCEDURE

Mr. CHAFEE. Mr. President, since this has been agreed to, I am authorized to say there will be no further roll-call votes today.

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (H.R. 483) to amend title XVIII of the Social Security Act to permit Medicare Select policies to be offered in all States, and for other purposes.

The Senate proceeded to consider the bill.

Mr. CHAFEE. Mr. President, I ask unanimous consent that Senator DOLE be added as a cosponsor of the amendment.

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

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, the Committee on Finance is hereby giving a commitment to the distinguished Senator from West Virginia, Senator ROCKEFELLER, that there will be a hearing on Medicare Select once the Department of Health and Human Services submits its report on this program.

What we are doing is extending Medicare Select to all 50 States for 18 months. This will continue unless the Secretary of Health and Human Services determines one of the following: That beneficiaries do not save dollars compared to other MediGap policies or that there are additional expenditures under Medicare or that access to quality care is diminished.

Mr. President, there will be a GAO study on whether or not beneficiaries have a problem getting coverage under another MediGap policy if they wish to change policies and recommendations if there are problems.

Mr. President, that is the arrangement here.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Is the Senator from Rhode Island finished?

Mr. CHAFEE. I am.

Mr. ROCKEFELLER. Mr. President, I want to thank the Senator from Rhode Island and to say that I agree with what he said and concur in the amendment and do gladly accept it, as it were, and consider it good.

What this will do, I think, is what was wanted on both sides of the aisle, which is ideally what we strive for around here and rarely achieve. I had been reluctant to see the 14 States expanded to 50; the other side of the aisle wanted to see the 50. I did not have strong feelings about the 50 until I understood more about what the study, which is going on now, will show. I also wanted to make sure that if people leave Medicare Select and want to go to another MediGap Program, that they are not precluded from being able to join another program because of pre-existing conditions, which, of course, most older people have.

It seems to me this is a good compromise. This would allow all 50 States to go into this, if they chose to do so. There would be a period of about a year and a half that that would take place. Some people will say the insurance industry does not want to do that because a year and a half is not enough time. There are 450,000 people in this program now, so it must be sufficiently interesting to the insurance companies.

I am pleased that there will be hearings on this. That was a part of my original understanding with Senator DOLE. Senator DOLE, who is chairman of the Medicare Subcommittee that I am ranking member on, so to speak, he and I have agreed we will work out, along with others who want to be involved—modifications to Medicare Select if the study and the experience show that that should take place. I think that is entirely proper and fair.

The GAO study itself, I think, is important because it would analyze the problems that seniors are having in switching MediGap policies. When we talk about MediGap policies, not everybody necessarily tunes in on that, but that is incredibly important. Most seniors have MediGap policies to make up for deficiencies in Medicare. These policies are very important to seniors, and that is why all of this be done properly.

So, from my point of view, the compromise is a good one. It was carried out in honorable and good fashion between the Senator from Rhode Island, Senator CHAFEE, Senator PACKWOOD, and, obviously, the majority leader and myself, and Senator KENNEDY. I think it is a good compromise. I yield back the remainder of my time.

Mr. CHAFEE. I know the distinguished Senator from Texas wants to speak briefly on this, and if she needs a few minutes of extra time, I presume the Senator from West Virginia will be agreeable to that.

#### AMENDMENT NO. 1108

(Purpose: To extend the period for offering Medicare Select policies for 2 years)

Mr. CHAFEE. Mr. President, I send now to the desk an amendment in the nature of a substitute, which is sponsored by Senators PACKWOOD, CHAFEE, DOLE—does Senator HUTCHISON wish to be listed likewise?

Mrs. HUTCHISON. Thank you.

Mr. CHAFEE. Senator HUTCHISON, Senator ROCKEFELLER, and Senator KENNEDY, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. PACKWOOD, for himself, Mr. CHAFEE, Mr. DOLE, Mrs. HUTCHISON, Mr. ROCKEFELLER, Mr. KENNEDY, and Mr. GORTON, proposes an amendment numbered 1108.

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

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. PERMITTING MEDICARE SELECT POLICIES TO BE OFFERED IN ALL STATES FOR AN EXTENDED PERIOD.

Section 4358(c) of the Omnibus Budget Reconciliation Act of 1990, as amended by section 172(a) of the Social Security Act Amendments of 1994, is amended to read as follows: "(c) EFFECTIVE DATE.—(1) The amendments made by this section shall only apply—

(A) in 15 States (as determined by the Secretary of Health and Human Services) and

such other States as elect such amendments to apply to them, and

"(B) subject to paragraph (2), during the 5 year period beginning with 1992.

"(2)(A) The Secretary of Health and Human Services shall conduct a study that compares the health care costs, quality of care, and access to services under medicare select policies with that under other medicare supplemental policies. The study shall be based on surveys of appropriate age-adjusted sample populations. The study shall be completed by June 30, 1996.

"(B) The Secretary shall determine during 1996 whether the amendments made by this section shall remain in effect beyond the 5 year period described in paragraph (1)(B). Such amendments shall remain in effect beyond such period unless the Secretary determines (based on the results of the study under subparagraph (A)) that—

"(i) such amendments have not resulted in savings of premiums costs to those enrolled in medicare select policies (in comparison to their enrollment in medicare supplemental policies that are not medicare select policies and that provide comparable coverage),

"(ii) there have been significant additional expenditures under the medicare program as a result of such amendments, or

"(iii) access to and quality of care has been significantly diminished as a result of such amendments.

(3) GAO study:

The GAO shall study and report to Congress, no later than June 10, 1996, on options for modifying the MediGap market to make sure that continuously insured beneficiaries are able to switch plans without medical underwriting or new pre-existing condition exclusions. In preparing such options, the GAO shall determine if there are problems under the current system and the impact of each option on the cost and availability of insurance, with particular reference to the special problems that may arise for enrollees in Medicare Select plans."

Mr. CHAFEE. Mr. President, just in summary then, what we have done is, First, we have promised that in the Finance Committee we will have a hearing on Medicare Select once the HHS report comes in; second, this legislation extends Medicare Select to all 50 States, the 15 that have it now plus any others that want to come in over the next 18 months, and that it will continue indefinitely, beyond the 18 months unless the Secretary of HHS determines that the beneficiaries do not save money compared to other MediGap policies or there are additional expenditures by the Government under Medicare, or access to or quality of care is diminished. Finally, there will be a GAO study on whether or not the beneficiaries have a problem getting coverage under another MediGap policy, if they wish to change policies. Furthermore, the GAO would make recommendations if there are problems.

So, Mr. President, I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. I yield whatever time I have.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I do want to be a cosponsor of this substitute because I think this is one of



the important positive things that we can do for health care reform. This was brought to my attention by Congresswoman JOHNSON last year when we were afraid that this option for our seniors in the 15 States using it might be lost in the shuffle, and I called Senator CHAFEE and we worked to try to make sure that this was extended. I am very pleased that Senators ROCKEFELLER and CHAFEE have now come to an accommodation to not only extend it for the 50 States but to allow all people in all 50 States on Medicare to have the option of selecting Medicare Select.

Medicare Select is health reform that works. Since I have been in the Senate, we have spent more time discussing the problems in our health care system than about the models of achievement in the industry. What about the reform that has accomplished savings in health care? Medicare Select is a program we should encourage and promote, not to let die.

Medicare Select gives seniors an option to save money. In Texas, more than 8,000 seniors are enrolled in Medicare Select plans and save an average of 15 to 20 percent of the cost of Medicare supplemental plans. This is a significant savings for those on a fixed income. Nationwide, 400,000 people participate in this program in 15 States. If we allowed this program to expire at the end of this year, seniors would be hit with higher premiums.

Medicare Select policies are highly rated by Consumer Reports magazine. In its August 1994 issue, Consumer Reports included 8 Medicare Select policies in the top 15 best value MediGap products nationwide. In fact, almost every health care reform bill introduced in this body last year contained a permanent extension of this program to 50 States.

The need to extend Medicare Select Program is critical. If this program were allowed to expire, premiums could substantially increase for the current Medicare Select enrollees and, more importantly, would limit options for new Medicare beneficiaries. With the recent report by the trustees of the Medicare trust fund telling us of the dire straits of the Medicare Program, it would be unthinkable to start eliminating cost-effective options for providing care to the Medicare beneficiaries.

I appreciate Senator CHAFEE's and Senator ROCKEFELLER's leadership on this. I think they are taking exactly the right approach. I am glad to be a cosponsor of this substitute. When we talk about improving health care, here is one of the key ways we can do it so that we can provide options for all 50 States for our seniors to have the ability to add to their standard Medicare plan options that they would want at an affordable price.

I hope we will adopt this quickly. I hope that the other seniors in the States not now covered will look into this option, because this is the way we

can do what this Congress has been trying to do for 2 years, and that is to provide more cost-effective health care availability for our senior citizens. Thank you, Senators CHAFEE and ROCKEFELLER.

I yield the floor.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from Texas for her kind comments. She has been a loyal supporter and active worker in connection with this Medicare Select effort. I congratulate her for what she has done.

Mrs. FEINSTEIN. Mr. President, I rise in support of Senate passage of the Medicare Select bill, H.R. 483, which as passed by the House would extend the current demonstration program beyond its June 30, 1995 cutoff date and expand it from 15 States to the entire Nation.

While it has thus far been just a small 3-year demonstration program, the Medicare Select Program has been a tremendous success in the 15 States where it is offered, especially in California.

Medicare Select provides supplementary insurance—for copayments, deductibles, and other out-of-pocket costs—for 100,000 California Medicare recipients (roughly 440,000 nationally).

Seniors enroll in the low-cost Medicare Select Program in exchange for participation in a loose-knit managed care plan.

This network of providers are used to cut premium costs by 10-37 percent over fee for service medigap products, which translates into savings on medigap premiums of up to \$25 per month, or \$300 per year.

In California, more than 2,200 new enrollees are being added per month, because the Medicare Select Program can provide low-cost, high-quality health benefits, while still retaining a high degree of choice over their physician.

There is no additional cost to the Federal Government.

However, under current law, no new Medicare recipients will be able to enroll in the program after July 1, 1995, when the demonstration program that was authorized in 1990 and extended for 6 months last year will end.

To make sure that select is continued in California, I joined Senator CHAFEE and others in introducing Medicare Select legislation earlier this year, and am pleased that the House was easily able to pass legislation that would extend the program for 5 years and expand it to all 50 States, with a bipartisan vote of 408 to 18.

This Medicare Select legislation should not be confused or dragged down with other, more contentious health care insurance reform issues. Certainly, there are problems with the current medigap insurance program that must be addressed. However, this is a simple, straightforward bill that should not be used for those purposes.

The Medicare Select Program is entirely voluntary, and should not be confused with programs and proposals that would require seniors to join

HMO's to get their Medicare. No seniors are being forced or fooled into joining, Medicare Select seniors can still receive service outside their plans, and no insurers are being forced to sell this type of product.

In fact, Consumer Reports has listed Medicare Select products as among its highest rated values, and extension of the Medicare Select Program has been endorsed by the California Commissioner of Insurance as well as the National Association of Insurance Commissioners.

Certainly, managed Medicare programs like Medicare Select must be implemented carefully, in order to ensure that Medicare enrollees are appropriately informed of the benefits of this program, provided with high-quality services, and ensured access to highly trained physicians.

However, the matter at hand is straightforward, and the most important thing is that Medicare Select be extended. Therefore, I urge my colleagues to support the Medicare Select legislation.

Mr. KOHL. Mr. President, I rise in strong support of the Medicare Select Program. The bill we are considering extends Medicare Select for 5 years and allows all States to participate. Fifteen States are currently allowed to take part in this program which provides older Americans with a managed care alternative to supplement their Medicare benefits.

We have a strong managed care tradition in Wisconsin. Many seniors had managed care options during their employment and wish to maintain that choice of care as they retire. Medicare Select provides that opportunity and is very popular in my State.

Mr. President, if we do not act on this legislation, Medicare Select will terminate on June 30. Over 26,000 Medicare recipients in Wisconsin will face increased premiums and limited choices. 450,000 older Americans in the 15 States will be hit with higher costs if the program is not extended.

At a time when the majority party is pursuing a budget proposal that cuts Medicare by \$256 billion—which would greatly increase out-of-pocket costs for older Americans and ration care—we should not kill a program that currently saves money for older Americans and expands their options.

Detractors from this bill suggest that before we act, we should wait until a study being conducted for the Department of Health and Human Services is completed later this summer. Or will it be completed in December? No one seems to know when it will be ready. The fact is, Mr. President, the study was due this past January. What's the holdup?

There is one date that I am certain of—June 30, 1995—the date when Medicare Select will terminate.

I am eager to see the results of the study I just mentioned. I believe it will have important ramifications on the future of managed care and Medicare.

But we must not hold Medicare Select beneficiaries hostage until a date uncertain.

During debate today, concerns have been raised about premium rating based on age and one-time open enrollment periods under medigap policies. I agree that these concerns should be addressed. However, these issues relate to all MediGap policies, not just Medicare Select. We should not single out those who benefit from Medicare Select in order to iron out differences in overall MediGap policy. We can and should review these issues under Medicare reform and broader health care reform legislation.

Medicare Select works for older people in Wisconsin. It saves beneficiaries from 20 to 30 percent in premium costs than under traditional medigap policies.

Medicare Select plans are subject to the same regulations as other medigap policies which are regulated by the States. Select plans must offer sufficient access, have an ongoing quality assurance program, and provide full disclosure of network requirements.

The program saves money for Medicare recipients, does not cost the Federal Government, and perhaps most importantly, provides many beneficiaries and providers their first exposure to managed care.

Mr. President, time is running out. I urge my colleagues to support and extend Medicare Select.

Mr. CHAFEE. Mr. President, I thank Senator ROCKEFELLER, the Senator from West Virginia, for all of his help. I am glad we were able to work this out. It looked a little sticky at first, but we have done it. I look forward to working with him on the Finance Committee as we have the hearings next fall or whenever the report comes in from HHS.

Mr. ROCKEFELLER. I yielded the remainder of my time, so if the Senator will yield.

Mr. CHAFEE. I yield. The Senator may take as much of my time as he wants.

Mr. ROCKEFELLER. There are two points I want to make that I think are very important to those who might be listening and who might be confused at this point. One is that we went from a 5-year extension to a year-and-a-half extension. Then, as the Senator from Rhode Island pointed out, the year-and-a-half extension would then become automatic unless the Secretary of HHS had objections or found problems or whatever. That means that basically—I do not want this to be taken the wrong way—Donna Shalala who is watching this closely—I do not think destructively but constructively—18 months would pass and she would still be there. So that for some of the colleagues who might be worried that this is an automatic extension, it is not, except as the merit allows that. I think that is a matter of great comfort to me, and it is another reason why I appreciate the Senator from Rhode Island. I thank him.

Mr. CHAFEE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 483), as amended, was passed.

#### H.R. 483

*Resolved*, That the bill from the House of Representatives (H.R. 483) entitled "An Act to amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

#### **SECTION 1. PERMITTING MEDICARE SELECT POLICIES TO BE OFFERED IN ALL STATES FOR AN EXTENDED PERIOD.**

*Section 4358(c) of the Omnibus Budget Reconciliation Act of 1990, as amended by section 172(a) of the Social Security Act Amendments of 1994, is amended to read as follows:*

"(c) EFFECTIVE DATE.—(1) The amendments made by this section shall only apply—

"(A) in 15 States (as determined by the Secretary of Health and Human Services) and such other States as elect such amendments to apply to them, and

"(B) subject to paragraph (2), during the 5 year period beginning with 1992.

"(2)(A) The Secretary of Health and Human Services shall conduct a study that compares the health care costs, quality of care, and access to services under medicare select policies with that under other medicare supplemental policies. The study shall be based on surveys of appropriate age adjusted sample populations. The study shall be completed by June 30, 1996.

"(B) The Secretary shall determine during 1996 whether the amendments made by this section shall remain in effect beyond the 5 year period described in paragraph (1)(B). Such amendments shall remain in effect beyond such period unless the Secretary determines (based on the results of the study under subparagraph (A)) that—

"(i) such amendments have not resulted in savings of premiums costs to those enrolled in medicare select policies (in comparison to their enrollment in medicare supplemental policies that are not medicare select policies and that provide comparable coverage),

"(ii) there have been significant additional expenditures under the medicare program as a result of such amendments, or

"(iii) access to and quality of care has been significantly diminished as a result of such amendments.

"(3) The GAO shall study and report to Congress, no later than June 10, 1996, on options for modifying the Medigap market to make sure that continuously insured beneficiaries are able to switch plans without medical underwriting or new pre-existing conditions exclusions. In preparing such options, the GAO shall determine if there are problems under the current system and the impact of each option on the cost and availability of insurance, with particular reference to

the special problems that may arise for enrollees in Medicare Select plans."

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

#### MORNING BUSINESS

Mr. CHAFEE. Mr. President, I ask that we now have a period for morning business.

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

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio [Mr. DEWINE] is recognized.

Mr. DEWINE. I thank the Chair.

(The remarks of Mr. DEWINE pertaining to the introduction of S. 816 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DEWINE. I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Michigan.

Mr. LEVIN. Mr. President, first let me thank our colleague from Ohio for his usual courtesy for giving me that little heads up so I can get ready to address the Senate.

#### AUTOMOTIVE TRADE NEGOTIATIONS

Mr. LEVIN. Mr. President, the purpose of the recently collapsed automotive trade negotiations between the United States and Japan and the administration's subsequent announcement to impose reciprocal restrictions on Japanese products and file an unfair trade complaint with the World Trade Organization is simple. That purpose is to open Japan's closed and protected auto and auto parts markets.

Yesterday, the administration took an important step toward opening Japan's automotive market to American products by announcing the specific list of Japanese products to be sanctioned in retaliation for the unfair exclusion of American products from Japan. We have listened to 25 years of trade rhetoric from one administration after another promising to open Japan's automotive markets to United States products. Endless talks and endless negotiations have not produced results. Japan's markets remain almost totally closed, and we have lost huge numbers of jobs during this period.

I have a little chart here which shows the statements of American Presidents since 1971. Every President of both parties has had promises made to him and, in turn, has assured the American people that we are going to act to open up Japanese markets to American products.

President Nixon in 1971 said:

Japan has accelerated its program of liberalizing its restrictions on imports.

When President Nixon said that, the deficit with Japan was \$1.3 billion.

In 1974, President Ford said:

The United States and Japan will negotiate to reduce tariff and other trade distortions.

By that time the trade deficit with Japan had grown to \$2.8 billion.

In 1975, President Carter said:

[W]e're trying to get the Japanese to buy spare parts and parts for assembly of their own automobiles in the U.S.

By that time the deficit had grown to \$2.9 billion.

President Reagan in 1983 said:

[W]e're encouraged by recent commitments to further open Japan's markets.

By that time the trade deficit had grown to \$21.6 billion.

In 1991, President Bush issued a statement through the Vice President as follows. Vice President Quayle said:

The President will take a direct message to the Prime Minister of Japan after the first of the year, saying that we don't anticipate continuing business as usual.

Well, by then the trade deficit was \$43.4 billion. By now the trade deficit is over \$60 billion.

So actions clearly are long overdue. The administration's decision to tell Japan to either open its markets or it will face concrete reciprocal restrictions is the right thing to do and can best be understood by showing that decision in a historical context of these three decades. When Japan has had total access to America's auto and auto parts markets while we have had no real access to Japan's automotive markets, decades of painful history and lost American jobs have proven that Japan will open its markets only when forced to do so.

The Japan Automobile Manufacturers Association, JAMA, of course, complains about the announced sanctions. In fact, the day after United States Trade Representative Mickey Kantor announced last week that we would take trade actions to open Japan's automotive markets to competition, JAMA put an ad in the Washington Post saying that managed trade does not work. I find it incredible that Japan can even mouth the words "managed trade" given the fact that they have the world's most managed economy and have had the world's most managed economy for decades. They are the undisputed world champions of managed trade. Their wall of protectionism against our auto parts and our automobiles has been built over 30 years.

JAMA's own general director, William Chandler Duncan, before becoming general director of JAMA, wrote a book. That book demonstrated just how Japan was able to stop the opening of its automobile market to the United States and to our automobiles, and that shutting us out of that market has been a three-decade-old conscious policy of the Japanese Government.

In 1973, Mr. Duncan published a book entitled "U.S.-Japan Automobile Diplomacy, A Study in Economic Confrontation." What a painful part of our history is set forth in that book. The

book provides strong historical support for the administration's decision to pry open markets which have been discriminatorily closed to American products for three decades. William Duncan's book documents how Japan's automotive industry was protected from outside competition by the Government of Japan in order to protect their domestic auto industry.

As you are going to hear from some of the quotes that I have excerpted from this book, it is a demonstration of unfair trade policy at its worst. American negotiators suffering from Japan fatigue have three decades of fruitless negotiation as a cause of that fatigue. An American President has finally acted based on the certain belief that, unless we do as other countries and act to force open Japan's market with reciprocal treatment, that market will remain closed.

Mr. Duncan's book gives us a historical view of the years 1967 to 1971. It has only gotten worse.

Mr. President, I ask unanimous consent that selected quotations from the book entitled "U.S.-Japan Automobile Diplomacy, A Study in Economic Confrontation" by William Chandler Duncan be printed in the RECORD.

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

SELECTED QUOTES FROM UNITED STATES-JAPAN AUTOMOBILE DIPLOMACY, A STUDY IN ECONOMIC CONFRONTATION

The period under discussion ranges from the opening of the U.S. diplomatic offensive in the fall of 1967 until the Japanese approval of the Mitsubishi-Chrysler joint venture in June 1971 where Chrysler was limited to 35 percent ownership of Mitsubishi over 3 years.

"The course of trade and capital liberalization was not a smooth one. It involved time-consuming consultations between government and industry, long-term schedules of decontrol, and complicated qualifications attached to concessions granted. This naturally lead to frustrations, if not bitterness, on the part of many American's anxious to share in rapidly expanding Japanese markets." [Introduction, page 16]

"Though this dispute was later attributed to a misunderstanding, it nevertheless clearly indicates the reluctance of the Japanese to negotiate as well as the type of frustration that was to plague the U.S. team continually." [page 4]

[January 1968] "It was natural, therefore, that the Americans would continue to emphasize the abolition of Japan's quantitative trade restrictions. Again the Japanese delegation would make no commitment beyond a vague statement to make a forward looking investigation." [page 6]

"While all the (Japanese) automobile companies indicated a concern over the possible consequences of capital liberalization the Toyota Motor Company was most adamant on the issue. In January (1968) they went as far as amending their articles of incorporation to the effect that no foreigner could sit on the board of directors of the company." [page 7]

[June-August 1968] "The Japanese concessions were so painfully slow in coming, and even then frustratingly offset with other types of market restrictions, that the American government never once gave the Japanese side an affirmative response." [page 15]

[March 1968, LDP mission to Washington] "Congressmen of both parties emphasized in

particular the problems of iron and steel imports and the liberalization of automobile parts . . . especially, Wilbur Mills, Chairman of the House Ways and Means Committee, pointing to the increase of Japanese made automobiles into America, countered by saying that if it is Japanese policy to promote free trade, it should liberalize the import of American automobiles." [page 17]

[June, 1968, USTR's response to Japan's trade opening proposal] "One example that is giving us great concern relates to one of our biggest export industries, and that is the automobile industry. Here the Japanese have clearly illegal restrictions . . . This has been under bilateral discussion since the beginning of the year. We have finally told them (Japan) that unless they come up with a satisfactory solution in a very short period of time, we will invoke article 23 of the GATT to take them to court, which in turn will most likely give us the ability to retaliate against them." (Special Representative for Trade Negotiations, William M. Roth). [page 19]

"These proposals clearly indicate the continued Japanese determination to exclude foreign automobiles from their markets." [page 21]

[May 1968] "However, it is clear that MITI officials were unwilling to face the possibility of a fully owned Ford assembly plant in Japan." [page 22]

[August, 1968] "Though none of these initial efforts were realized, the considerable discussion generated by them point out the intensity with which many Japanese feared the entrance of the U.S. companies into Japan. Numerous articles and statements in the Japanese press maintained that a 'big three' advance would result in a wave of take-overs of Japanese firms." [page 24]

[Quote from Daiyamondo—Japanese newspaper] "If we liberalize within two years, it is certain that the second class makers will be bought out by foreign capital . . . Since their mission, if they invest, will be to maintain and increase that investment, Americans will surely come to manage it. In that case the Japanese will become slaves driven unmercifully by American capital." [Duncan's comment] "This gives an indication of the strength of feeling among those who advocated the so-called 'Jidosha Joi Ron.' 'Jidosha' means 'automobile' while 'joi Ron' refers to the 'expel-the-barbarian' movement of the mid-nineteenth century." [page 24]

[June 21, 1968, Prime Minister Sato] "Capital liberalization must be advanced according to present day international trends. There is no problem with Japanese shipbuilding, but capital liberalization for automobiles is still impossible even though their exports have been flourishing. Domestic production is a matter of great concern and allowing the improvement of national prosperity is essential. But we would like to promote foreign capital induction in a way that will advance Japan's technology." [page 24]

[July 20, 1968 debate between leaders of the major Japanese automobile firms over whether or not the industry was over protected]. "Keeping in mind the fact that the government has heretofore fostered the automobile industry as an essential industry, the industry will in the future endeavor to develop on a national basis." [Duncan's comment] "This latter point, known as the 'Hakone Declaration' is quite significant in that it was interpreted as a unanimous agreement by Japan's major auto manufacturers not to tie up with foreign capital." [page 28]

"Henry Ford II continued to be the most outspoken representative of the American industry: 'The U.S. Government never gets tough enough . . . if they (the Japanese) go far enough and start importing still more

into this country, you'll see a lot of action in Congress." [page 32]

[Chairman of the Keidanren's Foreign Capital Problems Committee, Teizo Okamura] "If we continue to hold on like this (to an isolationist attitude) there is the possibility of escalating the 'yellow peril thesis.' Presently there has appeared a movement for voluntary restrictions on steel and synthetic textiles, but it is conceivable that against automobiles as well as voluntary restriction policy will appear requesting a limit of 200,000 cars a year." [page 32]

[February 21, letter from Automobile Manufacturers Association chairman Thomas Mann to acting assistant Secretary of State Joseph A. Greenwald]. "... The critical area of discrimination is the severely restrictive policies of Japan with reference to capital investment by the United States auto interests. This is a clear violation of the United States-Japan Treaty of Friendship Commerce and Navigation. The Department of State may wish to consider the advisability of again appraising the government of Japan with these views. At the same time its attention might be called to the consequences of a continuing denial to U.S. manufacturers of opportunities for trade and investment in Japan..." [page 35]

[Duncan's comment] "Though the contents of this letter revealed nothing new as far as the U.S. automobile industry's position was concerned, the U.S. Embassy in Tokyo took the unusual step of submitting the Mann letter directly to Kiyohiko Tsurumi, the Economic Affairs bureau Director of the Foreign ministry, a move which created considerable comment in Japan and underscored the dissatisfaction of the U.S. government as well as the auto industry with continued Japanese recalcitrance." [page 36]

[1971] "The automobile concessions, however, while designed to mitigate these growing pressures were, nevertheless, also a reflection of MITI's continuing efforts to insure that the Japanese automobile industry would be managed by Japanese citizens according to Japanese business practices." [page 43]

[October 1969] "The Japanese, however, resisted this (American) pressure (for further concessions), maintaining as before that they needed time to strengthen their industry so that it could remain competitive with the 'big three.' Their reasoning is reflected in a document attached to the cabinet announcement: "... the actual situation of our country's automobile industry is weak when compared with the mammoth enterprises of the United States and Europe; there are still considerable differential, in capital power, technical development ability, etc. ... For this reason, it capital liberalization were to be carried out with the situation as it is now—there is strong danger that big disturbances would be created in the automobile industry, through the advance of foreign capital which has huge capital and enterprise power." [page 44]

[March 1970, letter from Thomas Mann of the American Automobile Manufacturers Association, to the State Department outlining the industry's objections to Japan's October (trade concessions) announcement] "In sum, the Japanese 'concession' in the automotive sector, including the most recent decisions announced last October, have been keenly disappointing and, in our judgment, are incompatible with Japan's responsibilities as one of the world's great trading nations." [page 44]

[1971] "Additional pressure on the Japanese automobile industry came as a result of the dramatic increase in exports to the United States during this period." [page 46]

"In July (1971) Toyota Motor Sales vice president Kato revealed that Ambassador to

the United States Shimoda had warned the automobile industry that if the rate of exports continued, the Japanese industry might expect either protectionist measures in Congress or antidumping measures such as had recently occurred with color television sets." [page 46]

"Throughout the negotiations the major Japanese automobile companies were recording substantial profits; their exports were expanding at a dramatic rate, and their sales in the United States were increasing during a time when total U.S. automobile sales were generally declining. Furthermore, they were setting up assembly plants and selling equipment abroad." [page 53]

"In short, when the Japanese spoke of reorganizing an industry they were referring to a government, or more specifically, a MITI policy of encouraging the amalgamation of designated industries into larger units so as to keep them competitive with foreign firms on the one hand, and secure from foreign acquisition on the other." [page 53]

"One of the most striking aspects of these negotiations, for example, was the strength of Japanese resistance to the intense pressure applied by the United States. By 1969 Japan's automobile industry was the world's second largest with rapidly expanding exports and foreign assembly operations; yet despite threats of a U.S. import surcharge, appeals to GATT, pressure from international institutions, and the implied consequences embodied in peripheral issues such as textiles, Okinawa, etc. the Japanese refused to allow the American automobile industry any more than a token position in their automobile market." [page 111]

"Since the prewar financial combines dissolved by the occupation have, in different forms, gradually reconstructed themselves, the Anti-Monopoly Law has become the center of one of the more significant controversies in Japan. ... it did not discourage MITI from pushing for reorganization in the automobile industry, or, for that matter, in other industries as well." [page 113]

"... given present day conditions, it is unlikely that an American firm will in the near future acquire significant management control of a Japanese automobile assembly operation." [page 114]

"The attempt of the American automobile industry to enter the Japanese market covered three and a half years (fall 1967-June 1971) of frustrating negotiation and contributed significantly to a growing uneasiness in Japanese-American relations." [page 115]

Mr. LEVIN. Mr. President, two-and-a-half decades later, the story is the same. William Duncan was hired to run JAMA, but his own book, written before he was hired by JAMA, is a dramatic reminder of Japan's determination to prevent us from having access to its markets.

Mr. President, I will just read three or four of those excerpts. Again, this is the man who wrote about what happened in the late 1960's and early 1970's, wrote about how Japan acted as a government and an industry to keep American products out of Japan in his book. He is now the director of the Japan Automobile Manufacturers Association, JAMA. But this is what he wrote prior to being hired as the director of JAMA.

In January 1968, this is what Mr. Duncan wrote:

It was natural, therefore, that the Americans would continue to emphasize the aboli-

tion of Japan's quantitative trade restrictions. Again, the Japanese delegation would make no commitment beyond a vague statement to make a forward looking investigation.

That was 1968, January.

In June 1968, again quoting Mr. Duncan's book:

These proposals clearly indicate the continued Japanese determination to exclude foreign automobiles from their markets.

Then in 1969, this is what Mr. Duncan said was going on:

By 1969 Japan's automobile industry was the world's second largest with rapidly expanding exports in foreign assembly operations; yet despite threats of a U.S. import surcharge, appeals to GATT, pressure from international institutions, and the implied consequences embodied in peripheral issues such as textiles, Okinawa, etc., the Japanese refused to allow the American automobile industry any more than a token position in their automobile market.

Finally, from Mr. Duncan, the final quote that I will read here, although there are many more that will be in the RECORD, is the following:

The attempt of the American automobile industry to enter the Japanese market covered three and a half years (the fall of 1967 through June of 1971) of frustrating negotiation and contributed significantly to a growing uneasiness in Japanese-American relations.

Mr. President, there is a long history here. It is written very clearly by the man who took a personal interest in that history at that time. Two and a half decades later, the story is the same, albeit worse. The trade deficit has grown by a about 40 times what it was in 1970.

Mr. Duncan was hired to run JAMA, but his own book written before he was hired by JAMA is a dramatic reminder of how Japan's determination to prevent us from having access to its markets worked. It worked to Japan's advantage. It worked to our disadvantage. It worked to the disadvantage of American workers who have lost jobs by the thousands because Japan has been allowed to maintain a protected market. We have tolerated it. It is long overdue that we stop tolerating it, and I am glad that the President finally took action to knock down that protectionist wall which has surrounded the Japanese automobile and auto parts market for now three decades.

Mr. President, I thank the Chair. I will yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. GORTON. Mr. President, an inquiry: Are we in morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. GORTON. Is there a time limitation on speeches?

The PRESIDING OFFICER. No, there is not.

Mr. GORTON. Thank you, Mr. President.

#### THE PRESIDENT'S INTENTION TO VETO THE RESCISSIONS BILL

Mr. GORTON. This morning, Mr. President, the President of the United States, Bill Clinton, announced that he intended to veto the rescissions bill, a proposal to save some \$16 billion of already appropriated money as a modest down payment on the tremendous fiscal crisis facing the United States today.

This announcement was both a surprise and, I believe, almost unprecedented because, Mr. President, I am informed by the chairman of the Senate Appropriations Committee, and can speak from my own personal knowledge as the chairman of one of the subcommittees of the Appropriations Committee, that there was no communication emanating from the White House and directed at the conference committee which has been in almost continuous session for some 2 weeks on this rescissions bill about the President's desires or about his bottom line.

Mr. President, this is in dramatic contrast with conference committees on appropriations bills in the past, in either the Reagan administration or the Bush administration, in which that contact between the White House and the Congress was constant and in which the bottom line of the President was always well and clearly known to members of the conference.

Here, by contrast, we had a situation in which the White House was almost totally silent with respect to its request about rescissions. The President still pays lip service to a \$16 billion goal which must be seven or eight times larger than the goal of his original rescissions bill itself. But only after the deed is done, only when all that remains for the Congress is the formality of the approval of this conference committee report, do we hear, first, that it does not cut enough dollars from what the President describes as pork, and takes too much out of proposals which are of greater interest to him.

Mr. President, a few general remarks.

The President attacks spending on Federal courthouses, on the building of U.S. courthouses in various parts of the country.

Mr. President, I have no dog in this fight. Earlier, there was a courthouse in Seattle in one of these appropriations bills, but it is rescinded in this bill. So none of the so-called pork exists in my State.

And there is also criticism of a number of highway projects that were not rescinded. But note, Mr. President, I said "not rescinded." Every one of these projects which the President of the United States now describes as pork, he signed into law less than a year ago. Last year's appropriations

bill for transportation, for the Treasury Department, for GSA, for the Post Office, was signed and hailed by the President. Those bills had every one of these projects contained in them and more besides, a significant number that are rescinded in this bill. So today we have described as pork proposals which the President hailed last year and proposals which spent more last year when he signed them than this year when some but not all have been rescinded.

What in the world could have happened to have changed the President's mind about specific projects in the course of 6 months, he does not tell us.

Mr. President, as recently as about 2 months ago, when the original rescissions debate had been completed in both the House of Representatives and here in the U.S. Senate, the President said of the Senate proposal,

The bill passed 99 to 0 in the Senate, and I will sign the Senate bill if the House and Senate will send it to me. That's how we should be doing the business of America.

Mr. President, I think it is more than safe to say that the bill the President attacked today is considerably closer to the proposal passed by the Senate just a few weeks ago than those passed by the House of Representatives. In many of the very education and job training areas which the President now uses as an excuse to veto this bill, the Senate provision prevailed, lock, stock, and barrel, was accepted by the conferees. In several others, the compromise is considerably closer to the Senate provision than it is to the House provision, in some, it is 50-50, and maybe, in one or two, it is closer to the House provision.

But, Mr. President, a tiny handful—2, 3, 4 percent—of the dollar amount of rescissions fall into the categories which the President now criticizes.

And, Mr. President, one more repetition of my first point. Not a word about this 1, 2, 3, 4 percent of these rescissions being deal busters, being entirely unacceptable to the President, was communicated to the conference committee while it was in being.

Mr. President, is it not safe to say, overwhelmingly safe to say, that the President of the United States wanted to have something in this bill that could give him a political excuse for a veto? I regret to say that I believe that to be the case.

And one more not incidental point, Mr. President: there is a part of this bill that the President of the United States mentioned today which comes very close to home. I know the Presiding Officer will remember the debate on the floor of the Senate here on so-called timber language. That vote was very close in language, of which I was the author, and was substituted for much more stringent House language in the course of the debate here in the Senate. But even our milder language passed only by a narrow margin.

Briefly, the House of Representatives mandated a certain harvest level of

salvage timber in all of the national forests of the United States. The Senate, in language which I wrote, did not mandate any harvest at all but simply freed this administration to carry out its own plans for salvage timber and its own plans for harvest in the forests of the Pacific Northwest under option 9.

In no way did the House language require President Clinton and his administration to do anything that it had not planned to do. It simply freed what the administration wants to do, consistent with its views of all the environmental laws from the constant blizzard of litigation to which it has been subjected over the last several years.

And in fact, as recently as a week ago, the new Secretary of Agriculture, who, of course, has the Forest Service under his jurisdiction, wrote a letter to the chairman of this conference committee, one of the few interventions by anyone in the administration with the work of the conference committee, and said, and I am quoting him:

We believe that the Senate provision which directs the Secretary, acting through the Chief of the Forest Service, to "prepare, offer and award salvage timber sale contracts to the maximum extent feasible to reduce the backlog volume of salvage timber in the interior" offers a more responsible approach than was adopted by the House.

So a week ago this Senate timber provision was evidently acceptable to the administration. Now, Mr. President, the timber provision which is denominated by the President of the United States today as being a giveaway to big timber companies is the original Senate language amended only in minor details in a way that the administration itself asked us to amend it.

I repeat, Mr. President, what Mr. Clinton now criticizes is a set of provisions his own Secretary of Agriculture approved of by this language a week ago with minor changes that they suggested themselves. It is not the original House language.

Now, our Chief Executive is either ignorant of the rules which govern timber sales in the Forest Service or deliberately disingenuous when he begins, once again, the class warfare of big timber companies. Most of the big timber companies in the Pacific Northwest at least are not eligible to harvest Forest Service timber because they export some of the logs that they own from their own lands—the Plum Creeks, the Weyerhaeusers of this world are not a part of this process at all.

Who are these so-called big timber companies that will benefit from this? Let me read you a couple of letters that I have received in the course of the last month.

The first one is from Tom Mayr, of the Mayr Bros. Co. in Hoquiam, WA, a local mill in that community. I am quoting:

Slade, you must realize that this amendment is the single most important piece of legislation in over 5 years to Mayr Brothers and many independent sawmills like ours. Congress and President Clinton have said

that they would get us timber, but there hasn't been any significance sold since 1990 on the Olympic National Forest. Your amendment would realize four of our 318 timber sales with enough log volume to run the large log mill two shifts for 1 year. This would put 50 people back to work immediately.

Or another one from one of what apparently are these huge timber conglomerates, the Hurn Shingle Co. in Concrete, WA, and I quote:

It is nice to see that there is some hope for our shake and shingle mill. We have not operated our mill, due to lack of raw materials, since December 1993. We only operated 12 weeks in 1993. So, as you and I both know, any help you can give us would be encouraging. These amendments are very important for our company, as a wood supply would be something that we have not had for a very long time.

These are typical responses, Mr. President, and it is that kind of small-town, independently owned company providing employment where it is not otherwise available that will be modest beneficiaries of the President's inadequate, in my view, option 9 and of the opportunity to harvest timber which has been partly destroyed by forest fires or by bug infestation all across the country and which, within a relatively short period of time, will rot to the point at which it is not worth anything from a commercial point of view but becomes magnificent kindling wood for future forest fires, fires like that which devastated the Northwest last summer.

So, Mr. President, we have a Chief Executive who criticizes timber provisions his own Secretary of Agriculture previously approved, who criticizes as pork spending on public buildings that he approved by his signature on appropriations bills last year, and who criticizes modest reductions in programs he likes about which he was entirely silent during the deliberations of the conference committee.

Mr. President, that is not the way in which a Chief Executive of this country should act. It is not responsible to the affected people. It is not responsive to his duty to help us to begin to work toward a balanced budget. It is not responsive in his relationships with this body or with the House of Representatives.

I regret this politicization of the process, and I have every hope that if we must begin this process over again, we say to the President, what we said this time we mean next time and if you want cooperation, if you want the additional money you have asked for for other programs, you need to be willing to work with the Congress and stick to your own word in the future.

This is an extremely disappointing message, not just to the Members of this body who have worked so hard on coming up with an important bill, but because of its destructive impact on a drive toward responsibility, fiscal prudence, and a change in the way in which politics is practiced in the United States.

We were selected last year, Mr. President—I know this is particularly true with respect to the Presiding Officer—because we were going to do things differently and keep our commitments. We have done so, and we are now frustrated in carrying out the people's will by this action.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### TRIBUTE TO KAY RIORDAN STEUERWALD

Mr. PRESSLER. Mr. President, I wish to pay tribute to Kay Riordan Steuerwald, who passed away earlier this week in Rapid City after a lengthy battle with cancer. South Dakota has lost an outstanding citizen.

Kay was one of South Dakota's premier leaders in the tourism industry for many years. To her many friends in South Dakota and throughout the Nation, Kay's name always will be associated with Mount Rushmore. As president of the Mount Rushmore Mountain Co., Inc., Kay ran a first-rate, visitor-friendly concession operation at our Nation's shrine to democracy for 42 years until 1993. She attributed her success to an emphasis on good service and reasonable prices.

Kay also was a leader on the national level in tourism and national park concession circles. In the early 1980's, I recommended Kay's appointment to the U.S. Senate National Travel and Tourism Advisory Council. Through her position on that council and her leadership in numerous other organizations, Kay was an outspoken advocate for the tourism industry, which has tremendous economic impact in all States.

Kay provided an excellent role model for women seeking to become small business owners. This is a reflection of her business acumen and her adherence to the work ethic. She succeeded as a businesswoman during a period when for many years business was traditionally considered a man's world. Her first job was in the South Dakota Transportation Department in Pierre during the administration of Democratic Gov. Tom Berry in the 1930's. Her career as a business owner began with her purchase of a coffeeshop and subsequently a hotel in Martin, SD. In 1941, she left Martin to become manager of the State Game Lodge in Custer State Park. Ten years later, she began operating the concession at Mount Rushmore.

Over the years, Kay touched the lives either directly or indirectly of literally millions of visitors to Mount Rushmore. Countless individuals have fond memories of a wonderful dinner—

topped off by a piece of the Mountain Co.'s famous strawberry pie—in the Buffalo Dining Room gazing out the windows at the priceless view of our four great Presidents on Mount Rushmore.

Kay was very active in many organizations and community activities. Too numerous to mention all of them, her civic involvement included the National Park Concessionaires, National Federation of Independent Businesses, South Dakota Tourism Advisory Board, National Park Foundation, South Dakota Historical Society, American Council of the Arts, South Dakota Cultural Heritage Center, South Dakota 4-H Foundation, and executive board of A Christian Ministry in the National Parks.

Having led a life full of accomplishments, Kay also received numerous awards over the years. She was one of the few women ever to be named an Honorary Park Ranger by the National Park Service. She was the first woman to receive the South Dakotan of the Year Distinguished Service Award from the University of South Dakota and was named South Dakota Small Business Person of the Year by the Small Business Administration in 1980. May 5, 1982, was designated as Kay Riordan Day by Gov. Bill Janklow. In 1985, Kay received South Dakota's prestigious Ben Black Elk Award for Tourism.

In addition to her philanthropic contributions to numerous civic projects, Kay also helped many people privately on an individual basis. She frequently took young people under her wings and assisted them with furthering their education or getting started in business. Kay was a strong patron of the arts, particularly for native American artists.

Those of us who knew Kay can recall our own special encounters with her. I recall Kay's gracious hospitality when my wife, Harriet, and I spent our honeymoon in the Black Hills in the early 1980's. Kay always made visitors feel welcome whenever they stopped by her business or her second-story office with the beautiful view of Mount Rushmore. Many lessons can be learned from Kay's perseverance in the business world, her strongly held personal convictions, and her courageous struggle with cancer these past few years.

South Dakota has lost a true pioneer. In business, in her community, and in her heart, Kay was a trailblazer. Harriet and I extend our sympathies to her husband, Charlie; her nephew, Jack; and all her family and friends.

#### RECOGNIZING RECIPIENTS OF THE GIRL SCOUT GOLD AWARD FROM THE STATE OF MARYLAND

Ms. MIKULSKI. Mr. President, each year an elite group of young women rise above the ranks of their peers and confront the challenge of attaining the Girl Scouts of the United States of America's highest rank in scouting, the Girl Scout Gold Award.



It is with great pleasure that I recognize and applaud young women from the State of Maryland who are this year's recipients of this most prestigious and time honored award.

These young women are to be commended on their extraordinary commitment and dedication to their families, their friends, their communities, and to the Girl Scouts of the United States of America.

The qualities of character, perseverance, and leadership which enabled them to reach this goal will also help them to meet the challenges of the future. They are our inspiration for today and our promise for tomorrow.

I am honored to ask my colleagues to join me in congratulating the recipients of this award from the State of Maryland. They are the best and the brightest and serve as an example of character and moral strength for us all to imitate and follow.

Finally, I wish to salute the families, Scout leaders, and the Girl Scouts of Central Maryland who have provided these young women with continued support and encouragement.

It is with great pride that I submit a list of this year's Girl Scout Gold Award recipients from the State of Maryland, and I ask unanimous consent that the list be printed in the RECORD.

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

#### GIRL SCOUT GOLD AWARD RECIPIENTS

Keri Albright.  
Laura Bopp.  
Elizabeth Brousil.  
Linda Chermock.  
Christina Chillemi.  
Christy Gordon.  
Devon Grove.  
Sarah Hoyt.  
Jennifer Kehm.  
Melissa Kowalczyk.  
Julie Kowalewski.  
Janet Kuba.  
Kara Lundell.  
Carole Madden.  
Karen Malinowski.  
Jodie Manning.  
Kristy Manning.  
Rebecca Milanoski.  
Katie Owens.  
Leslie Perkins.  
Dana Phillips.  
Patricia L. Potler.  
Virginia-Marie Prevas.  
Courtney Risch.  
Kristen Repoli.  
Nicole Richardson.  
Danielle Rivera.  
Jennifer Rutledge.  
Sherry D. Servia.  
Shannon Skidmore.  
Catherine Smith.  
Katherine E. Stephens.  
Laura A. Vanbrunt.  
Rachel Wright.

#### WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, the skyrocketing Federal debt which long ago soared into the stratosphere is in a category like the weather—everybody

talks about it but almost nobody had undertaken the responsibility of trying to do anything about it until immediately following the elections last November.

When the 104th Congress convened in January, the House of Representatives approved a balanced budget amendment. In the Senate only 1 of the Senate's 54 Republicans opposed the balanced budget amendment; only 13 Democrats supported it. Thus, the balanced budget amendment failed by just one vote. There will be another vote later this year or next year.

As of the close of business yesterday, Tuesday, May 16, the Federal debt stood—down to the penny—at exactly \$4,882,765,436,860.06 or \$18,535.06 for every man, woman, and child on a per capita basis.

#### MESSAGES FROM THE HOUSE

At 2:11 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that pursuant to the provisions of section 4355(a) of title 10, United States Code, the Speaker appoints the following Members as members of the Board of Visitors to the United States Military Academy on the part of the House: Mrs. KELLY, Mr. TAYLOR of North Carolina, Mr. HEFNER, and Mr. LAUGHLIN.

The message further announced that pursuant to the provisions of section 6968(a) of title 10, United States Code, the Speaker appoints the following Members as members of the Board of Visitors to the United States Naval Academy on the part of the House: Mr. SKEEN, Mr. GILCHREST, Mr. HOYER, and Mr. MFUME.

The message also announced that pursuant to the provisions of section 5(b) of Public Law 93-642, the Speaker appoints the following Members as members of the Board of Trustees of the Harry S Truman Scholarship Foundation on the part of the House: Mr. EMERSON and Mr. SKELTON.

The message further announced that pursuant to the provisions of section 1505 of Public Law 99-498, the Speaker appoints the following Members as members of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development on the part of the House: Mr. YOUNG of Alaska and Mr. KILDEE.

#### REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. HATFIELD, from the Committee on Appropriations:

Special Report entitled "Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1995" (Rept. No. 104-84).

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second time by unanimous consent, and referred as indicated:

By Mr. SIMON (for himself, Mr. REID, Mr. MOYNIHAN, Mr. BRYAN, Mr. BROWN, Mr. CAMPBELL, Mr. MACK, Mr. GRAHAM, Mrs. BOXER, Mrs. FEINSTEIN, and Mr. ROBB):

S. 811. A bill to authorize research into the desalinization and reclamation of water and authorize a program for States, cities, or qualifying agencies desiring to own and operate a water desalinization or reclamation facility to develop such facilities, and for other purposes; to the Committee on Environment and Public Works.

By Mr. THURMOND:

S. 812. A bill to establish the South Carolina National Heritage Corridor, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI:

S. 813. A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN (for himself, Mr. INOUE, and Mr. DOMENICI):

S. 814. A bill to provide for the reorganization of the Bureau of Indian Affairs, and for other purposes; to the Committee on Indian Affairs.

By Mr. HATCH:

S. 815. A bill to amend the Internal Revenue Code of 1986 to simplify the assessment and collection of the excise tax on arrows; to the Committee on Finance.

By Mr. DEWINE (for himself, Mr. STEVENS, Mr. ASHCROFT, Mr. HATCH, and Mr. THURMOND):

S. 816. A bill to provide equal protection for victims of crime, to facilitate the exchange of information between Federal and State law enforcement and investigation entities, to reform criminal procedure, and for other purposes; to the Committee on the Judiciary.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. D'AMATO (for himself and Mr. DOLE):

S. Res. 120. A resolution establishing a special committee administered by the Committee on Banking, Housing, and Urban Affairs to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, Capital Management Services, Inc., the Arkansas Development Finance Authority, and other related matters; considered and agreed to.

By Mr. FEINGOLD (for himself, Mrs. KASSEBAUM, Mr. HELMS, Mr. PELL, and Mr. SIMON):

S. Res. 121. A resolution in support of the Angola Peace Process; considered and agreed to.

By Mr. HELMS (for himself, Mr. CRAIG, Mr. COVERDELL, Mr. MACK, Mr. THOMAS, Mr. SMITH, and Mr. D'AMATO):

S. Con. Res. 14. A concurrent resolution urging the President to negotiate a new base rights agreement with the Government of Panama to permit United States Armed Forces to remain in Panama beyond December 31, 1999; to the Committee on Foreign Relations.



STATEMENTS ON INTRODUCED  
BILLS AND JOINT RESOLUTIONS

By Mr. SIMON (for himself, Mr. REID, Mr. MOYNIHAN, Mr. BRYAN, Mr. BROWN, Mr. CAMPBELL, Mr. MACK, Mr. GRAHAM, Mrs. BOXER, Mrs. FEINSTEIN, and Mr. ROBB):

S. 811. A bill to authorize research into the desalinization and reclamation of water and authorize a program for States, cities, or qualifying agencies desiring to own and operate a water desalinization or reclamation facility to develop such facilities, and for other purposes; to the Committee on Environment and Public Works.

THE WATER DESALINIZATION RESEARCH AND  
DEVELOPMENT ACT OF 1995

Mr. SIMON. Mr. President, I am introducing a bill today which is being cosponsored by Senator REID of Nevada, Senator MOYNIHAN of New York, Senator BRYAN of Nevada, Senator BROWN of Colorado, Senator NIGHORSE CAMPBELL of Colorado, Senator MACK of Florida, Senator GRAHAM of Florida, Senator BOXER of California, Senator FEINSTEIN of California, and Senator ROBB of Virginia.

It is legislation that has, frankly, passed this body twice but has gotten mired down not because of controversy but because of jurisdictional problems over in the other body. It is a bill that says we have to do more in the area of research on finding less expensive ways of converting salt water to fresh water.

I do not have a chart here of the world population and water supply, I regret to say. I will get that later when we are on the floor for discussion. But it would be dramatic. We have in the world today somewhere between 5.5 billion and 5.8 billion people. By the middle of the next century, when these pages will be around, in the middle of the next century, we will have around 10 billion people. The world population is going up like this. Our water supply is not going up. It is constant. You do not need to be an Einstein to recognize that we are headed for problems. This is not new.

On April 12, 1961, President John F. Kennedy was asked at a press conference what would be the great breakthrough he would like to see in his administration. He responded:

We have made some exceptional scientific advances in the last decade. They are not as spectacular as the man in space or the first Sputnik, but they are important. I have said that I thought that if we could ever competitively, at a cheap rate, get fresh water from salt water, that it would be in the long-range interests of humanity which would really dwarf any other scientific accomplishments. I am hopeful that we will intensify our efforts in that area.

And for a short time after his Presidency, we were doing some things in this area, and then because there is not an immediate problem, interest diminished and research has diminished. Yet, we face some very serious problems. We know already about what is happening in California. The interesting thing is

that the areas where we have severe water shortages frequently are right at the water's edge. California has problems. I was just reading about Tampa, FL, the other day. Virginia Beach, VA, has problems. These are areas right at the water's edge.

Our problems, frankly, Mr. President, are very minor compared to the problems in the rest of the world. If we can look at my next chart here, this is what is happening in terms of water shortages versus water scarcity. The nations in blue face water scarcity, and water shortage are the nations in red. You will see what is happening very clearly. When you talk about water scarcity, you are talking about nations where the average water consumption is dramatically less—less than half of what we consume in the United States per person in terms of water. They face very severe problems.

So those are the figures in blue, going from 7 nations in 1955 to 20 nations in 1990, and 34 nations are anticipated to have serious problems by the year 2025.

In the Middle East, it is very interesting that you had President Sadat, who was a giant in this century, saying, "Egypt will never go to war again for land. If we go to war, it will be for water." In the Middle East, also, both Prime Minister Rabin and King Hussein have said, "The potential for conflict in our area is because of water." The agreement that has been worked out between Jordan and Israel includes an agreement on water. It is just vital. Mauritania on the northern coast of Africa, when I was there a few years ago, was growing 8 percent of their own food. It is a desperately poor country right on the ocean. We do have a process of converting salt water to fresh water, inexpensive enough that we can use it for drinking water. But 85 percent of the water that we use is used for industrial and agricultural purposes. And it is not inexpensive enough to use for those purposes.

Spain is experiencing a drought right now. Spain has a number of desalination plants, but they face major long-term problems. Greece and Cyprus have a very similar situation. You can go through a whole series of countries. The Cape Verde islands are totally dependent on desalination, except for very, very minimal rain fall that they get. Egypt, right on the Mediterranean, has a mushrooming population. If the Presiding Officer has not had a chance to visit Egypt, I hope he will one of these years. You see that population in the capital city and you know people have to eat and they have to drink. Egypt is dependent on 2 percent of its land. Yet, it is right on the Mediterranean. It potentially can be a garden spot. We have to turn that around.

Senator REID joined me, I guess about 3 years ago, on a trip where we looked at some water spots, including the Aral Sea. We looked in Uzbekistan. The Aral Sea was the fourth largest body of water in the world, and the

Aral Sea, Mr. Khrushchev was told, "You can divert some of the water for cotton growing and it will eventually get back into the Aral Sea." And, in the old Soviet Union, when the boss said, "Do this," it was done. And the water began to recede.

Senator REID and I stood at the banks of the Aral Sea and looked down 50 or 75 feet to dry land. The dramatic scene there was because shipowners—of course, not shipowners, but the people who ran them; everything was owned by the Soviet Union—the people who ran the ships were told, "Just keep your ships there, the water will come back." The water did not come back. And you had this dramatic scene of ships sitting on dry land, 50 miles from where the water is.

It is a powerful thing. We have had headlines about oil shortages and gasoline shortages. Let me tell my colleagues, they are minor compared to the headlines we are going to have in another decade or two if we do not get ahold of this question of converting salt water to fresh water more inexpensively. What we are asking in this legislation that has now twice passed this body unanimously is that we devote some of our resources to this cause. It is extremely important. Water is absolutely essential for the survival of humanity.

UNICEF, the United Nations Children's Fund, tells us that 35,000 children worldwide die each day, the majority on the African Continent, either from hunger or disease caused either by lack of water or by contaminated water. I wrote to Secretary General Boutros Boutros-Ghali some time ago about what I am doing, and he wrote back:

I am particularly pleased to hear of your interest in water issues and the legislation you are sponsoring on research on less costly desalinization methods. As you rightly point out, such concerns are uppermost in the minds of people in regions where fresh water is scarce, not least in my own part of the world. During my tenure as a Secretary General, I will do my utmost to promote international cooperation regarding this most crucial resource.

This may seem like something someone from Illinois or Oklahoma should not be that much interested in. It affects all of us. It affects the future stability of the world, and it affects us even very directly in terms of prices. When California does not get enough water, fruits, and vegetables from California are going to cost more in Oklahoma and in Illinois. But it is much more significant than that. If we do not find a less expensive way of converting salt water to fresh water, and more than 90 percent of the world's water is salt water, the world is headed for some very, very difficult times. I hope we will pass this legislation and do the responsible thing.

I have one more chart here showing what is happening in the United States alone. The United States, again, does not face problems anywhere near as severe as the rest of the world. But you

see the water availability is the blue line and you see it going down like this. You see our population going up. It is clearly a problem that the United States has to face and the world has to face.

I am pleased to have bipartisan co-sponsorship. I am pleased this body has passed this legislation before. I hope we will do it again, and I hope our friends in the House can get the jurisdictional problems solved and we can pass it over there. I believe it is genuinely non-controversial and is clearly needed by this country and by the world.

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. 811

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Water Desalination Research and Development Act of 1995".

#### SEC. 2. DECLARATION OF POLICY.

In view of the increasing shortage of usable surface and ground water in many parts of the United States and the world, it is the policy of the United States to—

(1) perform research to develop low-cost alternatives for desalination of saline water and reclamation of nonusable nonsaline water to provide water of a quality suitable for environmental enhancement, agricultural, industrial, municipal, and other beneficial consumptive or nonconsumptive uses; and

(2) provide, through cooperative activities with local sponsors, desalination and water reclamation processes and facilities that provide proof-of-concept demonstrations of advanced technologies for the purpose of developing and conserving the water resources of this Nation and the world.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) **DESALINIZATION.**—The term "desalination" means the use of any process or technique (by itself or in conjunction with other processes or techniques) for the removal and, when feasible, adaptation to beneficial use, of organic and inorganic elements and compounds from saline water.

(2) **NONUSABLE NONSALINE WATER.**—The term "nonusable nonsaline water" that is not saline water but, because it contains biological or other impurities, is not usable water.

(3) **RECLAMATION.**—The term "reclamation" means the use of any process or techniques (by itself or in conjunction with other processes or techniques) for the removal and, when feasible, adaptation to beneficial use, of organic and inorganic elements and compounds from nonusable nonsaline water.

(4) **SALINE WATER.**—The term "saline water" means sea water, brackish water, and other mineralized or chemically impaired water.

(5) **SPONSOR.**—The term "sponsor" means a local, State, or interstate agency responsible for the sale and delivery of usable water that has the legal and financial authority and capability to provide the financial and real property requirements needed for a desalination or reclamation facility.

(6) **UNITED STATES.**—The term "United States" means the States of the United States, the District of Columbia, the Com-

monwealth of Puerto Rico, and the territories and possessions of the United States.

(7) **USABLE WATER.**—The term "usable water" means water of a high quality suitable for environmental enhancement, agricultural, industrial, municipal, and other beneficial consumptive or nonconsumptive uses.

#### SEC. 4. RESEARCH AND DEVELOPMENT.

(a) **IN GENERAL.**—In order to gain basic knowledge concerning the most efficient means by which usable water can be produced from saline or nonusable nonsaline water, the Secretary of the Interior, in consultation with the Secretary of the Army, shall conduct a basic research and development program under this section.

(b) **CONTENTS OF PROGRAM.**—For the basic research and development program, the Secretary of the Interior shall—

(1) conduct, encourage, and promote fundamental scientific research and basic studies to develop the best and most economical processes and methods for converting saline water and nonusable nonsaline water into usable water through research grants and contracts—

(A) to conduct research and technical development work;

(B) to make studies in order to ascertain the optimum mix of investment and operating costs;

(C) to determine the best designs for different conditions of operation; and

(D) to investigate increasing the economic efficiency of desalination or reclamation processes by using the processes as dual-purpose co-facilities with other processes involving the use of water;

(2) study methods for the recovery of by-products resulting from the desalination or reclamation of water to offset the costs of treatment and to reduce the environmental impact from those byproducts; and

(3) prepare a management plan for conduct of the research and development program established under this section.

(c) **COORDINATION WITH OTHER AGENCIES.**—

(1) **IN GENERAL.**—The Secretary of the Interior shall conduct activities under this section in coordination with—

(A) the Department of Commerce, specifically with respect to marketing and international competition; and

(B)(i) the Departments of Defense, Agriculture, State, Health and Human Services, and Energy;

(ii) the Environmental Protection Agency;

(iii) the Agency for International Development; and

(iv) other concerned public and private entities.

(2) **OTHER AGENCIES.**—In addition to the agencies identified in paragraph (1), other interested agencies may furnish appropriate resources to the Secretary of the Interior to further the activities in which such other agencies are interested.

(d) **AVAILABILITY OF RESEARCH.**—All research sponsored or funded under this section shall be carried out in such a manner that information, products, processes, and other developments resulting from Federal expenditures or authorities shall (with exceptions necessary for national defense and the protection of patent rights) be available to the general public.

(e) **RELATIONSHIP TO ANTITRUST LAWS.**—Section 10 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5909) shall apply to the activities of persons in connection with grants and contracts made by the Secretary of the Interior under this section.

#### SEC. 5. DESALINIZATION DEVELOPMENT PROGRAM.

(a) **IN GENERAL.**—The Secretary of the Interior and the Secretary of the Army shall jointly—

(1) conduct a desalination development program; and

(2) in connection with the program, design and construct desalination facilities.

(b) **SELECTION OF DESALINIZATION DEVELOPMENT FACILITIES.**—

(1) **APPLICATION.**—A sponsor shall submit to the Secretary of the Interior and Secretary of the Army an application for the design and construction of a facility and certification that the sponsor will provide the required cost sharing.

(2) **SELECTION.**—Facilities shall be selected subject to availability of Federal funds.

(c) **COST SHARING.**—

(1) **INITIAL COST.**—The initial cost of a facility shall include—

(A) design costs;

(B) construction costs;

(C) lands, easements, and rights-of-way costs; and

(D) relocation costs.

(2) **MINIMUM SPONSOR SHARE.**—The sponsor for a facility under the desalination development program shall pay, during construction, at least 25 percent of the initial cost of the facility, including providing all lands, easements, and rights-of-way and performing all related necessary relocations.

(3) **MAXIMUM FEDERAL SHARE.**—The Secretary of the Interior and Secretary of the Army shall pay not more than \$10,000,000 of the initial cost of a facility.

(d) **OPERATION AND MAINTENANCE.**—Operation, maintenance, repair, and rehabilitation of a desalination facility shall be the responsibility of the sponsor of the facility.

(e) **REVENUE.**—All revenue generated from the sale of usable water from a desalination facility shall be retained by the sponsor of the facility.

#### SEC. 6. MISCELLANEOUS AUTHORITIES.

In carrying out sections 5 and 6, the Secretary of the Interior and the Secretary of the Army may—

(1) accept technical and administrative assistance from a State or other public entities and from private persons in connection with research and development activities relating to desalination and reclamation of water;

(2) enter into contracts or agreements stating the purpose for which the assistance is contributed and, in appropriate circumstances, providing for the sharing of costs between the Secretary and such entities or persons;

(3) make grants to educational and scientific institutions;

(4) contract with educational and scientific institutions and engineering and industrial firms;

(5) by competition or noncompetitive contract or any other means, engage the services of necessary personnel, industrial and engineering firms, and educational institutions;

(6) use the facilities and personnel of Federal, State, municipal, and private scientific laboratories;

(7) contract for or establish and operate facilities and tests to conduct research, testing, and development necessary for the purposes of this Act;

(8) acquire processes, data, inventions, patent applications, patents, licenses, lands, interests in lands and water, facilities, and other property by purchase, license, lease, or donation;

(9) assemble and maintain domestic and foreign scientific literature and issue pertinent bibliographical data;

(10) conduct inspections and evaluations of domestic and foreign facilities and cooperate and participate in their development;

(11) conduct and participate in regional, national, and international conferences relating to the desalinization of water;

(12) coordinate, correlate, and publish information which will advance the development of the desalinization of water; and

(13) cooperate with Federal, State, and municipal departments, agencies and instrumentalities, and with private persons, firms, educational institutions, and other organizations, including foreign governments, departments, agencies, companies, and instrumentalities, in effectuating the purposes of this Act.

#### SEC. 7. DESALINIZATION CONFERENCE.

(a) ESTABLISHMENT.—The President is requested to instruct the Administrator of the Agency for International Development to sponsor an international desalinization conference within 1 year after the date of enactment of this Act.

(b) PARTICIPANTS.—Participants in the conference under subsection (a) should include scientists, private industry experts, desalinization experts and operators, government officials from the nations that use and conduct research on desalinization, and government officials from nations that could benefit from low-cost desalinization technology (particularly nations in the developing world), and international financial institutions.

(c) PURPOSE.—The conference under subsection (a) shall—

(1) explore promising new technologies and methods to make affordable desalinization a reality in the near term; and

(2) propose a research agenda and a plan of action to guide longer-term development of practical desalinization applications.

(d) FUNDING.—

(1) AID FUNDS.—Funding for the conference under subsection (a) may come from operating or program funds of the Agency for International Development.

(2) OTHER NATIONS.—The Agency for International Development shall encourage financial and other support from other nations, including those that have desalinization technology and those that might benefit from such technology.

#### SEC. 8. REPORTS.

(a) IN GENERAL.—Not later than 1 year after following the date of enactment of this Act, and annually thereafter, the Secretary of the Interior, in consultation with the Secretary of the Army, shall prepare a report to the President and Congress concerning the administration of this Act.

(b) CONTENTS.—A report under subsection (a) shall describe—

(1) the actions taken by the Secretary of the Interior and the Secretary of the Army during the calendar year preceding the year in the report is submitted; and

(2) the actions planned for the following calendar year.

#### SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated to carry out section 4—

(1) \$5,000,000 for fiscal year 1996;

(2) \$10,000,000 for fiscal year 1997; and

(3) such sums as are necessary for fiscal years 1998, 1999, and 2000.

(b) DESALINIZATION DEVELOPMENT PROGRAM.—There are authorized to be appropriated to carry out section 5 such sums as are necessary, up to a total of \$50,000,000, for fiscal years 1996, 1997, 1998, 1999, and 2000, of which 50 percent shall be made available to the Department of the Interior and 50 percent shall be made available to the civil works program of the Army Corps of Engineers.

By Mr. THURMOND:

S. 812. A bill to establish the South Carolina National Heritage Corridor, and for other purposes; to the Committee on Energy and Natural Resources.

THE SOUTH CAROLINA NATIONAL HERITAGE  
CORRIDOR ACT OF 1995

Mr. THURMOND. Mr. President, I rise today, along with Senator HOLLINGS, to introduce the South Carolina National Heritage Corridor Act of 1995. This legislation would establish a framework to help protect, conserve, and promote the natural, historical, cultural, and recreational resources of the region which have national significance. A companion bill, H.R. 1553, was introduced in the House of Representatives on May 3, 1995.

Specifically, this legislation would establish a national heritage corridor in South Carolina running from the western Piedmont down along the Savannah Valley toward Augusta, GA, then following the route of the old Charleston to Hamburg Railroad along the Ashley River Road to Charleston. This route contains 14 South Carolina counties: Oconee, Pickens, Anderson, Abbeville, Greenwood, McCormick, Edgefield, Aiken, Barnwell, Orangeburg, Bamberg, Dorchester, Colleton, and Charleston.

Further, this measure would establish a 23 member Commission, consisting of county representatives, South Carolina State officials, and Federal officials, including the Director of the National Park Service. It authorizes the Commission to oversee the development and implementation of a corridor management action plan. This plan will inventory the resources of the heritage corridor and discuss advisory standards for the use and promotion of those resources. Mr. President, let me emphasize that this legislation protects private property rights and will not interfere with local land use ordinances or plans.

The legislation requires the active participation of the Secretary of the Interior, who shall appoint Commission members, approve the corridor management action plan, provide assistance to the Commission, and report to Congress on the actions taken to carry out the act.

Finally, this legislation requires that the Federal cost share percentage, including annual operating expenses, may not exceed 50 percent. However, non-Federal matching funds may be not only cash, but also services or in-kind contributions.

Mr. President, the heritage corridor concept is a technique that has been used successfully in various parts of our Nation to promote historic preservation, natural resource protection, tourism, and economic revitalization for both urban and rural areas. Congress, recognizing that heritage corridors provide a flexible framework for governmental and private organizations to work together on a coordinated regional basis, has recognized and formally designated numerous her-

itage corridor areas throughout the Nation. Many more are in various stages of planning or development.

The initiative to develop the South Carolina National Heritage Corridor is an outgrowth of a grassroots effort in my home State to promote the history, culture, natural resources, and economy of the region. County visitor councils, historical societies, and other private and government entities are now participating in this project.

The corridor project was awarded a Federal grant for a demonstration project linking cultural and economic development. Another grant has been awarded to conduct a feasibility study and plan for the development and management of the corridor. That work is well underway and will be completed this year.

As a result of those planning efforts, the corridor project has conducted a thorough asset inventory and is exploring management and marketing alternatives. The enactment of this legislation, to provide for national recognition, will permit the heritage corridor project to broaden its efforts to preserve and promote the resources of the corridor and to expand tourism and economic development in the region.

Mr. President, I would like to describe some of the historic, cultural, and natural resources and sites of national significance which are contained in the South Carolina National Heritage Corridor. Let me begin by referencing correspondence between Dr. Rodger E. Stroup of the South Carolina State Museum and Ms. Joan Davis of the South Carolina Department of Parks, Recreation and Tourism. In his letter, Dr. Stroup describes the path of the corridor, noting many specific sites and areas of national significance. I ask unanimous consent that a copy of Dr. Stroup's correspondence be printed in the RECORD following these remarks.

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

(See exhibit 1.)

Mr. THURMOND. In many respects, the heritage corridor forms a microcosm of the lower South and its history. In the upper region of the corridor, during the 1750's and 1760's, settlers and migrants came in search of rich lands. This area became a center of cotton and agricultural production. As westward lands opened up for settlement, it was a major jumping off point for migration during the antebellum years.

Significant events in the industrial and transportation history of the South took place in the corridor. Graniteville was the birthplace of the southern textile industry. It is the site of the first large-scale cotton mill in the South, built in 1845. This became one of the most important manufacturing centers in the pre-Civil-War South, a model for the textile industry. Located on one of the South's major cotton routes, it remains a textile center today. To accommodate the westward moving cotton crop, South Carolina

merchants built the Charleston to Hamburg railroad, the longest railroad in the Nation in 1832. The corridor also contains precious natural resources. The Francis Beidler Forest contains the largest remaining virgin stand of bald cypress and tupelo trees in the world. Additionally, the Cathedral Bay Heritage Wildlife Preserve contains unique geological features known as the Carolina Bays. These oval depressions in the earth, the origin of which remains a mystery, hold black water lakes. The significant riverine and estuarine systems of the ACE Basin form an ecologically diverse area which contains rare plants and serves as a wildlife and waterfowl habitat.

Finally, Mr. President, located within the corridor are numerous historical sites and national historic landmarks. For example, Middleton Place, on the banks of the Ashley River is an 18th century plantation and the site of America's oldest landscaped gardens. It has survived revolution, civil war, and natural disasters. It was home to Henry Middleton, President of the Continental Congress and his son, Arthur, a signer of the Declaration of Independence. Battlefields of both the Revolutionary War and of the Civil War are located in the corridor. Of great historical significance is the Burt-Stark House in Abbeville. At this site, less than a month after General Lee's surrender at Appomattox, the President of the Confederate States of America, Jefferson Davis, counseled with his generals on the conduct of the war. A decision was reached at this meeting to disband the Armies of the Confederacy.

Mr. President, these are just a few examples of the richness of this corridor. The corridor has much more to offer; much that reminds us of where we have been as a nation and where we are today. These and other attractions are representative of the merging of several cultures along the corridor—African, Caribbean, European, and native American. This legislation will assist the communities throughout the heritage corridor who are committed to the conservation and development of these assets.

Mr. President, the effort to establish a heritage corridor in South Carolina has broad support. The Governor of South Carolina, David Beasley, supports this endeavor. Various State agencies are working on this project, continuing the efforts which began under the direction of our former Governor, Carroll Campbell. I ask unanimous consent that a letter of support from Governor Beasley be printed in the RECORD.

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

(See exhibit 2.)

Mr. THURMOND. Mr. President, I urge my colleagues to support this legislation. Further, I ask unanimous consent that the text of this bill be printed in the CONGRESSIONAL RECORD.

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

S. 812

*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 "South Carolina National Heritage Corridor Act of 1995".

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the South Carolina National Heritage Corridor, more than 250 miles in length, possesses a wide diversity of significant rare plants, animals, and ecosystems, agricultural and timber lands, shellfish harvesting areas, historic sites and structures, and cultural and multicultural landscapes related to the past and current commerce, transportation, maritime, textile, agricultural, mining, cattle, pottery, and national defense industries of the region, which provide significant ecological, natural, tourism, recreational, timber management, educational, and economic benefits;

(2) there is a national interest in protecting, conserving, restoring, promoting, and interpreting the benefits of the Corridor for the residents of, and visitors to, the Corridor area;

(3) a primary responsibility for conserving, preserving, protecting, and promoting the benefits resides with the State of South Carolina and the units of local government having jurisdiction over the Corridor area; and

(4) in view of the longstanding Federal practice of assisting States in creating, protecting, conserving, preserving, and interpreting areas of significant natural and cultural importance, and in view of the national significance of the Corridor, the Federal Government has an interest in assisting the State of South Carolina, the units of local government of the State, and the private sector in fulfilling the responsibilities described in paragraph (3).

(b) PURPOSES.—The purposes of this Act are—

(1) to protect, preserve, conserve, restore, promote, and interpret the significant land and water resource values and functions of the Corridor;

(2) to encourage and support, through financial and technical assistance, the State of South Carolina, the units of local government of the State, and the private sector in the development of a management action plan for the Corridor to ensure coordinated public and private action in the Corridor area in a manner consistent with subsection (a);

(3) to provide, during the development of an integrated Corridor Management Action Plan, Federal financial and technical assistance for the protection, preservation, and conservation of land and water areas in the Corridor that are in danger of being adversely affected or destroyed;

(4) to encourage and assist the State of South Carolina and the units of local government of the State to identify the full range of public and private technical and financial assistance programs and services available to implement the Corridor Management Action Plan;

(5) to encourage adequate coordination of all government programs affecting the land and water resources of the Corridor; and

(6) to develop a management framework with the State of South Carolina and the units of local government of the State for—

(A) planning and implementing the Corridor Management Action Plan; and

(B) developing policies and programs that will preserve, conserve, protect, restore, en-

hance, and interpret the cultural, historical, natural, economic, recreational, and scenic resources of the Corridor.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term "Commission" means the South Carolina National Heritage Corridor Commission established by section 5.

(2) CORRIDOR.—The term "Corridor" means the South Carolina National Heritage Corridor established by section 4.

(3) CORRIDOR MANAGEMENT ACTION PLAN.—The term "Corridor Management Action Plan" means the management action plan developed under section 7.

(4) GOVERNOR.—The term "Governor" means the Governor of the State of South Carolina.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

#### SEC. 4. SOUTH CAROLINA NATIONAL HERITAGE CORRIDOR.

(a) ESTABLISHMENT.—There is established in the State of South Carolina the South Carolina National Heritage Corridor.

(b) BOUNDARIES.—

(1) IN GENERAL.—The boundaries of the Corridor are generally the boundaries of the western counties of the State of South Carolina, extending from the western Piedmont along the Savannah Valley to Augusta, Georgia, along the route of the old Southern Railroad, along the Ashley River to Charleston.

(2) INCLUDED COUNTIES.—The Corridor shall consist of the following counties of South Carolina, in part or in whole, as the Commission may specify on the recommendations of the units of local government within the Corridor area:

- (A) Oconee.
- (B) Pickens.
- (C) Anderson.
- (D) Abbeville.
- (E) Greenwood.
- (F) McCormick.
- (G) Edgefield.
- (H) Aiken.
- (I) Barnwell.
- (J) Orangeburg.
- (K) Bamberg.
- (L) Dorchester.
- (M) Colleton.
- (N) Charleston.

(3) DETAIL.—The boundaries shall be specified in detail in the Corridor Management Action Plan.

#### SEC. 5. SOUTH CAROLINA NATIONAL HERITAGE CORRIDOR COMMISSION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the South Carolina National Heritage Corridor Commission.

(2) RESPONSIBILITIES.—The Commission shall assist Federal, State, and local authorities and the private sector in developing and implementing the Corridor Management Action Plan.

(b) MEMBERSHIP.—The Commission shall be composed of 23 members, appointed by the Secretary as follows:

(1) One member shall be the Director of the National Park Service, or a delegate of the Director, who shall be a nonvoting member.

(2) Six members shall be appointed from among recommendations submitted by the Governor, as follows:

(A) One member shall represent the interests of the South Carolina Department of Parks, Recreation, and Tourism or a successor agency to the department.

(B) One member shall represent the South Carolina Department of Natural Resources or a successor agency to the department.

(C) One member shall represent the South Carolina Arts Commission or a successor agency of the commission.

(D) One member shall represent the South Carolina Museum Commission or a successor agency to the commission.

(E) One member shall represent the South Carolina State Historic Preservation Office or a successor agency to the office.

(F) One member shall represent the South Carolina Department of Commerce or a successor agency to the department.

(3) Fourteen members shall be appointed from among recommendations submitted by the county commissioners, of which 1 member shall be appointed from each of the counties of Oconee, Pickens, Anderson, Abbeville, Greenwood, McCormick, Edgefield, Aiken, Barnwell, Orangeburg, Bamberg, Dorchester, Colleton, and Charleston of the State of South Carolina. The recommendations submitted by each county shall be based on recommendations from community visitor councils located within the county.

(4) One member with knowledge and experience in the field of historic preservation shall be appointed from among recommendations submitted by the Director of the National Park Service.

(5) One member shall be appointed from among recommendations submitted by the South Carolina Downtown Development Association.

(c) PERIOD OF APPOINTMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), each member of the Commission shall be appointed to serve a term of 3 years and, on expiration of a term, may be reappointed to serve for 1 or more additional terms.

(2) LIMITED APPOINTMENTS.—The members appointed under subsection (b) (2), (4), and (5) shall be appointed to serve a term of 2 years and, on expiration of a term, may be reappointed to serve for 1 or more additional terms.

(d) INITIAL APPOINTMENTS.—The Secretary shall appoint the initial members of the Commission not later than 180 days after the date of enactment of this Act.

(e) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the initial appointment was made. A member of the Commission appointed to fill a vacancy shall serve for the remainder of the term for which the initial member was appointed. A member of the Commission appointed for a definite term may serve after the expiration of the term until a successor is appointed.

(f) CHAIRPERSON.—The members of the Commission shall elect a Chairperson from among the members of the Commission. The Chairperson shall serve as Chairperson for the duration of the term for which the Chairperson was appointed.

(g) QUORUM.—A simple majority of Commission members shall constitute a quorum, but a lesser number may hold meetings. The affirmative vote of not less than 11 members of the Commission shall be required to approve the budget of the Commission.

(h) MEETINGS.—The Commission shall meet at least quarterly or at the call of the Chairperson or a majority of its members. Meetings of the Commission shall be subject to section 552b of title 5, United States Code.

(i) PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall serve without compensation. Each member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to compensation received for service as an officer or employee of the Federal Government.

(2) TRAVEL EXPENSES.—The members of the Commission, when engaged in Commission business, shall be allowed travel expenses, including per diem in lieu of subsistence, at

rates authorized for persons employed intermittently in the Government service under section 5703 of title 5, United States Code.

(j) STAFF.—

(1) IN GENERAL.—The Commission may, without regard to civil service laws (including regulations), appoint and fix the compensation of such staff members as are necessary to enable the Commission to carry out its duties. The Commission may appoint a Director and other officers as the Commission considers necessary or appropriate. The Commission may appoint to the staff such specialists as the Commission considers necessary or appropriate to carry out the duties of the Commission, including specialists in the areas of planning, community development, interpretive services, historic preservation, recreation, natural resources, commerce and industry, education, financing, and public relations.

(2) COMPENSATION.—The Commission may fix the compensation of the Director and other staff members without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that no staff member may receive pay in excess of the annual rate payable for grade level GS-15 of the General Schedule.

(k) EXPERTS AND CONSULTANTS.—Subject to such rules as the Commission may adopt, the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates determined by the Commission to be reasonable.

(l) DETAIL OF GOVERNMENT EMPLOYEES.—On request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, the personnel of the agency to the Commission to assist the Commission in carrying out the duties of the Commission. The Commission may accept the services of personnel detailed from the State of South Carolina, or any political subdivision of the State, and may reimburse the State or political subdivision for the services.

(m) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide such administrative support services as the Commission may request, on a reimbursable basis.

**SEC. 6. POWERS OF THE COMMISSION.**

(a) PUBLIC MEETINGS.—The Commission may, for the purpose of carrying out this Act, hold such public meetings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may not issue subpoenas or exercise subpoena authority.

(b) BYLAWS.—The Commission may make such bylaws, rules, and regulations, consistent with this Act, as the Commission considers necessary to carry out its functions under this Act.

(c) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission, if authorized by the Commission, may take any action that the Commission is authorized to take under this section.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) USE OF FUNDS TO OBTAIN MONEY.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of the money to make a contribution in order to receive the money.

(f) RETENTION OF REVENUES.—The Commission may retain revenue from the sale or lease of any goods or services.

(g) GIFTS.—Notwithstanding any other law, the Commission may seek and accept gifts,

bequests, and donations of funds, property, or services from private individuals, foundations, corporations, and other private entities, and from public entities for the purpose of carrying out its duties. For purposes of section 170(c) of the Internal Revenue Code of 1986, any donation to the Commission shall be considered to be a gift to the United States.

(h) ACQUISITION AND DISPOSITION OF REAL PROPERTY.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Commission may not acquire real property or an interest in real property.

(2) CONDITIONS FOR ACQUISITION.—Subject to paragraph (3), the Commission may acquire real property or an interest in real property in the Corridor—

(A) by gift or devise;

(B) by purchase from a willing seller using donated or appropriated land acquisition funds; or

(C) by exchange.

(3) CONVEYANCE.—Any real property or interest in real property acquired by the Commission shall be conveyed by the Commission to an appropriate public agency or private nonprofit organization, as determined by the Commission—

(A) as soon as practicable after the acquisition; and

(B) on the condition that the real property or interest in real property limits use of the property to uses that are consistent with this Act.

(4) DISPOSAL OF PROPERTY.—The Commission may, with approval of the Secretary, sell any real property or interest in real property acquired pursuant to paragraph (2) (A) or (B) and retain the revenue from the sale.

(i) TECHNICAL ASSISTANCE.—For the purposes of implementing the Corridor Management Action Plan, the Commission may provide technical assistance to Federal agencies, the State of South Carolina, political subdivisions of the State, and persons (including corporations).

(j) ADVISORY GROUPS.—The Commission may establish public technical advisory groups to assist the Commission in carrying out the duties of the Commission with respect to the areas of economic development, historic preservation, natural resources, tourism, recreation and open space, and transportation. The Commission may establish such additional advisory groups as are necessary to carry out the duties of the Commission and ensure open communication with and assistance from interested persons (including organizations), the State of South Carolina, and political subdivisions of the State.

(k) LOCAL AUTHORITY AND PRIVATE PROPERTY RIGHTS.—Nothing in this Act shall be construed to authorize the Commission to interfere with—

(1) the rights of any person with respect to private property; or

(2) any local land use ordinance or plan of the State of South Carolina or a political subdivision of the State.

**SEC. 7. DUTIES OF THE COMMISSION.**

(a) IN GENERAL.—The Commission shall exercise powers authorized by section 6 to coordinate activities of Federal, State, and local governments and private businesses and organizations to further historic preservation, cultural conservation, natural area protection, soil conservation, timber management, and economic development in a manner consistent with this Act and in accordance with the Corridor Management Action Plan developed under subsection (b).

(b) CORRIDOR MANAGEMENT ACTION PLAN.—

(1) PERIOD FOR DEVELOPMENT.—Not later than 18 months after the date on which the

Commission conducts its first meeting, the Commission shall submit a Corridor Management Action Plan for the Corridor to the Secretary and to the Governor for review and approval.

(2) **PLAN REQUIREMENTS.**—The Corridor Management Action Plan shall take into consideration State, county, and local plans existing on the date on which the Corridor Management Action Plan is prepared. The Corridor Management Action Plan shall—

(A) provide an inventory that includes any real property in the Corridor that should be conserved, protected, preserved, restored, managed, developed, or maintained because of the natural, cultural, historic, recreational, or scenic significance of the property;

(B) provide an analysis of then current and potential land uses within the Corridor that affect the character of the Corridor;

(C) determine the boundaries of the Corridor on the basis of the information collected pursuant to subparagraphs (A) and (B);

(D) recommend advisory standards and criteria applicable to the construction, preservation, restoration, alteration, and use of real property of natural, cultural, historic, recreational, or scenic significance within the Corridor;

(E) include a heritage interpretation plan to interpret the resources and values of the Corridor and provide for appropriate educational, recreational, and tourism opportunities and development of the Corridor;

(F) identify the full range of public and private technical and financial assistance programs available to implement the Corridor Management Action Plan and detail how appropriate Federal, State, and local programs may best be coordinated to promote the purposes of this Act; and

(G) contain a coordinated implementation plan that—

(i) specifies the activities of Federal, State, and local governments in relation to the Corridor; and

(ii) includes cost estimates, schedules, and a commitment of resources for the accomplishment of the implementation plan.

(c) **APPROVAL OF PLAN.**—

(1) **APPROVAL BY GOVERNOR.**—Not later than 60 days after receiving a Corridor Management Action Plan submitted by the Commission under subsection (b), the Governor shall approve or disapprove the Corridor Management Action Plan.

(2) **APPROVAL BY SECRETARY.**—A Corridor Management Action Plan approved by the Governor under paragraph (1) shall be submitted to the Secretary for approval or disapproval. Not later than 30 days after receipt of the Corridor Management Action Plan, the Secretary shall approve or disapprove the Corridor Management Action Plan.

(3) **CRITERIA FOR DECISION.**—The Governor and the Secretary shall approve a Corridor Management Action Plan if—

(A) the Corridor Management Action Plan will adequately protect the significant natural, cultural, historic, recreational, and scenic resource values and functions of the Corridor;

(B) the Commission has afforded adequate opportunity for public involvement in the preparation of the Corridor Management Action Plan; and

(C) the Secretary and the Governor receive adequate assurances from appropriate officials of the State of South Carolina that the recommended implementation program identified in the Corridor Management Action Plan will be initiated within a reasonable time after the date of approval of the Corridor Management Action Plan.

(d) **DISAPPROVAL OF PLAN.**—

(1) **IN GENERAL.**—If the Secretary or the Governor disapproves a Corridor Management Action Plan, the Secretary or the Governor, as the case may be, shall—

(A) advise the Commission in writing of the reasons for the disapproval; and

(B) recommend revisions to the Corridor Management Action Plan.

(2) **REVISION OF DISAPPROVED PLAN.**—Not later than 90 days after the receipt of a notice of disapproval under paragraph (1), the Commission shall revise and resubmit the Corridor Management Action Plan for approval in accordance with subsection (c).

(e) **IMPLEMENTATION OF PLAN.**—

(1) **IN GENERAL.**—After the Secretary and the Governor review and approve a Corridor Management Action Plan, the Commission shall implement the Corridor Management Action Plan by taking appropriate steps to—

(A) conserve, protect, restore, preserve, and interpret the natural, cultural, and historic resources of the Corridor;

(B) promote the educational and recreational resources and opportunities with respect to the Corridor that are consistent with the resources of the Corridor; and

(C) support public and private efforts to achieve economic revitalization, in a manner consistent with the goals of the Corridor Management Action Plan.

(2) **STEPS.**—The steps referred to in paragraph (1) may include—

(A) assisting State and local governmental entities and nonprofit organizations in planning and implementing programs, projects, or activities in a manner consistent with this Act, including visitor use facilities, tour routes, and exhibits;

(B) encouraging, by appropriate means, enhanced economic development in the Corridor in a manner consistent with the goals of the Corridor Management Action Plan; and

(C) promoting public awareness and appreciation for historical, cultural, natural, recreational, and scenic resources and associated values of the Corridor.

(f) **ANNUAL REPORTS.**—

(1) **REPORT OF THE COMMISSION.**—As soon as practicable after the end of the first fiscal year in which the Commission is established, and annually thereafter, the Commission shall submit a report to the Secretary. The report shall describe, for the fiscal year that is the subject of the report—

(A) the expenses and income of the Commission; and

(B) a general description of the activities of the Commission.

(2) **REPORT OF THE SECRETARY.**—As soon as practicable after the date on which the Commission submits a report to the Secretary under paragraph (1), the Secretary shall submit a report to Congress that includes—

(A) for the fiscal year that is the subject of the report—

(i) a description of the loans, grants, and technical assistance provided by the Secretary, and from other Federal and non-Federal sources, to carry out this Act; and

(ii) an analysis of the adequacy of actions taken to carry out this Act; and

(B) a statement of the amount of funds and number of personnel that the Secretary anticipates will be made available to carry out this Act for the fiscal year following the fiscal year that is the subject of the report.

#### **SEC. 8. TERMINATION OF THE COMMISSION.**

(a) **TERMINATION.**—

(1) **IN GENERAL.**—Except as provided in subsection (b), the Commission shall terminate on the date that is 12 years after the date of enactment of this Act.

(2) **TRANSFER OF PROPERTY.**—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.),

any property or funds of the Commission remaining upon the expiration of the Commission shall be transferred by the Commission to the Secretary, to a State or local government agency, to a private nonprofit organization referred to in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from income taxes under section 501(a) of the Internal Revenue Code of 1986, or to any combination of the foregoing.

(b) **EXTENSIONS.**—The Commission may be extended for a period of not more than 5 years beginning on the date referred to in subsection (a) if, not later than 180 days before that date—

(1) the Commission determines that an extension is necessary to carry out this Act;

(2) the Commission submits the proposed extension to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate before the termination date; and

(3) the Secretary and the Governor approve the extension.

#### **SEC. 9. DUTIES OF THE SECRETARY.**

(a) **ASSISTANCE.**—On request of the Commission, and subject to the availability of funds appropriated specifically for the purpose, or made available on a reimbursable basis, the Secretary shall provide administrative, technical, financial, development, and operations assistance. The assistance may include—

(1) general administrative support in planning, finance, personnel, procurement, property management, environmental and historical compliance, and land acquisition;

(2) personnel;

(3) office space and equipment;

(4) planning and design services for visitor use facilities, trails, interpretive exhibits, publications, signs, and natural resource management;

(5) development and construction assistance, including visitor use facilities, trails, river use and access facilities, scenic byways, signs, waysides, and rehabilitation of historic structures; and

(6) operations functions, including interpretation and visitor services, maintenance, and natural resource management services conducted within the boundaries of the Corridor.

(b) **LOANS, GRANTS, AND COOPERATIVE AGREEMENTS.**—For the purposes of assisting in the development and implementation of the Corridor Management Action Plan, the Secretary may, in consultation with the Commission, make loans and grants to, and enter into cooperative agreements with, the State of South Carolina (or a political subdivision of the State), private nonprofit organizations, corporations, or other persons.

(c) **LAND TRANSFERS.**—The Secretary may accept transfers of real property from the Commission within the boundaries of the Corridor as established in the Corridor Management Action Plan.

#### **SEC. 10. DUTIES OF OTHER FEDERAL ENTITIES.**

Any Federal entity conducting or supporting activities directly affecting the Corridor shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate those activities with the carrying out of those duties; and

(3) to the maximum extent practicable, conduct or support those activities in a manner that the Commission determines will not have an adverse effect on the Corridor.

#### **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—Subject to subsection (b), there are authorized to be appropriated such sums as are necessary to carry out this Act.



(b) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the funding provided to the Commission to carry out this Act for any year may not exceed 50 percent of the total cost of—

(A) the expenditures of the Commission for administrative matters for that year;

(B) the expenditures of the Commission for the development and implementation of the Corridor Management Action Plan for that year; and

(C) the expenditures of the Commission for land acquisition for that year.

(2) NON-FEDERAL SHARE.—The non-Federal share of the expenditures described in paragraph (1) may be in the form of cash, services, or in-kind contributions, fairly valued.

Mr. HOLLINGS. Mr. President, I am privileged today to join with Senator THURMOND in introducing the South Carolina National Heritage Corridor Act of 1995. This act aims to protect, restore, and promote the South Carolina National Historic Corridor—a 200-mile-long, 14 county swath in the western part of the State, running along the Savannah River Valley from the foothills of the Piedmont to North Augusta, at which point it follows the route of the old Hamburg-to-Charleston railroad all the way to Charleston.

This act has several objectives. It would protect the significant land and water resources of the national heritage corridor. It would support, through financial and technical assistance, the State and local governments, as well as the private sector, in developing a management action plan for the corridor. And it would create a management framework to bring together the State and local governments to jointly develop policies and programs to conserve and enhance the cultural, natural, economic, recreational, and scenic resources of the corridor.

Mr. President, the historic corridor concept has been used by a variety of public and private groups across the Nation to encourage historic and natural preservation, and to promote tourism and economic revitalization. The approach has been used successfully in the Blackstone River Valley National Heritage Corridor in Rhode Island and Massachusetts, in the lower Eastern Shore of Maryland, in the Lackawanna River Valley in Pennsylvania, and elsewhere. The heritage corridor concept offers a flexible way for government and private organizations to work together to promote economic growth and job creation.

Mr. President, with industry concentrated in a limited number of urban areas, it is no secret that small, scenic, towns, and rural areas are looking to tourism as a means of strengthening and diversifying their declining economies. The heritage corridor concept offers an opportunity for many communities to work cooperatively and pool their resources in order to boost tourism.

The South Carolina Heritage Corridor originated with a tourism committee in the city of Abbeville, SC, and has grown to include 14 counties and over 40 towns and rural communities. This is a grassroots movement that has

captured the imagination and enthusiasm of citizens across the western part of my State. The South Carolina Heritage Corridor is well conceived and holds tremendous promise for my State. I urge my colleagues' support for this important bill.

#### EXHIBIT 1

SOUTH CAROLINA STATE MUSEUM,  
Columbia, SC.

JOAN DAVIS,  
Community Development Division, S.C. Dept. of  
Parks, Recreation and Tourism, Columbia,  
SC.

DEAR JOAN: I am intrigued with the concept of developing a Heritage Corridor in fourteen counties along South Carolina's western boundary. Stretching from Charleston to the mountains the proposed corridor would take in all of the elements that have characterized South Carolina for the past three centuries.

Beginning in Charleston, one of the most cosmopolitan of American cities before 1860, the corridor follows the route of the old South Carolina Railroad through Colleton, Bamberg, Barnwell and into Aiken County. When completed in 1831 this was the longest railroad in the world. Prior to the civil war this area was dotted with cotton plantations, the predominant economic factor in the state's antebellum years. In Aiken's Horsecreek Valley the state's textile industry was born during the 1830's. Only a few miles away the Savannah River Site was the nation's supplier of plutonium for nuclear weapons during the Cold War years. From North August, the terminus of the old South Carolina Railroad, the proposed corridor follows the Savannah Valley to the foothills in Oconee County.

Also a major cotton producing area before 1860, Edgefield County was home to ten governors, a remarkable number for a small county. Beginning in the 1820's the production of alkaline glazed stoneware began in Edgefield and subsequently spread throughout the South. Originally produced as utilitarian storage ware, today Edgefield pottery is a highly prized collectible.

The corridor continues along the Savannah Valley through once prosperous cotton fields into Anderson County, a major center of the state's textile industry. Around Anderson one finds both traditional textile companies as well as a recent influx of major multinational corporations.

The last section of the corridor takes one to the foothills of the Appalachian Mountains. A journey through the proposed corridor encompasses all of South Carolina's past and present. From cosmopolitan Charleston in the 1700's with its wealthy merchants and rice planters to the challenges facing low income residents of the Appalachians, the corridor crosses not only the state's entire geography, but also encompasses all of the state's peoples.

Historic sites, natural resources, cultural diversity and modern manufacturing successes are all part of the proposed corridor. A visitor who journeys through the corridor certainly departs with an understanding of South Carolina's history and development, as well as an appreciation for the state's diverse geography and natural features.

This proposed corridor has several components of national significance. As the cotton culture spread through this area more and more planters became entrenched in defending slavery, contributing to the forces that led to the Civil War. Leading proslavery advocates John C. Calhoun and James Henry Hammond lived in the corridor. As residences of the area their theories on states rights and slavery evolved from personal experiences.

After the war the development of the textile industry in the corridor changed the focus of South Carolina's economy from an agricultural to an industrial base, a phenomena which subsequently spread across the South. Finally, the location of the Savannah River Site in the center of the corridor reflects not only the Cold War strategy of the United States, but also the challenge of the cleanup facing all the nuclear production facilities across the country.

Sincerely,  
RODGER E. STROUP, Ph.D.,  
Director of Collections and Interpretation.

#### EXHIBIT 2

STATE OF SOUTH CAROLINA,  
OFFICE OF THE GOVERNOR  
Columbia, SC, April 5, 1995.

Hon. STROM THURMOND,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR: Developing the economies of the rural areas of our state requires that we employ creative non-traditional economic development methods. One such method is the application of a deliberate strategy to capitalize on the economic value of the rich cultural heritage and natural resources embodied in many of the rural areas of our state. Cultural or heritage tourism is one of the fastest growing trends in tourism. The resulting potential for job creation and tourism-related investment, if properly managed, can be a significant factor in the economic growth of these rural communities.

The proposed designation of a fourteen county region of our state as a South Carolina National Heritage Corridor represents a significant step forward in our efforts to recognize and capture this valuable economic resource. This is an area rich in cultural and natural resources with an important American story to tell. What happened along this corridor set in motion a style of socio-economic development that spread throughout the lower South and Southwest and eventually led to the industrialization of the region as well as war between the states. It tells the story of the development of agriculture, industry and transportation in the South.

The direct effort from the state level, I have designated the Department of Parks, Recreation and Tourism through its Community Development program, to be responsible for staffing this effort and providing a broad array of support for the South Carolina Heritage Corridor.

We all recognize the tremendous importance and long-range benefit of the initiative for South Carolina, and are particularly pleased that the proposed area includes your hometown of Edgefield.

Thank you for your assistance.

Sincerely,  
DAVID M. BEASLEY,  
Governor.

By Mr. MURKOWSKI:

S. 813. A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes; to the Committee on Energy and Natural Resources.

THE PENNSYLVANIA AVENUE DEVELOPMENT  
CORPORATION AMENDMENT ACT

• Mr. MURKOWSKI. Mr. President, I introduced a bill, at the request of the



administration, to amend the Pennsylvania Avenue Development Corporation Act of 1972, to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes.

The bill, when enacted, would authorize appropriations for salaries and expenses for the Pennsylvania Avenue Development Corporation [PADC] for fiscal years 1996 and 1997. PADC is the agency which is responsible for the revitalization of the Pennsylvania area between the White House and the Capitol. Since PADC was created by an act of Congress in 1972, it has achieved notable success in transforming America's Main Street from "a scene of desolation," in the words of a Presidential commission formed in the late 1960's to study the condition of the avenue, to a great boulevard worthy of its role in the Nation's history and its place in the center of the Nation's Capital City.

PADC is a successful example of how Government can work in partnership with the private sector to achieve beneficial results for both. Since PADC's work began, it has spent \$120 million in appropriations to build new parks, plazas, sidewalks, and other kinds of improvements to the public areas and attracted over \$1.5 billion in private investment to the blocks on the north side of Pennsylvania Avenue. From the Willard Hotel to the Canadian Embassy, virtually every one of the buildings that one sees in walking or driving down the avenue from the Treasury Building to the Capitol has been constructed or restored since PADC began its block development program in 1978, guided by a master plan approved by Congress in 1975. Now over 20 privately funded office, retail, hotel, and residential structures border a public thoroughfare improved with seven parks and plazas and widened sidewalks.

With only a few blocks remaining uncommitted for development, PADC is close to finishing its master plan and is scheduled to terminate operation at the end of fiscal year 1997. The bill I am introducing, by request of the administration, will allow the PADC's 27-person staff to complete its original mission to economically revitalize and beautify Pennsylvania Avenue.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

PENNSYLVANIA AVENUE  
DEVELOPMENT CORPORATION,  
Washington, DC, March 22, 1995.

Hon. ALBERT GORE,  
President of the Senate,  
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill, "To amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes." A similar package has been transmitted to the Speaker of the House.

The draft bill would amend the Pennsylvania Avenue Development Corporation Act of 1972 (86 Stat. 1266, 40 U.S.C. 871, as amended) to authorize appropriations of \$3,043,000 for fiscal year 1996 and such sums as may be necessary for fiscal year 1997 for the operating and administrative expenses of the Pennsylvania Avenue Development Corporation.

The draft bill is part of the Pennsylvania Avenue Development Corporation's legislative program for the 104th Congress. The Administration recommends the draft bill be introduced, referred to the appropriate committee for consideration, and enacted.

The Office of Management and Budget advises that there is no objection to the presentation of this legislation for consideration of Congress, and that enactment of the legislation would be in accord with the program of the President.

Sincerely,

RICHARD A. HAUSER,  
Chairman.●

By Mr. MCCAIN (for himself, Mr. INOUE, and Mr. DOMENICI):

S. 814. A bill to provide for the reorganization of the Bureau of Indian Affairs, and for other purposes; to the Committee on Indian Affairs.

THE BUREAU OF INDIAN AFFAIRS  
REORGANIZATION ACT

● Mr. MCCAIN. Mr. President, I am pleased to introduce legislation to reorganize and restructure the Bureau of Indian Affairs. I am very pleased to be joined by Senators INOUE and DOMENICI as original cosponsors of this legislation. This legislation is intended to stimulate discussion in the Congress and among the tribes on the reorganization of the Bureau of Indian Affairs.

Since 1834, the Congress, the administration, and the American Indian people have tried to reorganize and reform the Bureau of Indian Affairs. Like the crusades of history, with each change in administration the assembled bureaucrats have gone charging off in one direction or another, commissioning studies or writing reports on the BIA, downsizing, centralizing, or decentralizing, whatever the political whim of the day dictated. From the Meriam Report in 1929 to the joint tribal/BIA/DOI reorganization task force report, the Congress has commissioned report after report on how to reform the way this Nation deals with native Americans and their governments. Since the establishment of the BIA in 1824, there have been over 1,050 investigations, reports, commissions, and studies detailing how the BIA should be restructured, reorganized, or reformed. To measure the success of all of these efforts, one needs only to look at the statistics in the most recent census.

Nearly one of every three native Americans in this Nation is living in poverty. One-half of the families living on reservations are living in poverty. One-half of the Indian children under the age of six living on reservations are living in poverty. Unemployment on Indian reservations exceeds 25 percent. For every \$100 earned by U.S. families, Indian families earn \$62. The per capita income for an Indian living on the reservation is \$4,478. There are approxi-

mately 90,000 Indian families who are homeless or underhoused. Nearly one in five Indian families living on the reservation are classified as severely overcrowded. One out of every five Indian homes lack complete plumbing facilities. These simple conveniences, that the rest of us take for granted, remain out of the grasp of many Indian families.

Since its creation in 1824, native Americans have relied on the Bureau of Indian Affairs as the principle agency of the Federal Government which is responsible for meeting this Nation's trust responsibility to American Indians and Alaska Natives. And yet based on its own studies and investigations, the Bureau of Indian Affairs has failed miserably in carrying out this Nation's solemn obligations to American Indians. If the health, social, and economic conditions on Indian reservations are the measure of our performance as the trustee for American Indians, then as a nation we have failed miserably.

It is time to change the way this Nation deals with American Indians. It is time to bring an end to the long and dismal history of the failures of the Federal Government to carry out its trust responsibilities to American Indians. It is time to break down the barriers to true tribal self-governance and self-determination by providing Indian tribes with the authority to design both the structure and function of its trustee, the Bureau of Indian Affairs. I remain convinced that we will not make significant improvements in the living conditions on most reservations without a major reform of the Bureau of Indian Affairs.

Today, I am introducing legislation which will provide Indian tribes with the authority to reorganize and restructure the Bureau of Indian Affairs at each level of the government. It provides Indian tribes with the ability to tailor the Bureau of Indian Affairs to meet their unique circumstances and needs. It will allow tribes to shape and redefine the trust relationship with the Federal Government.

This legislation is the culmination of over 4 years of work by Indian tribes, the administration, and the Congress. This bill reflects the recommendations of the joint tribal/BIA/DOI reorganization task force, which was established at the direction of former Interior Secretary Lujan. Over the course of 4 years, the task force held 22 meetings across all parts of Indian country to develop their recommendations for the reorganization of the Bureau of Indian Affairs. These recommendations fall into four general categories: Organizational reform, regulatory reform, education reform, and budget reform. The guiding principles established by the joint tribal/BIA/DOI reorganization task force are to decentralize decision-making of the Bureau of Indian Affairs, to provide maximum funding to Indian tribes for service delivery, to maintain

the flexibility of the area/agency organizational design, to establish well-defined Federal and tribal roles at all levels of the bureaucracy, and to create a tribal-Federal consultation process to govern all aspects of the reorganization.

The legislation I am introducing closely adheres to the spirit and intent of the report of the joint tribal/BIA/DOI reorganization task force. This bill will provide for the reorganization of the BIA at the agency, area and central offices with savings attendant to such reorganization to be allocated to the tribes. It will provide for the transfer or delegation of decisionmaking authority to the tribe or the agency level of the BIA, consistent with the principles of self-governance and self-determination. The bill provides the authority to Indian tribes to develop, in negotiations with the Interior Department, reorganization plans for the area and agency offices of the Bureau of Indian Affairs. These plans may include a reorganization of BIA organizational structures, reallocation of personnel, delegations of secretarial authority, transfers of functions, waivers of regulations or other authorities, reordering of funding priorities, and the transfer of any savings realized by such reorganization directly to the tribes.

The bill also provides for the reorganization of the central office of the BIA so that Indian tribes from each area office can determine how the central office resources used to provide services to their area should be allocated. Tribes in each area of the BIA will be able to determine what services will be provided by the central office, what funds and authorities should be distributed or delegated to the area and agency offices and what funds and authorities should be distributed or delegated to the tribes themselves. Finally, the bill will require the Secretary to repeal the provisions of the BIA manual. Any provision of the BIA manual which are deemed necessary will have to be promulgated as regulations subject to review and comment. The bill will also provide for the establishment of a tribal task force to recommend regulatory reforms in title 25 of the Code of Federal Regulations.

The introduction of this legislation marks only the first step in carrying out the commitment made to Indian tribes when the joint tribal/BIA/DOI reorganization task force was first chartered. I remain committed to work with Indian tribes and the administration to realize the vision of those tribal leaders who met for hundreds of hours in developing recommendations to bring real and necessary change to the Bureau of Indian Affairs. I look forward to full and complete discussions with tribal leaders on this legislation and I urge all of our colleagues to join with us to ensure prompt enactment of legislation to reorganize the Bureau of Indian Affairs.

Mr. President, I ask unanimous consent that the full text of the bill and

the accompanying section-by-section analysis appear in the RECORD.

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

S. 814

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

**SECTION 1. SHORT TITLE, TABLE OF CONTENTS, AND DEFINITIONS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Bureau of Indian Affairs Reorganization Act of 1995”.

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

Sec. 1. Short title, definitions, and table of contents.

**TITLE I—REORGANIZATION COMPACTS**

Sec. 101. Reorganization of area offices.

Sec. 102. Reorganization of agency offices.

Sec. 103. Reorganization of central office.

Sec. 104. Savings provisions.

Sec. 105. Additional conforming amendments.

Sec. 106. Authorization of appropriations.

Sec. 107. Effective date.

Sec. 108. Separability.

Sec. 109. Suspension of certain administrative actions.

Sec. 110. Statutory construction.

**TITLE II—AMENDMENT TO THE INDIAN SELF-DETERMINATION ACT**

Sec. 201. Budget development.

**TITLE III—REFORM OF THE REGULATIONS OF THE BUREAU OF INDIAN AFFAIRS**

Sec. 301. BIA Manual.

Sec. 302. Task force.

Sec. 303. Authorization of appropriations.

(c) **DEFINITIONS.**—For purposes of this Act, the following definitions shall apply:

(1) **AREA OFFICE.**—The term “area office” means 1 of the 12 area offices of the Bureau of Indian Affairs.

(2) **AREA OFFICE PLAN.**—The term “area office plan” means a plan for the reorganization of an area office negotiated by the Secretary and Indian tribes pursuant to section 101.

(3) **AGENCY OFFICE.**—The term “agency office” means an agency office of the Bureau of Indian Affairs.

(4) **AGENCY OFFICE PLAN.**—The term “agency office plan” means a plan for the reorganization of an agency office negotiated by the Secretary and Indian tribes pursuant to section 102.

(5) **BIA MANUAL.**—The term “BIA Manual” means the most recent edition of the Bureau of Indian Affairs Manual issued by the Department of the Interior.

(6) **BUREAU.**—The term “Bureau” means the Bureau of Indian Affairs.

(7) **CENTRAL OFFICE.**—The term “central office” means the central office of the Bureau, that is housed in the offices of the Department in Washington, D.C. and in Albuquerque, New Mexico.

(8) **CENTRAL OFFICE PLAN.**—The term “central office plan” means the plan for the reorganization of the central office negotiated by the Secretary and Indian tribes pursuant to section 103.

(9) **DEPARTMENT.**—The term “Department” means the Department of the Interior.

(10) **DIRECTOR.**—The term “Director” means, with respect to an area office, the Director of the area office.

(11) **FUNCTION.**—The term “function” means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(12) **INDIAN TRIBE.**—The term “Indian tribe” has the same meaning as in section

4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(13) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(14) **SUPERINTENDENT.**—The term “Superintendent” means the Superintendent of an agency office.

(15) **TRIBAL PRIORITY ALLOCATION ACCOUNT.**—The term “tribal priority allocation account”, means an account so designated by the Bureau, with respect to which program priorities and funding levels are established by individual Indian tribes.

(16) **TRIBAL RECURRING BASE FUNDING.**—The term “tribal recurring base funding” means recurring base funding (as defined and determined by the Secretary) for the tribal priority allocation accounts of an Indian tribe allocated to a tribe by the Bureau.

**TITLE I—REORGANIZATION COMPACTS**

**SEC. 101. REORGANIZATION OF AREA OFFICES.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, not later than 120 days after the date of enactment of this Act, the Secretary shall enter into negotiations with the Indian tribes served by each area office to prepare a reorganization plan for the area office.

**(b) CONTENTS OF AREA OFFICE PLANS.**—

(1) **IN GENERAL.**—Each area office plan that is prepared pursuant to this subsection shall provide for the organization of the area office covered under the plan. To the extent that the majority of Indian tribes served by the area office do not exercise the option to maintain current organizational structures, functions, or funding priorities pursuant to paragraph (2), the reorganization plan shall provide, with respect to the area office covered under the plan, for—

(A) the reorganization of the administrative structure of the area office;

(B) the reallocation of personnel (including determinations of office size and functions);

(C) the delegation of authority of the Secretary to the Director;

(D) transfers of functions;

(E) the specification of functions—

(i) retained by the Bureau; or

(ii) transferred to Indian tribes served by the area office;

(F) the issuance of waivers or other authorities by the Secretary so that functions and other responsibilities of the Secretary may be carried out by the area office or transferred to Indian tribes;

(G) the promulgation of revised regulations relating to the functions of the area office that are performed by the area office or transferred to Indian tribes;

(H) the reordering of funding priorities; and

(I) a formula for the transfer, to the tribal recurring base funding for each Indian tribe served by the area office, of unexpended balances of appropriations and other Federal funds made available to the area office in connection with any function transferred to Indian tribes pursuant to subparagraph (E)(ii).

(2) **SHARE OF FUNDING.**—An area office plan may include, for each Indian tribe served by the area office, a determination of the share of the Indian tribe of the funds used by the area office to carry out programs, services, functions and activities of the tribe (referred to in this subsection as the “tribal share”).

(3) **OPTION OF MAINTENANCE OF CURRENT STATUS.**—At the option of a majority of the Indian tribes served by an area office, a reorganization plan may provide for the continuation of organizational structures, functions, or funding priorities of the area office that are substantially similar to those in effect at the time of the development of the area office plan.

(4) APPROVAL OF AREA OFFICE PLAN BY INDIAN TRIBES.—Upon completion of the negotiation of an area office plan, the Secretary shall submit the plan to the Indian tribes served by the area office for approval. If a majority of the Indian tribes approve the area office plan by a tribal resolution pursuant to the applicable procedures established by the Indian tribes, the Secretary shall enter into a reorganization compact pursuant to subsection (c).

(5) SINGLE TRIBE AREA OFFICE.—In an area office that serves only 1 Indian tribe, if the tribe elects to develop a reorganization plan for the area office, the Secretary shall enter into negotiations with the tribe to prepare a reorganization plan for the area office. Not later than 60 days after the date on which a reorganization plan referred to in the preceding sentence is approved by the Indian tribe, the Secretary shall enter into a reorganization compact with the tribe to carry out the area office plan.

(6) OPTION TO TAKE TRIBAL SHARE.—

(A) IN GENERAL.—If a majority of the Indian tribes served by an area office fail to approve an area office plan, an Indian tribe may elect to receive directly the tribal share of the Indian tribe.

(B) DETERMINATION OF TRIBAL SHARE.—If an Indian tribe elects to receive a tribal share under subparagraph (A), the Secretary shall enter into negotiations with the Indian tribe to determine the tribal share of the Indian tribe.

(C) AGREEMENT.—Upon the determination of a tribal share of an Indian tribe under subparagraph (B), the Secretary shall enter into an agreement with the Indian tribe for transferring directly to the Indian tribe an amount equal to the tribal share. The agreement shall include—

(i) a determination of the amount of residual Federal funds to be retained by the Secretary for the area office; and

(ii) the responsibilities of—

(I) the area office; and

(II) the Indian tribe.

(c) AREA OFFICE REORGANIZATION COMPACT.—

(1) IN GENERAL.—Not later than 60 days after the date on which a majority of the Indian tribes served by the area office that is the subject of a reorganization plan have approved the plan pursuant to subsection (b)(3), the Secretary shall enter into an area office reorganization compact with the Indian tribes to carry out the area office plan (referred to in this subsection as the "area office reorganization compact"). The Secretary may not implement the area office plan until such time as the Indian tribes have entered into an area office reorganization compact with the Secretary pursuant to this paragraph. If the Indian tribes do not enter into an area office reorganization compact with the Secretary pursuant to this paragraph, the organizational structure, functions, and funding priorities of the area office in effect at the time of the development of the area office plan shall remain in effect.

(2) PROHIBITION AGAINST CERTAIN LIMITATIONS.—With respect to an Indian tribe that is not a party to an area office reorganization compact entered into by the Secretary under this subsection, nothing in this section may limit or reduce the level of any service or funding that the Indian tribe is entitled to pursuant to applicable Federal law (including any contract that the Indian tribe is entitled to enter into pursuant to applicable Federal law).

**SEC. 102. REORGANIZATION OF AGENCY OFFICES.**

(a) IN GENERAL.—Notwithstanding any other provision of law, not later than 120 days after the date of enactment of this Act,

the Secretary, acting through the Superintendent (or a designee of the Superintendent) of each agency office, shall enter into negotiations with the Indian tribes served by each agency office to prepare an agency office plan for each agency office.

(b) CONTENTS OF AGENCY OFFICE PLANS.—

(1) IN GENERAL.—Each agency office plan that is prepared by the Secretary pursuant to this subsection shall provide for the organization of the agency office covered under the plan. To the extent that the majority of Indian tribes served by the agency office do not exercise the option to maintain current organizational structures, functions, or funding priorities pursuant to paragraph (2), the agency office plan shall provide, with respect to the agency office covered under the agency office plan, for—

(A) the reorganization of the administrative structure of the agency office;

(B) the reallocation of personnel (including determinations of office size and functions);

(C) the delegation of authority of the Secretary to the Superintendent;

(D) transfers of functions;

(E) the specification of functions—

(i) retained by the Bureau; or

(ii) transferred to Indian tribes served by the agency office;

(F) the issuance of waivers or other authorities by the Secretary so that functions and other responsibilities of the Secretary may be carried out by the agency office or transferred to Indian tribes;

(G) the promulgation of revised regulations relating to the functions of the agency office that are carried by the agency office or transferred to Indian tribes;

(H) the reordering of funding priorities; and

(I) a formula for the transfer, to the tribal recurring base funding for each Indian tribe served by the agency office, of unexpended balances of appropriations and other Federal funds made available to the agency office in connection with any function transferred to Indian tribes pursuant to subparagraph (E)(ii).

(2) SHARE OF FUNDING.—An agency office plan may include, for each Indian tribe served by the agency office, a determination of the share of the Indian tribe of the funds used by the agency office to carry out programs, services, functions and activities of the tribe (referred to in this subsection as the "tribal share").

(3) OPTION OF MAINTENANCE OF CURRENT STATUS.—At the option of a majority of the Indian tribes served by an agency office, an agency office plan may provide for the continuation of organizational structures, functions, or funding priorities of the agency office that are substantially similar to those in effect at the time of the development of the agency office plan.

(4) APPROVAL OF AGENCY OFFICE PLAN BY INDIAN TRIBES.—Upon completion of the negotiation of an agency office plan, the Secretary shall submit the agency office plan to the Indian tribes served by the agency office for approval. If a majority of the Indian tribes approve the agency office plan by a tribal resolution pursuant to the applicable procedures established by the Indian tribes, the Secretary shall enter into a reorganization compact pursuant to subsection (c).

(5) SINGLE TRIBE AGENCY OFFICE.—In an agency office that serves only 1 Indian tribe, if the tribe elects to develop a reorganization plan for the agency office, the Secretary shall enter into negotiations with the tribe to prepare a reorganization plan for the agency office. Not later than 60 days after the date on which a reorganization plan referred to in the preceding sentence is approved by the Indian tribe, the Secretary shall enter into a reorganization compact

with the tribe to carry out the agency office plan.

(6) OPTION TO TAKE TRIBAL SHARE.—

(A) IN GENERAL.—If a majority of the Indian tribes served by an agency office fail to approve an agency office plan, an Indian tribe may elect to receive directly the tribal share of the Indian tribe.

(B) DETERMINATION OF TRIBAL SHARE.—If an Indian tribe elects to receive a tribal share under subparagraph (A), the Secretary shall enter into negotiations with the Indian tribe to determine the tribal share of the Indian tribe.

(C) AGREEMENT.—Upon the determination of a tribal share of an Indian tribe under subparagraph (B), the Secretary shall enter into an agreement with the Indian tribe for transferring directly to the Indian tribe an amount equal to the tribal share. The agreement shall include—

(i) a determination of the amount of residual Federal funds to be retained by the Secretary for the agency office; and

(ii) the responsibilities of—

(I) the agency office; and

(II) the Indian tribe.

(c) AGENCY OFFICE REORGANIZATION COMPACTS.—

(1) IN GENERAL.—Not later than 60 days after the date on which a majority of the Indian tribes served by the agency office that is the subject of an agency office plan have approved the agency office plan pursuant to subsection (b)(3), the Secretary shall enter into a reorganization compact with the Indian tribes to carry out the agency office plan (referred to in this subsection as the "agency office reorganization compact"). The Secretary may not implement the agency office plan until such time as the Indian tribes have entered into an agency office reorganization compact with the Secretary pursuant to this paragraph. If the Indian tribes do not enter into an agency office reorganization compact with the Secretary pursuant to this paragraph, the organizational structure, functions, and funding priorities of the agency office in effect at the time of the development of the agency office plan shall remain in effect.

(2) PROHIBITION AGAINST CERTAIN LIMITATIONS.—With respect to an Indian tribe that is not a party to an agency office reorganization compact entered into under this subsection, nothing in this section may limit or reduce the level of any service or funding that the Indian tribe is entitled to pursuant to applicable Federal law (including any contract that the Indian tribe is entitled to enter into pursuant to applicable Federal law).

(3) COORDINATION WITH AREA OFFICE PLANS.—Each agency office reorganization compact entered into by the Secretary under this subsection shall specify that in the event that the Secretary determines that the agency office reorganization compact is inconsistent with an area office reorganization compact entered into under section 101(c), the Secretary, in consultation with the Indian tribes that are parties to the compact, shall make such amendments to the agency office reorganization compact entered into under this subsection as are necessary to ensure consistency with the applicable area office plan.

**SEC. 103. REORGANIZATION OF CENTRAL OFFICE.**

(a) IN GENERAL.—Notwithstanding any other provision of law, not later than 120 days after the date of enactment of this Act, the Secretary shall enter into negotiations with Indian tribes to develop a central office plan. In developing the plan, the Secretary shall enter into negotiations on an area-by-area basis with a representative from each of the Indian tribes in each area, to determine

the appropriate allocation of personnel and funding made available to the central office to serve the area and agency offices and Indian tribes in each area office.

(b) **CONTENT OF CENTRAL OFFICE PLAN.**—

(1) **IN GENERAL.**—The central office plan shall provide for determinations by the Secretary, on the basis of the negotiations described in subparagraph (a), concerning—

(A) which portion of the funds made available to the Secretary for the central office shall—

(i) be used to support the area and agency offices in each area; and

(ii) be considered excess funds that may be allocated directly to Indian tribes in each area pursuant to a formula developed pursuant to paragraph (2)(J); and

(B) the allocation of the personnel of the central office to provide support to the area and agency offices.

(2) **REALLOCATION OF FUNDS AND PERSONNEL.**—In developing the central office plan, to the extent that the Secretary and the Indian tribes do not exercise the option to maintain current organizational structures, functions, or funding priorities, the central office plan shall provide, to the extent necessary to accommodate the determinations made under paragraph (1), for—

(A) the reorganization of the administrative structure of the central office;

(B) the reallocation of personnel (including determinations of office size and functions);

(C) the delegation of authority of the Secretary carried out through the central office to the Directors, Superintendents, or Indian tribes;

(D) transfers of functions;

(E) the specification of functions—

(i) retained by the central office; or

(ii) transferred to area offices, agency offices or Indian tribes;

(F) the issuance of waivers or other authorities by the Secretary so that functions and other responsibilities of the Secretary may be carried out by the central office or transferred to area offices, agency offices, or Indian tribes;

(G) the promulgation of revised regulations relating to the functions of the central office that are carried by the central office or transferred to area offices, agency offices, or Indian tribes;

(H) the reordering of funding priorities;

(I) allocation formulas to provide for the remaining services to be provided to the area and agency offices and Indian tribes by the central office; and

(J) with respect to the allocation of funds to the area and agency offices and Indian tribes in each area, a formula, negotiated with the tribal representatives identified in subsection (a), for the allocation to the Indian tribes of a portion of excess funds described in paragraph (1)(A)(ii).

(c) **CENTRAL OFFICE REORGANIZATION COMPACTS.**—

(1) **IN GENERAL.**—Not later than 60 days after the Secretary develops a central office plan pursuant to subsection (a), the Secretary shall, for each area office, enter into a central office reorganization compact with the Indian tribes in that area to implement the central office plan (referred to in this subsection as the "central office reorganization compact"). The Secretary may not implement the component of a central office plan relating to an area until such time as a majority of the Indian tribes in that area have entered into a central office reorganization compact. If a majority of the Indian tribes in an area do not enter into a central reorganization compact with the Secretary pursuant to this paragraph, the organizational structure, functions, and funding priorities of the central office relating to the area and agency offices and Indian tribes in

that area and in effect at the time of the development of the central office plan shall remain in effect.

(2) **COORDINATION WITH AREA AND AGENCY OFFICE PLANS.**—Each central office reorganization compact entered into by the Secretary under this subsection shall specify that in the event the Secretary determines that a central office reorganization compact is inconsistent with a related area office reorganization compact entered into under section 101(c) or a related agency office reorganization compact entered into under section 102(c), the Secretary, in consultation with the Indian tribes that are parties to the central office reorganization compact, shall amend the compact to make such modifications as are necessary to ensure consistency with the applicable area or agency office plan.

**SEC. 104. SAVINGS PROVISIONS.**

(a) **IN GENERAL.**—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of any function that is transferred to Indian tribes pursuant to a reorganization compact that the Secretary enters into pursuant to section 101, 102, or 103; and

(2) that are in effect on the effective date of the reorganization compact, or were final before the effective date of the reorganization compact and are to become effective on or after such date;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) **PROCEEDINGS NOT AFFECTED.**—

(1) **IN GENERAL.**—The provisions of a reorganization compact that the Secretary enters into pursuant to section 101, 102, or 103 shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Bureau at the time the reorganization compact takes effect, with respect to the functions transferred by the reorganization compact.

(2) **CONTINUATION OF PROCEEDINGS.**—The proceedings and applications referred to in paragraph (1) shall be continued. Orders shall be issued in such proceedings, appeals shall be taken from such orders, and payments shall be made pursuant to such orders, as if the compact had not been entered into, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) **STATUTORY CONSTRUCTION.**—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) **NONABATEMENT OF ACTIONS.**—No suit, action, or other proceeding commenced by or against the Bureau or by or against any individual in the official capacity of such individual as an officer of the Bureau shall abate by reason of the enactment of this title.

**SEC. 105. ADDITIONAL CONFORMING AMENDMENTS.**

(a) **RECOMMENDED LEGISLATION.**—After consultation with Indian tribes, the appropriate

committees of the Congress and the Director of the Office of Management and Budget, the Secretary shall prepare and submit to the Congress recommended legislation containing technical and conforming amendments to reflect the changes made pursuant to this title.

(b) **SUBMISSION TO THE CONGRESS.**—Not later than 120 days after the effective date of this title, the Secretary shall submit to the Congress the recommended legislation referred to in subsection (a).

**SEC. 106. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out this title.

**SEC. 107. EFFECTIVE DATE.**

This title shall take effect on the date of enactment of this Act.

**SEC. 108. SEPARABILITY.**

If a provision of this title or its application to any person or circumstance is held invalid, neither the remainder of this title nor the application of the provision to other persons or circumstances shall be affected.

**SEC. 109. SUSPENSION OF CERTAIN ADMINISTRATIVE ACTIONS.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, during the 2-year period beginning on the date of enactment of this Act, the Secretary shall suspend the implementation of all administrative activities that affect the Bureau of Indian Affairs associated with reinventing government, national performance review, or other downsizing initiatives.

(b) **CONSIDERATION OF COMPACTS.**—During the period specified in subsection (a), the reorganization compacts entered into under this title shall be deemed to satisfy the goals of the initiatives referred to in subsection (a).

**SEC. 110. STATUTORY CONSTRUCTION.**

Nothing in this title may be construed to alter or diminish the Federal trust responsibility to Indian tribes, individual Indians, or Indians with trust allotments.

## **TITLE II—AMENDMENT TO THE INDIAN SELF-DETERMINATION ACT**

**SEC. 201. BUDGET DEVELOPMENT.**

The Indian Self-Determination Act (25 U.S.C. 450f et seq.), as amended by the Tribal Self-Governance Act of 1994, is amended by adding at the end the following new title:

### **"TITLE V—BUDGET DEVELOPMENT**

**"SEC. 501. PARTICIPATION OF INDIAN TRIBES IN THE DEVELOPMENT OF BUDGET REQUESTS.**

**"(a) BUDGET REQUESTS FOR THE BUREAU OF INDIAN AFFAIRS.**—Notwithstanding any other provision of law, not later than 120 days after the date of enactment of this title, the Secretary of the Interior shall establish a program—

**"(1) to provide information to Indian tribes concerning the development of budget requests for the Bureau of Indian Affairs that are submitted to the President by the Secretary of the Interior for inclusion in the annual budget of the President submitted to the Congress pursuant to section 1108 of title 31, United States Code; and**

**"(2) to ensure, to the maximum extent practicable, the participation by each Indian tribe in the development of the budget requests referred to in paragraph (1).**

**"(b) BUDGET REQUESTS FOR THE INDIAN HEALTH SERVICE.**—Notwithstanding any other provision of law, not later than 120 days after the date of enactment of this title, the Secretary of Health and Human Services shall establish a program—

**"(1) to provide information to Indian tribes concerning the development of budget requests by the Secretary of Health and Human Services for the Indian Health Service that are submitted to the President by**

the Secretary for inclusion in the annual budget referred to in subsection (a)(1); and

"(2) to ensure, to the maximum extent practicable, the participation by each Indian tribe in the development of the budget requests referred to in paragraph (1).

"(c) REQUIREMENTS FOR PROGRAMS.—

"(1) IN GENERAL.—Each program established under this section shall, to the maximum extent practicable—

"(A) provide for the estimation of—

"(i) the funds authorized to be appropriated on an annual basis for the benefit of Indians tribes; and

"(ii) for each Indian tribe, the portion of the funds described in clause (i) that will be provided for the benefit of the Indian tribe;

"(B) provide, for each Indian tribe—

"(i) the opportunity to establish priorities for using the estimated funds described in subparagraph (A)(ii); and

"(ii) flexibility in the design of tribal and Federal programs that receive Federal funds to best meet the needs of the community served by the Indian tribe; and

"(C) provide for the collection and dissemination of information that is necessary for effective planning, evaluation, and reporting by the Secretary of the Interior or the Secretary of Health and Human Services and Indian tribes concerning the comparative social and public health conditions of Indian communities (as defined and determined by the Secretary of the Interior and the Secretary of Health and Human Services) at local, regional, and national levels.

"(2) DUTIES OF THE SECRETARIES.—In carrying out the programs established under this section, the Secretary of the Interior and the Secretary of Health and Human Services shall—

"(A) use any information provided by Indian tribes concerning the priorities referred to in paragraph (1)(B);

"(B) support the creation of stable recurring base funding (as defined and determined by each such Secretary) for each Indian tribe;

"(C) seek to maintain stability in the planning and allocation of the amounts provided for in the budget of the Bureau of Indian Affairs and the Indian Health Service for Indian tribes; and

"(D) assess the Federal programs or assistance provided to each Indian tribe to determine—

"(i) the relative need for providing Federal funds to carry out each such program; and

"(ii) the amount of recurring base funding available to each Indian tribe to carry out each such program.

"(3) CONTRACTS, GRANTS, AND ANNUAL FUNDING AGREEMENTS.—To provide, to the maximum extent practicable, for the full participation by the governing bodies of Indian tribes on an effective government-to-government basis in carrying out the collection and sharing of information under this section, the Secretary of the Interior or the Secretary of Health and Human Services may—

"(A) enter into a self-determination contract with an Indian tribe or make a grant to an Indian tribe pursuant to section 102 or 103;

"(B) with respect to the Secretary of Health and Human Services, enter into a funding agreement with a participating Indian tribe pursuant to title III; and

"(C) with respect to the Secretary of the Interior, enter into a funding agreement with a participating Indian tribe pursuant to title IV.

#### "SEC. 502. ASSESSMENT METHODOLOGY.

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this title, the Secretary shall, in cooperation with Indian tribes, and in accordance with the negotiated rulemaking procedures under subchapter III

of chapter 5 of title 5, United States Code, promulgate standardized assessment methodologies to be used in carrying out any budget determination for the Bureau of Indian Affairs concerning the levels of funding that are necessary to fund each program area (as defined and determined by the Secretary) of the Bureau.

"(b) PARTICIPATION BY INDIAN TRIBES.—In carrying out subsection (a), the Secretary shall take such action as may be necessary to ensure, to the maximum extent practicable, the direct and active participation of Indian tribes at the local, regional, and national levels in the negotiated rulemaking process specified in subchapter III of chapter 5 of title 5, United States Code.

"(c) COMMITTEE.—

"(1) COMPOSITION.—The negotiated rulemaking committee established pursuant to section 565 of title 5, United States Code, to carry out subsection (a) shall only be comprised of—

"(A) individuals who represent the Federal Government; and

"(B) individuals who represent Indian tribes.

"(2) REPRESENTATION BY INDIAN TRIBES.—A majority of the members of the committee referred to in paragraph (1) shall be individuals who represent Indian tribes.

"(d) ADAPTATION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures carried out under this section in the same manner as the Secretary adapts, in accordance with section 407(c), the procedures carried out pursuant to section 407.

#### "SEC. 503. REPORTS TO THE CONGRESS.

"(a) REPORT ON BUDGET NEEDS.—Not later than the earliest date after the date of promulgation of the regulations under section 502 on which the Secretary of the Interior submits a budget request to the President for inclusion in the annual budget of the President submitted to the Congress pursuant to section 1108 of title 31, United States Code, and annually thereafter, the Secretary shall prepare and submit to the President a report that—

"(1) describes the standardized methodologies that are the subject of the regulations promulgated pursuant to section 502; and

"(2) includes—

"(A) for each program area of the Bureau of Indian Affairs, an assessment of the level of funding that is necessary to fund the program area; and

"(B) for each Indian tribe served by a program area referred to in paragraph (2)—

"(i) an assessment of the level of funding that is necessary for each Indian tribe served by the program area;

"(ii) the total amount of funding necessary to cover all program areas with respect to which the tribe receives services (as determined by taking the aggregate of the applicable amounts determined under paragraph (3)); and

"(iii) a breakdown, for each program area with respect to which the Indian tribe receives service, of the amount determined under clause (ii).

#### "SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary to carry out this title."

### TITLE III—REFORM OF THE REGULATIONS OF THE BUREAU OF INDIAN AFFAIRS

#### SEC. 301. BIA MANUAL.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(1) conduct a review of all provisions of the BIA Manual;

(2) promulgate as proposed regulations those provisions of the BIA Manual that the

Secretary deems necessary for the efficient implementation of the Federal functions retained by the Bureau under the reorganization compacts authorized by this Act; and

(3) revoke all provisions of the BIA Manual that are not promulgated as proposed regulations under paragraph (2).

(b) CONSULTATION WITH INDIAN TRIBES.—In carrying out subsection (a), the Secretary shall, to the maximum extent practicable, consult with Indian tribes in such manner as to provide for the full participation of Indian tribes.

#### SEC. 302. TASK FORCE.

(a) ESTABLISHMENT OF TASK FORCE.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a task force on regulatory reform (referred to in this section as the "task force").

(2) DUTIES.—The task force shall—

(A) review the regulations under title 25, Code of Federal Regulations; and

(B) make recommendations concerning the revision of the regulations.

(3) MEMBERSHIP.—The task force shall be composed of 16 members, including 12 members who are representatives of Indian tribes from each of the 12 areas served by area offices.

(4) INITIAL MEETING.—Not later than 60 days after the date on which all members of the task force have been appointed, the task force shall hold its first meeting.

(5) MEETINGS.—The task force shall meet at the call of the Chairperson.

(6) QUORUM.—A majority of the members of the task force shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRPERSON.—The task force shall select a Chairperson from among its members.

(b) REPORTS.—

(1) REPORTS TO SECRETARY.—The task force shall submit to the Secretary such reports as the Secretary determines to be appropriate.

(2) REPORTS TO THE CONGRESS AND TO INDIAN TRIBES.—In addition to submitting the reports described in paragraph (1), not later than 120 days after its initial meeting, the task force shall prepare, and submit to the Congress and to the governing body of each Indian tribe, a report that includes—

(A) the findings of the task force concerning the review conducted pursuant to subsection (a)(2)(A); and

(B) the recommendations described in subsection (a)(2)(B).

(c) POWERS OF THE TASK FORCE.—

(1) HEARINGS.—The task force may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the task force considers advisable to carry out the duties of the task force specified in subsection (a)(2).

(2) INFORMATION FROM FEDERAL AGENCIES.—The task force may secure directly from any Federal department or agency such information as the task force considers necessary to carry out the duties of the task force specified in subsection (a)(2).

(3) POSTAL SERVICES.—The task force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The task force may accept, use, and dispose of gifts or donations of services or property.

(d) TASK FORCE PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the task force who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United

States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the task force. All members of the task force who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) **TRAVEL EXPENSES.**—The members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the task force.

(3) **STAFF.**—

(A) **IN GENERAL.**—The Chairperson of the task force may, without regard to the civil service laws, appoint and terminate such personnel as may be necessary to enable the task force to perform its duties.

(B) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The Chairperson of the task force may procure temporary and intermittent service under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) **TERMINATION OF TASK FORCE.**—The task force shall terminate 30 days after the date on which the task force submits its reports to the Congress and to Indian tribes under subsection (b)(2).

(f) **EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.**—All of the activities of the task force conducted under this title shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

(g) **PROHIBITION.**—Beginning on the date of enactment of this Act, the Secretary may not—

(1) promulgate any unpublished regulation or agency guidance that affects Indian tribes; or

(2) impose any nonregulatory requirement that affects Indian tribes.

#### **SEC. 303. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out this title.

#### **SECTION-BY-SECTION ANALYSIS**

##### **SECTION ONE**

Section 1 cites the short title of the Act as the Bureau of Indian Affairs Reorganization Act of 1995. This section sets forth the table of contents for the Act and the definitions used in the Act.

##### *Title I—Reorganization compacts*

##### **SECTION 101. REORGANIZATION COMPACTS**

Section 101 of the Act provides that not later than 120 days after enactment, the Secretary shall enter into negotiations with the Indian tribes served by each area office of the BIA to prepare a reorganization plan for the area office.

Subsection (b) of this section provides that each area plan shall provide for the reorganization of the administrative structure of the area office, the reallocation of personnel, the delegation of secretarial authorities, the issuance of waivers of regulations and other authorities, the reordering of funding priorities, and specify which functions are retained by the BIA and which functions are transferred to the tribes. The area office plan shall include a formula for allocation of savings to the recurring base funding of the tribes. This subsection also provides that an area plan may include a determination of the share of funds used by the Area office to carry out programs, services, functions and activities of the tribe.

Paragraph (3) of this subsection provides that a majority of tribes in an area may elect to continue the existing organizational structures, functions, or funding priorities of the area office.

Paragraph (4) of this subsection provides that upon completion of the negotiation of an area office plan the Secretary shall submit the plan for approval by the Indian tribes in the area. If a majority of tribes approve the area office plan by tribal resolution the Secretary shall enter into a reorganization compact with the tribes.

Paragraph (5) of this subsection provides that for those area offices which serve only 1 Indian tribe, the Secretary shall enter into negotiations with the tribe to prepare a reorganization plan if the tribe elects to develop a reorganization plan for the area office. It further provides that within 60 days from the date the plan is approved, the Secretary shall enter into a reorganization compact with the tribe to carry out the reorganization plan.

Paragraph (6) of this subsection provides that an Indian tribe may elect to receive its tribal share of the funds used by the area office to carry out programs, services, functions, and activities directly from the Secretary. The agreement to receive the tribal share shall include a determination of the amount of residual funds to be retained by the Secretary for the area office and the respective responsibilities of the area office and the Indian tribe.

Subsection (c) provides that not later than 60 days from the date on which a majority of tribes in the area office have approved a reorganization plan, the Secretary shall enter into an area office reorganization compact with the Indian tribes to carry out the area office reorganization plan. The Secretary may not implement an area office reorganization plan until the tribes have entered into a reorganization compact with the Secretary. This subsection also provides that nothing in this section may limit or reduce the level of any service or funding for an Indian tribe that is not a party to a reorganization compact.

##### **SECTION 102. REORGANIZATION OF AGENCY OFFICES**

Subsection (a) provides that not later than 120 days after enactment, the Secretary acting through the Superintendent of each agency office, shall enter into negotiations with the Indian tribes served by each agency office to develop a reorganization plan for the agency office.

Subsection (b) provides that each agency office plan shall provide for the reorganization of the administrative structure of the agency office, the reallocation of personnel, the delegation of secretarial authorities, the issuance of waivers of regulations and other authorities, the reordering of funding priorities, and specify which functions are retained by the BIA and which functions are transferred to the Indian tribes. The agency office plan shall include a formula for allocation of savings to the recurring base funding of the tribes. This subsection also provides that an agency office plan may include a determination of the share of funds used by the agency office to carry out programs, services, functions and activities of the tribe.

Paragraph (3) of this subsection provides that a majority of tribes in an agency office may elect to continue the existing organizational structures, functions, or funding priorities of the agency office.

Paragraph (4) of this subsection provides that upon completion of the negotiation of an agency office plan the Secretary shall submit the agency plan to the tribes served by the agency for approval. If a majority of tribes approve the agency reorganization

plan by tribal resolution, the Secretary shall enter into a reorganization compact with the tribes served by the agency.

Paragraph (5) of this subsection provides that for those agency offices which serve only 1 Indian tribe, the Secretary shall enter into negotiations with the tribe to prepare a reorganization plan if the tribe elects to develop a reorganization plan for the agency office. It further provides that within 60 days from the date the plan is approved, the Secretary shall enter into a reorganization compact with the tribe to carry out the reorganization plan.

Paragraph (6) of this subsection provides that an Indian tribe may elect to receive its tribal share of the funds used by the agency office to carry out programs, services, functions, and activities directly from the Secretary. The agreement to receive the tribal share shall include a determination of the amount of residual funds to be retained by the Secretary for the agency office and the respective responsibilities of the agency office and the Indian tribe.

Subsection (c) provides that not later than 60 days from the date on which a majority of tribes in the agency office have approved a reorganization plan, the Secretary shall enter into an agency office reorganization compact with the Indian tribes to carry out the agency office reorganization plan. The Secretary may not implement an agency office reorganization plan until the tribes have entered into a reorganization compact with the Secretary. This subsection also provides that nothing in this section may limit or reduce the level of any service or funding for an Indian tribe that is not a party to a reorganization compact. Finally, this subsection states that where the Secretary has determined that an agency office reorganization compact is inconsistent with an area office reorganization compact, the Secretary in consultation with the Indian tribes that are parties to the compact shall make such amendments to the agency office compact as are necessary to ensure consistency with the applicable area office plan.

##### **SECTION 103. REORGANIZATION OF CENTRAL OFFICE**

Section 103 provides that not later than 120 days from the date of enactment the Secretary shall enter into negotiations with Indian tribes to develop a central office reorganization plan. The Secretary shall enter into negotiations on an area by area basis with representatives from each tribe in the area in order to develop the central office plan. As part of these negotiations, the Secretary shall determine the appropriate allocation of personnel and funding made available to central office to serve the area and agency offices and the tribes in each area.

Subsection (b) provides that the central office plan shall contain a determination of funds and personnel used to support the area and agency offices in each area and those funds which may be allocated directly to Indian tribes pursuant to the formula developed under this section.

Paragraph (2) states that the central office reorganization plan shall provide for the reorganization of administrative structure of the central office, the reallocation of personnel, the delegation of secretarial authorities, the issuance of waivers of regulations and other authorities, the reordering of funding priorities, and specify which functions are retained by the BIA and which functions are transferred to the Indian tribes. The central office plan shall include an allocation formula to provide for the remaining services to be provided to the area and agency offices and the Indian tribes by the central office and a formula for allocation of savings to the recurring base funding of the tribes and to the area and agency offices.

Subsection (c) provides not later than 60 days after the Secretary develops a central office plan, the Secretary shall for each area office enter into a central office reorganization compact with the tribes in that area to implement the central office reorganization plan. The Secretary may not implement the component of a central office reorganization plan relating to an area until a majority of tribes in that area have entered into a central office reorganization compact with the Secretary. This subsection also provides that if a majority of Indian tribes in an area do not enter into a central office reorganization compact the existing organizational structure relating to that area shall remain in effect. Finally, this subsection states that where the Secretary has determined that a central office reorganization compact is inconsistent with a related area or agency office reorganization compact, the Secretary in consultation with the Indian tribes that are parties to the compact shall make such amendments as are necessary to ensure consistency with the applicable area or agency office plan.

#### SECTION 104. SAVINGS PROVISIONS

Subsection (a) states that all orders, determinations, rules, regulations, permits, agreements, grants, contracts, licenses, and other administrative actions that are in effect on the effective date of the reorganization compact shall continue in effect according to their terms until modified, terminated, superseded or set aside in accordance with law.

Subsection (b) states that the provisions of a reorganization compact shall not affect any proceedings, including any notices for proposed rulemaking, that are pending at the time the reorganization compact takes effect. These proceedings shall continue as if the compact had not been entered into and any orders issued in such proceedings shall continue in effect until modified, terminated or superseded by a duly authorized official, a court of competent jurisdiction, or by operation of law.

Subsection (c) states that no suit, action, or other proceeding commenced by or against the BIA or any official in the BIA shall abate by reason of enactment of this title.

#### SECTION 105. ADDITIONAL CONFORMING AMENDMENTS

Subsection (a) authorizes the Secretary to prepare and submit to the Congress, after consultation with the tribes, the Committees of jurisdiction in the Congress, and the OMB, recommended legislation containing technical and conforming amendments to reflect changes made pursuant to this title.

Subsection (b) requires the Secretary to submit such legislation to the Congress within 120 days of enactment of this title.

#### SECTION 106. AUTHORIZATION OF APPROPRIATIONS

Section 106 authorizes such sums as may be necessary to carry out this title to be appropriated.

#### SECTION 107. EFFECTIVE DATE

Section 107 states that this title shall take effect on the date of enactment.

#### SECTION 108. SEPARABILITY

Section 108 provides that if a provision of this title or its application is held invalid, neither the remainder of this title nor the application of the provision to other persons or circumstances shall be affected.

#### SECTION 109. SUSPENSION OF CERTAIN ADMINISTRATIVE ACTIONS

Section 109 provides that during the 2 year period beginning on the date of enactment the Secretary shall suspend the implementation of all administrative activities associated with reinventing government, the na-

tional performance review and other downsizing initiatives affecting the Bureau of Indian Affairs. It also states that during this 2 year period the reorganization compacts entered into under this title shall be deemed to satisfy the goals of reinventing government, the national performance review and other downsizing initiatives.

#### SECTION 110. STATUTORY CONSTRUCTION

Section 110 provides that nothing in this title may be construed to alter or diminish the Federal trust responsibility to Indian tribes, individual Indians, or Indians with trust allotments.

#### Title II—Amendment to the Indian Self-Determination Act

##### SECTION 201. BUDGET DEVELOPMENT

Section 201 amends the Indian Self-Determination Act (25 U.S.C. 450f et seq.) by adding the following new title:

#### Title V—Budget development

##### SECTION 501. PARTICIPATION OF INDIAN TRIBES IN THE DEVELOPMENT OF BUDGET REQUESTS

Subsection (a) of this section requires, within 120 days after enactment, the Secretary to establish a program to provide information to Indian tribes concerning the development of budget requests for the Bureau of Indian Affairs and to ensure that each Indian tribe participates to the maximum extent practicable in the development of the budget request for the Bureau of Indian Affairs.

Subsection (b) of this section requires, within 120 days after enactment, the Secretary of Health and Human Services to establish a program to provide information to Indian tribes concerning the development of budget for the Indian Health Service and to ensure that each Indian tribe participates to the maximum extent practicable in the development of the budget request for the Indian Health Service.

Subsection (c) of this section requires programs to the maximum extent practicable to develop an estimation of funds annually authorized to be appropriated for the benefit of Indian tribes, develop an estimation of individual tribal shares of the funds to be provided for the benefit of the Indian tribe, and to provide each tribe with an opportunity to establish individual tribal funding priorities. The program shall also collect and disseminate information necessary for effective planning and evaluation relating to the comparative social and public health conditions of Indian communities at the local, regional, and national levels.

Paragraph (2) of this subsection requires the Secretary of the Interior and the Secretary of Health and Human Services to support the creation of stable recurring base funding for each Indian tribe, to maintain stability in the planning and allocation of the IHS and BIA budgets to Indian tribes, to assess the Federal programs of assistance to Indian tribes to determine the relative need for providing Federal funds to carry out each such program and determine the amount of recurring base funding available to each Indian tribe to carry out each such program.

Paragraph (3) of this subsection authorizes the Secretary of the Interior and the Secretary of Health and Human Services to enter into self-determination contracts, self-governance compacts or make a grant to an Indian tribe to carry out the information collection and dissemination functions under this title.

##### SECTION 502. ASSESSMENT METHODOLOGY

Subsection (a) of this section requires the Secretary of the Interior within 180 days of enactment to promulgate standardized assessment methodologies to be used in carrying out any budget determination for the

BIA concerning levels of funding that are necessary for each program area.

Subsection (b) of this section requires the Secretary to ensure the direct and active participation of Indian tribes at the local, regional and national levels in the negotiated rulemaking process established under this section.

Subsection (c) of this section provides that the negotiated rulemaking committee created under this section shall be comprised of individuals who represent the Federal government and individuals who represent Indian tribes. A majority of the Committee shall be comprised of individuals who represent Indian tribes.

Subsection (d) of this section authorizes the Secretary to adapt the negotiated rulemaking procedures in accordance with section 407 of this Act.

##### SECTION 503. REPORTS TO THE CONGRESS

Subsection (a) provides that the Secretary shall annually prepare a report that describes the standardized methodologies and includes an assessment of the level of funding that is necessary to fund each program area of the Bureau of Indian Affairs. This report shall include an assessment for each Indian tribe of the level funding necessary for each Indian tribe to carry out each program area and an assessment of the total amount of funds needed to carry out all the programs areas with respect to which the tribe receives services.

##### SECTION 504. AUTHORIZATION OF APPROPRIATIONS

This section authorizes to be appropriated such sums as may be necessary to carry out this title.

#### Title III—Reform of the Regulations of the Bureau of Indian Affairs

##### SECTION 301. BIA MANUAL

Section 301 requires the Secretary not later than 180 days after enactment to conduct a review of all the provisions of the BIA manual and to promulgate as proposed regulations those provisions of the BIA manual that are deemed necessary and to revoke all provisions of the BIA manual that are not promulgated as proposed regulations. In carrying out this section, the Secretary shall consult with Indian tribes to the maximum extent practicable.

##### SECTION 302. TASK FORCE

Section 302 provides for the establishment of a Joint Tribal-Federal task force on regulatory reform. The task force shall be composed of 16 members, including 12 members who are representatives of Indian tribes from each of the 12 areas served by the BIA. The task force shall review the regulations under Title 25 of the Code of Federal Regulations and make recommendations concerning revision of the regulations. The task force shall submit reports to the Secretary as is deemed appropriate and shall not later than 120 days after its initial meeting submit a report to the Congress and the governing body of each Indian tribe that includes their findings and recommendations after reviewing Title 25 of the Code of Federal Regulations. The task force shall terminate 30 days after the date on which the task force submits its report to the Congress. This section also prohibits the Secretary from promulgating any unpublished regulation or agency guidance that affects Indian tribes and from imposing any nonregulatory requirement that affects Indian tribes.

##### SECTION 303. AUTHORIZATION OF APPROPRIATIONS

Section 303 authorizes to be appropriated such sums as may be necessary to carry out this title.

• Mr. INOUE. Mr. President, I join my esteemed colleague, the chairman



of the Committee on Indian Affairs, Senator JOHN MCCAIN, in the sponsorship of a measure that is intended to initiate discussion in the Senate of the means by which the reorganization of the Bureau of Indian Affairs is to be accomplished.

Mr. President, I am aware that there is some concern amongst my colleagues that they have not sufficient time to review this measure prior to its introduction, and I want to assure these members that I too have questions about the mechanics of the proposed reorganization process, as well as the scope of the proposed reorganization—but I believe that it is important that we begin somewhere—and that we have a legislative vehicle that will engender discussion and consideration of the specifics of reorganization.

For instance, it will be important, I believe, that reorganization at the agency, area and central offices proceed in some orderly fashion—given the interdependency of the functions and responsibilities of each of these offices.

In the absence of some order—reorganization of agency offices prior to reorganization of area offices culminating in the reorganization of the central office, for instance, as one possible means—there will undoubtedly be a predictable chaos if reorganization plans and compacts that have significant impacts on other organizational units are attempted to be implemented—all at the same time.

Mr. President, I am also aware of the concern expressed by some members as to what impact the proposed reorganization may have on the Bureau's responsibilities in the areas of education, tribal justice systems, and other centrally administered programs.

But I believe that this discussion draft will, at a minimum, provide us with a framework for addressing these concerns, and I look forward to working with the chairman of the committee—our colleagues on the Indian Affairs Committee and the leaders of Indian country—to refine this discussion draft into an effective instrument for the implementation of the recommendations of the joint Department of Interior, Bureau of Indian Affairs, and tribal task force on the reorganization of the Bureau of Indian Affairs.●

● Mr. DOMENICI. Mr. President, I am pleased today to join Chairman MCCAIN of the Senate Committee on Indian Affairs in sponsoring legislation to bring about many needed changes to the Bureau of Indian Affairs [BIA] of the U.S. Department of the Interior. It is a special honor for me to endorse the fine work of Wendell Chino, president of the Mescalero Apache Tribe of New Mexico. He has worked for decades to change the BIA. More recently, President Chino has focused his fine efforts through the BIA Reorganization Task Force for the last 4 years. As the elder statesman of Indian leaders, President Wendell Chino's incisive and powerful voice has been heard about the continuing problems in the BIA. We are

pleased to introduce legislation to help bring these recommendations to fruition.

Wendell has long been a vociferous and humorous critic of the infamous BIA. Wendell tells me that humor is necessary when you really want to cry. We have a special trust relationship with Indians in America, but far too often this trust has been neglected by a cumbersome bureaucracy.

As cosponsor of Chairman MCCAIN's excellent effort to launch an important debate, I am aligning myself with those who view the BIA as a detriment rather than a benefit to Indian people. I have spoken several times in Senate Budget and Indian Affairs Committee meetings this year about the need to meet our special trust and treaty obligations to the Indian people.

As a proponent of the largest budget reductions ever presented in the history of the Senate, I have maintained the need to keep our promises to the Indian people. This is not only good for Indians, it is good for America to know that her word is meaningful and can be relied upon.

When the Congress passes legislation and the President signs it, Americans should be able to know that they have been well represented and action will follow that is in line with the promises. Unfortunately, America's history has not been so sterling when it comes to its promises to Indian people. There are books, movies, and testimony to the many tragedies in our history with Indian people.

There have been some improvements in this century, but the violations continue. For example, as recently as 1962, the Congress and the President, in Public Law 87-483, promised to provide an irrigation system to the Navajo Tribe in exchange for water rights in the San Juan Chama water diversion project. The Navajos have kept their agreement about water rights, but the Federal Government is 20 years behind schedule in building the promised irrigation system.

I will not take the time to review other incidents here, I just want my colleagues to know that we are aware of the promises, and that we should do our part in promoting character counts in our own legislative activity. I believe the bill we are introducing today is in line with this goal.

Mr. President, I ask unanimous consent to print the leading themes of the executive summary of the joint tribal/BIA/Department of Interior advisory task force on the reorganization of the Bureau of Indian Affairs, August 1994, in the RECORD. This is for the benefit of my colleagues who may want to look at the parameters of the fine work of this task force, upon which Chairman MCCAIN has based our legislative effort. I refer my colleagues to Chairman MCCAIN's statement for a further explanation of the purposes of this legislation, and I urge my colleagues to review this exciting new thrust for the BIA.

On a closing note, I would like to add that my own bill, S. 346, cosponsored by Senator DANIEL INOUE of the Senate Committee on Indian Affairs, is not included in the bill we are introducing today. It is my intention to offer S. 346, a bill to establish an Office of Indian Women and Families in the BIA, as an amendment during committee markup of this legislation. For the benefit of my colleagues, I ask unanimous consent that my "Dear Colleague" letter of February 22, 1995, be printed in the RECORD.

Finally, Mr. President, I would be remiss if I did not acknowledge the fine work of a former New Mexico Congressman who became Secretary of the Interior, Manuel Lujan. It was Secretary Lujan who appointed Wendell Chino and Eddie Brown as co-chairs of the BIA reorganization task force.

It is my pleasure to join Senator MCCAIN in introducing this bill. It is an honest and good effort to reform, in significant and positive way, our trust relationship with the American Indian people.

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

U.S. SENATE,

Washington, DC, February 22, 1995.

DEAR COLLEAGUE: As we consider better ways to meet our treaty and statutory obligations to the Indian people of America through an improved Bureau of Indian Affairs, I would like you to keep Indian women and youth in mind. It is my belief that they are too often ignored in the Washington-based policy decisions that can have a most direct impact on their daily lives.

I am asking my Senate Colleagues to join me and the Vice Chairman of the Senate Committee on Indian Affairs, Senator Daniel K. Inouye, in sponsoring legislation to establish an Office of Indian Women and Families in the Bureau of Indian Affairs, U.S. Department of the Interior.

Indian women are most often at the very bottom of the economic ladder in America. They are the *poorest of the poor*. While the tide of public opinion is against adding virtually any new federal government employees, I believe it is time to directly address the concerns and problems of Indian women in the agency that is most responsible for their well-being.

In January of 1994, I held hearings in Window Rock, Arizona and in Rio Grande Pueblo country in Albuquerque, New Mexico. Hundreds of women and tribal leaders expressed their support for enacting this legislation. In the 103rd Congress, Senator McCain worked very hard to bring the problems of Indian child abuse to light. Many abusers were their BIA teachers.

Ramah Navajo District Judge Irene Toledo testified in Window Rock that "we do have a lot of children falling through the cracks." Elsie Redbird told us, "While American women come up against a 'glass ceiling,' Indian women have problems getting off the floor."

There are problems with gang violence, teen pregnancies and AIDS. Child care, domestic violence, poor housing conditions, and minimal economic opportunity are continuous problems on our nation's Indian reservations.

How would this new Office of Indian Women and Families help resolve these problems? The monitoring of participation rates and beneficial outcomes for Indian women

and children in on-going programs of the BIA and other federal departments and agencies would be a critical first step.

Job opportunities outside the domestic or clerical levels are too rare for Indian women. Yet the BIA and the U.S. Department of Labor have little precise and current information about the unemployment or underemployment problems of Indian women.

Obviously, an Office of Indian Women and Families could not be expected to move on all fronts at once. In fact, our bill gives jobs and business development opportunities for Indian women the first priority. Without such a permanent office to advocate program and policy changes for them, I am afraid one of our most precious and yet most neglected federal responsibilities will continue to be a national shame.

Indian women and their families have little choice but to live at the mercy of some of the most perplexing bureaucratic mazes in our federal government. I believe this group of American Indians would benefit by a more systematic monitoring of their lifestyle problems, a more consistent effort on our part to improve their lives, and a more interactive approach that includes their active participation in resolving their own concerns.

I hope you will join in cosponsoring S. 346, a bill to establish an Office of Indian Women and Families in the Department of Interior. Joe Trujillo of my staff can be reached at 224-7086 if you have further comments or questions. Thank you for your interest in American Indian women and their families.

Sincerely yours,

PETE V. DOMENICI,  
U.S. Senator.

#### LEADING THEMES OF REORGANIZATION

Tribes recognized that simply changing the organizational structure of the BIA would not result in a change in how well it could deliver on its responsibility. All aspects of the organization, systems and processes utilized by the BIA were reviewed. The BIA's mission needed to be clearly defined to guide its future directions. Four leading themes emerged early, and the Task Force organized its efforts around them:

**Organization Reform:** The organizational levels and functions needed to be clearly defined as to appropriate roles, with the operational roles moved as close as possible to where services were to be delivered. Accordingly, roles were recommended for Central Office, Areas and Agencies. Keeping in mind the differences between Areas, the Task Force recognized that the Tribes in each Area and Agency needed to be involved in the redesign of these organizations to meet their respective needs. Too much of the overall resources of the BIA were being dedicated to Central Office and Area functions. Tribes felt that these resources could be better utilized at the Tribe/Agency/school service delivery level.

**Regulatory Reform:** The authority by which BIA decisions were made had been eroded at the levels nearest Tribes. The Task Force recognized that laws, regulations and internal BIA policies needed to change to return decision making to the BIA organizational units closest to the client. In addition, many inherent Tribal authorities had been usurped. Laws, regulations and policies needed to be reviewed to remove obstacles to Tribes freely exercising authorities for decisions which were inherently Tribal.

**Education Reform:** The Task Force strongly felt that emphasis needed to be placed on education for the following reasons: (1) The failure to fully implement all provisions of P.L. 95-561. (2) The indefinite organizational

status of education functions within the Bureau. (3) An assessment of the current level of education services within the Bureau. It was determined that a comprehensive plan was necessary to ensure maximum efficiency and effectiveness in education.

**Budget Reform:** The processes of planning, budgeting and reporting on budget needs were in serious need of reform. Throughout the first 20 years of implementation of the Self-Determination policy, Tribal participation in decisions regarding the designs of programs and the priorities for funding them had actually been diminished. Tribes felt that their needs were consistently understated or not reported to Congress at all. Though they had assumed management of about half of the budget resources under various Self-Determination Act awards, the BIA and others in the Federal government seemed to retain full control, and frequently disrupted the maintenance of funding and services. A new system of planning, budgeting and needs assessment was needed, and it needed to be based on the Federal policies of Indian Self-Determination and of dealing with Tribes on a government-to-government basis.●

By Mr. HATCH:

S. 815. A bill to amend the Internal Revenue Code of 1986 to simplify the assessment and collection of the excise tax on arrows; to the Committee on Finance.

#### SIMPLIFICATION OF IMPOSITION OF EXCISE TAX ON ARROWS

Mr. HATCH. Mr. President, I rise today to introduce legislation that would simplify the Internal Revenue Code regarding the imposition of the Federal excise tax on arrows.

Mr. President, this bill will benefit manufacturers, wholesalers, retailers, assemblers, and, most importantly, the consumers of archery equipment. In 1993, there were nearly 3 million licensed bow and arrow hunters in the United States, including 28,000 in my home State of Utah. These figures exclude the millions of individuals who enjoy archery as a hobby but do not hunt with a bow and arrows. Let me explain both the present status of this excise tax and why simplification is needed.

Under section 4161(b) of the Internal Revenue Code, an excise tax of 11 percent is imposed upon the sale by the manufacturer, producer, or importer of an arrow or an arrow's component parts and accessories. A complete arrow consists of various component parts, namely: a shaft, a point, a nock, and a vane. The arrow shaft is sold separately from the point, nock, and vane, which are attached to the shaft to make a complete arrow. The assembly of these parts into a finished arrow may take place at a wholesale manufacturing level, a distribution level, a retail level, or at the consumer level. Identifying the manufacturer for purposes of the excise tax is difficult because of the long distribution chain between the raw material supplier and the consumer. Under current law, anyone who manufactures arrows, or the various parts of arrows, may be required to collect the excise tax.

The current interpretation of the tax on arrows has resulted in a great deal

of confusion among retailers as well as among IRS field agents enforcing the law. Currently, local shops are subject to different interpretations of what is taxable. Ultimately, the tax falls on the last person in the chain to materially change the article before it is sold to the consumer. Unfortunately, several members of this chain may fit the definition of a manufacturer, and each is liable for the tax unless certain registration requirements are met and exemption forms filed.

As you can see, Mr. President, the method for collecting the excise tax on arrows needs to be streamlined. My bill would change the imposition of the excise tax to fall on the component shafts, points, nocks, and vanes as they are manufactured, rather than on the aggregated value of the assembled arrow. This is a significant change, but one that will greatly simplify the administration of the tax. Under my bill, individual distributors, assemblers, and retail sellers of arrows or parts of arrows would no longer be responsible for collecting the excise tax. Only the manufacturers of these parts would bear the responsibility of the excise tax. Thus, identification of the manufacturer would be much simpler and clearer. Industry representatives, who support these changes, have indicated to me that this simplification should increase compliance and therefore enhance revenues. Enforcement by the IRS should also be much easier under this legislation.

Mr. President, the result of this bill is a narrowing of the collection base. Instead of having thousands of distributors, retailers, or custom arrow shops being potentially liable for the tax as under the current law, about 65 companies would be liable under the bill. This simplification would save the IRS a considerable amount of time and money in enforcing the tax. It also would free smaller dealers and stores from the burden of computing and remitting the excise tax.

The language in this bill accomplishes the needed simplification of this particular section of the Tax Code. One consequence of this change is the possibility that a higher excise tax rate may be needed to make the measure revenue neutral. The arrow manufacturing industry agrees that this simplification is not intended to decrease revenue to the Federal Government. I am working with the Joint Committee on Taxation to find a rate of tax that will make the end result revenue neutral. The bill, as introduced, Mr. President, includes an 11 percent tax rate, which is the same as under present law. It is my intention to adjust this rate, up or down, as needed, to keep this bill revenue neutral. I want to point out, however, that greater compliance should be achieved by having a much smaller number of entities responsible for the tax. This greater compliance, together with the savings realized from the reduced manpower requirements the IRS needs to enforce this tax,

should combine to allow an equal or lesser tax rate than under current law. These factors should be considered when determining the revenue impact of this legislation.

Mr. President, the amount of revenue we are talking about is around \$13 million a year. These revenues are, by law, required to go to the Pittman-Robertson fund, established by the Federal Aid to Wildlife Restoration Act. The proceeds of this fund go toward wildlife restoration and hunter education programs administered by the U.S. Fish and Wildlife Service. The bulk of this fund is, in turn, passed onto the States to fund their own wildlife programs.

Under current law, arrows made by native Americans are exempt from the Federal excise tax. The simplification bill I am introducing today would not remove or alter this exemption in any way.

In conclusion, Mr. President, I believe that today, more than ever, we need to be mindful of the many burdens we are placing on small businesses and consumers through numerous Federal mandates and burdensome tax compliance measures. Businesses and consumers nationwide spend billions of dollars each year on tax compliance. Consumers, of course, pay for this compliance through higher retail prices for goods and services. We all know this money could be put to more productive use. Even though this bill is small in comparison to the immense Tax Code, I think it is right on target in terms of helping us to achieve tax simplification.

Mr. President, this legislation is a beneficial modification to the Tax Code presented in a win-win framework. This bill has the support of the Archery Manufacturers and Merchants Association, which represents the majority of this industry. I hope this bill will be swiftly adopted, and I encourage my colleagues to support and cosponsor this bill.

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. 815

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

**SECTION 1. SIMPLIFICATION OF IMPOSITION OF EXCISE TAX ON ARROWS.**

(a) IN GENERAL.—Subsection (b) of section 4161 of the Internal Revenue Code of 1986 (relating to imposition of tax) is amended to read as follows:

“(b) BOWS AND ARROWS, ETC.—

“(1) BOWS.—

“(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a draw weight of 10 pounds or more, a tax equal to 11 percent of the price for which so sold.

“(B) PARTS AND ACCESSORIES.—There is hereby imposed upon the sale by the manufacturer, producer, or importer—

“(i) of any part of accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

“(ii) of any quiver suitable for use with arrows described in paragraph (2), a tax equivalent to 11 percent of the price for which so sold.

“(2) ARROWS.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any shaft, point,nock, or vane of a type used in the manufacture of any arrow which after its assembly—

“(A) measures 18 inches overall or more in length, or

“(B) measures less than 18 inches overall in length but is suitable for use with a bow described in paragraph (1)(A),

a tax equal to 11 percent of the price for which so sold.

“(3) COORDINATION WITH SUBSECTION (a).—No tax shall be imposed under this subsection with respect to any article taxable under subsection (a).”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

By Mr. DEWINE (for himself, Mr. STEVENS, Mr. ASHCROFT, Mr. HATCH, and Mr. THURMOND):

S. 816. A bill to provide equal protection for victims of crime, to facilitate the exchange of information between Federal and State law enforcement and investigation entities, to reform criminal procedure, and for other purposes; to the Committee on the Judiciary.

**THE LOCAL LAW ENFORCEMENT ENHANCEMENT ACT**

Mr. DEWINE. Mr. President, today I am introducing the Local Law Enforcement Enhancement Act for myself as well as Senator STEVENS and Senator ASHCROFT.

Mr. President, for the past week, beginning last Wednesday, I have discussed on the Senate floor different aspects of the bill that I am introducing this afternoon. I do not intend to go through every single provision of the bill again this afternoon. But I would like to highlight three or four of the principal areas of this bill.

I believe that when we look at any crime bill proposed in this Congress, we always have to ask several questions. The first is, what is the proper role of the Federal Government in an area that we all know and understand is primarily local. Ninety to 95 percent of all prosecutions are done at the State, county and local level, not the Federal level. So if we are going to have a national crime bill, what is that niche? What is the proper role of the Federal Government?

The second question I believe that we always have to ask is, what works? What can this Congress do in legislation, with Federal dollars, that will really make a difference?

The bill that I am introducing this afternoon is the product of my 20 years of being involved at different levels of Government, in law enforcement, being involved in this battle against crime. That certainly does not mean that I am an expert. I do not think we have any experts in this area.

However, I have seen it from every angle. I have seen it from the angle of

a young county prosecuting attorney, a State senator who dealt with it on the State level and tried to write appropriate State laws, then on the House Judiciary Committee for 8 years, and then as Lieutenant Governor of Ohio, where my principal job was to oversee our anticrime effort.

This bill is a product of that experience, but also probably more importantly, it is the product of my listening and discussing the crime issues with the men and women in Ohio who are on the front line every single day, the police officers who have to deal with this problem—what works, what does not work.

One thing, Mr. President, that we know works, from our experience, is the tools of technology. My bill will take America from 19th-century technology in the anticrime area into the 21st century. It does it in a unique way. It does it by putting \$1 billion—which is certainly a lot of money, but only a little over 3 percent of this total crime package that was passed last year, which my bill essentially is a rewrite of—a little over 3 percent of that total money over a 5-year period we spend on technology for the local communities, for the local States.

What I have been advised by law enforcement throughout Ohio and what I have been advised by the FBI is that while last year's crime bill went a long way to create the national databases that we need here in Washington and in the new facility that is being built in West Virginia, it will never be a complete system unless we grow the system locally.

I come from Greene County in Ohio, and the Xenia police department, when they put information into the system or try to get information back out, it is not only important for them to do it accurately and for that information to be in; it is not only important for the FBI to have the national database; but for it to really be successful and work for the local police department wherever that police department is, every other jurisdiction in the country has to do the same thing. Criminals move around, information moves around, and it has to be accurate.

What our bill does is put the money into the local communities. What are we talking about? We are talking about, basically, four national systems: a DNA system; a fingerprint system; a ballistic system, where we can compare the grooves, for example, on shells and bullets; and the fourth, of course, is to identify criminals.

This type of technology matters. It does, in fact, help to solve crimes. It matters when a police officer, at 3 o'clock in the morning, or a sheriff's deputy out on some dark road, has to pull someone over. It matters when that police officer activates his or her computer or calls back into the station to run that license plate. It matters that the information in that computer is accurate so that police officer knows as well as humanly possible who that

person is before the apprehension has to be made, before that person is approached.

It matters when we have an investigation of a case and all the police have is an unknown fingerprint, and they have to try to figure out where that fingerprint came from. It matters under the technology that we have today: Take that unknown print and compare it with 4 or 5 million known prints of known criminals. It matters.

That is the type of thing that we can do with this new technology that we never would dream of being able to do without the computers. All this does, in fact, matter. This is a tool, a tool that will be relatively cheap in regard to the entire crime bill.

Let me make very clear, Mr. President, the crime bill that we are introducing today does not spend any more money. It basically accepts as given what this Congress has decided last year, and appears to be deciding again this year, and that is over the next 5 years, we will devote 30 billion Federal dollars, taxpayers' dollars, to the fight against crime.

The question that we have before Congress today is how best to spend that money, and can we improve upon what the Congress did last year? I believe that we can.

The first thing that matters is technology. Our bill provides that. It will make a difference. We will solve crimes. We will save lives.

Let me move now to the second area. The second thing that we know does, in fact, matter in law enforcement. It matters, Mr. President, if we can take violent criminals off the streets. If we can take violent criminals off the streets and lock them up and keep them locked up, we know they at least will not be continuing to commit crimes.

My bill reinstitutes a program that the Bush administration had in place for over a year and a half. It was called Project Triggerlock. The principle behind Project Triggerlock was very simple. The principle was that violent offenders who use a gun in the commission of a felony need to be targeted by all U.S. attorneys in this country. And in cooperation with local State prosecutors and county prosecutors, if they wish, then the U.S. attorney takes that case into Federal court, and under Federal law prosecutes that person. Then, when the person is convicted, they are housed courtesy of the Federal Government. That is a great assistance to law enforcement because in most cases, the Federal mandatory sentencing laws for violent offenders, particularly violent offenders who use a gun in the commission of a felony, is tougher than it is in most States. We have a great deterrent effect.

During the last administration, in an 18-month period of time, 15,000 violent career criminals were taken off the streets, prosecuted, locked up, and put away for a long, long time. That matters. That is what the people in law enforcement call a specific deterrent.

That person is locked up and is going to be specifically deterred from committing another crime as long as they are, in fact, locked up.

Let me turn now, Mr. President, to the third thing that matters: Technology matters. Technology will solve crimes. It matters to lock up dangerous, violent people, particularly those who use a gun. The third thing that clearly matters that we have learned from experience, if a community deploys police officers into a high-crime area, and if they are deployed correctly—call it community policing, call it whatever—but if they are deployed correctly in the community, they will, in fact, reduce crime. There is an inverse relationship between the number of police officers put out on the street and the crime, the violent crime that occurs in a given area.

President Clinton was right in regard to that basic concept. He is to be congratulated for that. I think, though, that between the rhetoric and the details, something in last year's crime bill was lost. What was lost was a dedication of those tax dollars to be targeted to our most dangerous areas.

What my bill, the bill we introduce today, is doing, is to take a finite amount of money that we have, \$5 billion, and target it to the 250 most dangerous places in this country to live, the 250 places in this country where according to the FBI's own statistics, the crime rate is the highest. We are not talking about writing bad checks. We are not talking about forgery. What we are talking about is rape, murder, armed robbery, and aggravated assault—the meanest, toughest crimes that there are. When we put that into the computer and run that and compare that then by factoring with regard to population, that is how we divided this money up.

We went further in our bill. Where the bill that was passed last year provided that this money would last for 3 years and that these police officers that the Clinton administration envisioned would be paid for 3 years, our bill pays for them for 5 full years.

In addition to that, our bill provides for full funding, at 100 percent, so the local community has no match. There is no money the local community has to put in. The Clinton bill is a 75-25-match, where the local community has to come up with 25 percent. There have been a number of communities that have had a problem with that, coming up with those dollars. In fact, in Ohio it is my understanding the city of Cincinnati, at least up until now, has not made a match to have any police officers come in under this program. So our bill targets the 250 communities in this country where the violent crime rate is the highest. Let me just give some examples of what this will actually mean. Let me just skip around the country.

In Detroit, MI, 96 police officers have been hired so far under the Clinton

plan. Our bill provides, at full funding for 5 years the hiring of 747.

Dallas, TX, 70 police officers hired so far. Our bill provides for 604 police officers to be hired.

Atlanta, GA, 38 under the Clinton bill. Ours provides for 442.

Miami, FL, only six, according to the figures that we have come up with—only six so far in Miami. Yet our bill provides for 402.

St. Louis, 23 under the Clinton plan, 386 under our plan.

Chicago, 308 under the Clinton plan, under ours 2,219.

There will be some people who have already suggested to me that maybe what you are doing makes sense but it does not make political sense because you are not spreading these police officers in every community. And that is true, we are not doing that. But I think what the American people expect us to do and what we should do is to target those police officers in those areas of the country where they are most needed. Our bill provides money to be targeted. But we also provide, for those communities that are not in that top 250 where the crime rate is the highest, additional funds over and above what the Clinton administration bill provided. We add an additional \$1.8 billion over 5 years. So those communities will have additional money, but not only additional money, they will have a great deal of flexibility so if they want to take that money and hire police officers or pay for overtime, they can do that as well.

We may say, would it not be better just to spread these police officers throughout the country? We talked about, particularly this year, the basic functions of Government. What should Government do? What should Government not do? What should the Federal Government not do? What should the State government do?

One of the basic functions of government, maybe the basic function of government—certainly the oldest function of government, going back thousands of years to the time when governments of some sort were originally formed, it may have been nothing more than a chieftain or a king or someone guaranteeing to provide safety for people—but the primary function of government is to protect people and to make a safe environment for them to live.

We have a crisis today in our inner cities. We have a crisis in many parts of our country. It is not totally, exclusively devoted to the inner cities, but the inner cities certainly provide an example of where crime is very, very high. I think we have a moral obligation to try as a country to address that problem. In 1987 the Justice Department estimated that 8 out of every 10 Americans will be victims of a violent crime at least once in their lifetime. Every year, one out of four households is victimized by a crime. An American is more likely to be injured by a violent crime than by a car accident.

So crime is a big problem and it is a big problem for all Americans. But the

crime we are talking about, the violent crime, is really heavily concentrated in certain areas. Princeton Prof. John DeJulio reports that while Philadelphia—just as an example—while Philadelphia contains only 14 percent of the population of the State of Pennsylvania, it accounts for 42 percent of the entire State's crime—an unbelievable figure. What is happening to the children who live in these high-crime areas? They are living a life, frankly, that would be unimaginable for Americans of my parents' generation.

Over 25 percent of inner-city children growing up in this country think they are likely to be shot at some point in their life—25 percent, one-fourth of these children growing up. A male teenager growing up in an inner city is at least six times more likely to be a victim of violent crime than a male teenager growing up somewhere else in the country—six times. I do not think we can give up on these young people, these young Americans. They need hope and opportunity every bit as much as any other child in this country. They need a chance. And I believe putting more police in their neighborhoods is something we can do to start giving them that chance, the chance to live without constant fear for themselves and for their families.

Let us make no mistake about it, putting more police into those crime-infested areas, the most crime-ridden areas of our country, is not going to solve all the problems of those communities. We all know that and we all have an obligation to work on the other problems—welfare reform, jobs, making sure the schools in every neighborhood in this country are good schools so the children do in fact have a chance and opportunity. But no matter what we do with our schools, no matter what we do with welfare, no matter what we do with job creation, nothing positive can really take place as long as crime does exist.

So, having community policing, having law enforcement targeted to these areas, I believe, is clearly the right thing to do. I do not think it is fair to say to that child who, because of accident of birth, happens to be growing up in an area where he or she is six times more likely to be killed than a child in a suburb, I do not think it is fair to say to that child: We cannot do anything about it. We are, for political reasons, going to spread out these police officers, these new police men and women. We are going to spread them out throughout the country because for political reasons we think we can get more votes that way for a particular bill. I do not think that is right. I think the right thing to do is to target where these police men and women go, and that is what our bill does.

Our bill does many other things. I see my colleague from Michigan is on the floor, so I am not going to speak very much longer, let me advise him. But let me say in conclusion that this bill is aimed at doing things that matter,

doing things that will make a difference, doing things that will get the job done. It is a very pragmatic bill, a very hardheaded bill. And it basically says this: If we as a Congress have made the decision, as apparently we have, that over the next 5 years we are going to spend \$30 billion on this very, very important problem, then we should spend it correctly and we should listen to the men and women who are professionals, who can tell us how to spend it: More technology, more police officers deployed correctly, and finally, taking off the streets the violent repeat career criminals.

Let me conclude by saying that I want to thank the original cosponsors of this bill, Senator ASHCROFT, Senator STEVENS, and Senator HATCH, and ask for additional cosponsors. I look forward to working with the Members of the Senate as we take these ideas that I presented today, this past week, presented in this bill, take these ideas, incorporate them with other ideas of my colleagues to come up with a final bill this year, or next year, that will in fact make a difference and will save lives, that will reduce crime.

Mr. President, thank you very much. At this point, I yield the floor.

#### ADDITIONAL COSPONSORS

S. 338

At the request of Mr. DASCHLE, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 338, a bill to amend title 38, United States Code, to extend the period of eligibility for inpatient care for veterans exposed to toxic substances, radiation, or environmental hazards, to extend the period of eligibility for outpatient care for veterans exposed to such substances or hazards during service in the Persian Gulf, and to expand the eligibility of veterans exposed to toxic substances or radiation for outpatient care.

S. 389

At the request of Mr. JOHNSTON, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 389, a bill for the relief of Nguyen Quy An and his daughter, Nguyen Ngoc Kim Quy.

S. 433

At the request of Mr. KERRY, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 433, a bill to regulate handgun ammunition, and for other purposes.

S. 619

At the request of Mr. SMITH, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 619, a bill to phase out the use of mercury in batteries and provide for the efficient and cost-effective collection and recycling or proper disposal of used nickel cadmium batteries, small sealed lead-acid batteries, and certain other batteries, and for other purposes.

S. 641

At the request of Mrs. KASSEBAUM, the name of the Senator from Idaho

[Mr. CRAIG] was added as a cosponsor of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 684

At the request of Mr. HATFIELD, the names of the Senator from Arkansas [Mr. PRYOR], the Senator from Maryland [Ms. MIKULSKI], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 689

At the request of Mrs. MURRAY, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 689, a bill to amend the Solid Waste Disposal Act regarding the use of organic sorbents in landfills, and for other purposes.

S. 770

At the request of Mr. DOLE, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Alabama [Mr. HEFLIN], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 770, a bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

#### SENATE CONCURRENT RESOLUTION 14—RELATIVE TO THE PANAMA CANAL

Mr. HELMS (for himself, Mr. CRAIG, Mr. COVERDELL, Mr. MACK, Mr. THOMAS, Mr. SMITH, and Mr. D'AMATO) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 14

Whereas the Panama Canal is a vital strategic asset to the United States, its allies, and the world;

Whereas the Treaty on the Permanent Neutrality and Operation of the Panama Canal signed on September 7, 1977, provides that Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure;

Whereas such Treaty also provides that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal;

Whereas the United States instrument of ratification of such Treaty includes specific language that the two countries should consider negotiating future arrangements or agreements to maintain military forces necessary to fulfill the responsibility of the two countries of maintaining the neutrality of the Canal after 1999;

Whereas the Government of Panama, in the bilateral Protocol of Exchange of instruments of ratification, expressly "agreed upon" such arrangements or agreements;

Whereas the Navy depends upon the Panama Canal for rapid transit in times of emergency, as demonstrated during World War II, the Korean War, the Vietnam conflict, the Cuban Missile Crisis, and the Persian Gulf conflict;

Whereas drug trafficking and money laundering has proliferated in the Western Hemisphere since the Treaty on the Permanent Neutrality and Operation of the Panama Canal was signed on September 7, 1977, and such trafficking and laundering poses a grave threat to peace and security in the region;

Whereas certain facilities now utilized by the United States Armed Forces in Panama are critical to combat the trade in illegal drugs;

Whereas the United States and Panama share common policy goals such as strengthening democracy, expanding economic trade, and combating illegal narcotics throughout Latin America;

Whereas the Government of Panama has dissolved its military force and has maintained only a civilian police organization to defend the Panama Canal against aggression; and

Whereas certain public opinion polls in Panama suggest that many Panamanians desire a continued United States military presence in Panama: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of the Congress that—

(1) the President should negotiate a new base rights agreement with the Government of Panama—

(A) to allow the stationing of United States Armed Forces in Panama beyond December 31, 1999, and

(B) to ensure that the United States will be able to act appropriately, consistent with the Panama Canal Treaty, the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, and the resolutions of ratification thereto, for the purpose of assuring that the Panama Canal shall remain open, neutral, secure, and accessible; and

(2) the President should consult with the Congress throughout the negotiations described in paragraph (1).

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

Mr. HELMS. Mr. President, in a moment I shall send to the desk, a resolution urging the President to negotiate a new base rights agreement with the Government of Panama to permit the United States Armed Forces to remain in Panama beyond December 31, 1999. Senators CRAIG, COVERDELL, THOMAS, MACK, SMITH, and D'AMATO are principal cosponsors of the resolution, as are several other Senators who desire cosponsorship, and we will add those names this afternoon.

We feel strongly that it is in the United States strategic interest to maintain a military presence in Panama. Millions of Americans feel that the Senate allowed President Carter to give away the Panama Canal to the great detriment of the security of the United States, and it was indeed a perilous mistake.

But what is done is done; I am not here today to reopen the Panama Canal Treaty debate. That may come later. For the moment we seek only a simple base rights agreement—the kind of agreement we pursue with other countries in Europe and in Asia.

This resolution strongly advocates U.S. presence after the implementation of the existing canal treaties. We believe it to be obvious that a U.S. military presence offers the best means of protecting the canal and ensuring its neutrality.

Eighty percent of the Panamanians agree with that. The Panamanian Foreign Minister agrees with that.

If nothing is done, then the American flag will be lowered for the last time in Panama at noon on December 31, 1999, after having flown there for almost a century. Thus, absent any change in the matter, a historical and unique relationship between the United States and Panama will come to a close. The United States will withdraw completely its military presence from Panama, and this Senator is absolutely persuaded that should not happen.

In the Exchange of Instruments of the Ratification of the Panama Canal Treaties, a protocol—in “The Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal” [Neutrality Treaty]—makes clear that nothing in the treaties precludes Panama and the United States from agreeing to the stationing of United States military forces or the maintenance of defense sites in Panama after December 1999. Specifically, the Permanent Neutrality Treaty states:

Nothing in the treaty shall preclude the Republic of Panama and the United States of America from making, in accordance with their respective constitutional processes, any agreement or arrangement between the two countries to facilitate performance at any time after December 31, 1999, of their responsibilities to maintain the regime of neutrality established in the Treaty, including agreements or arrangements for the stationing of any United States military forces or the maintenance of defense sites after that date in the Republic of Panama that the Republic of Panama and the United States of America may deem necessary or appropriate.

Latin America is important to the United States, and vice versa. Every few years something dramatic happens in Latin America that has a direct impact on the United States, whether it be a security threat or a natural disaster. The United States needs a strategic military capability in the region, and maintaining United States military forces in Panama will give us the best option and capability.

Many Americans have the misleading impression that Latin America is as close and accessible as their back yard. While parts of Latin America are indeed only hours away, the vast majority of the region is not that easily or quickly accessible. Geographically, Europe is not even half the size of South America. Brazil is larger than the continental United States.

If total United States military withdrawal from Panama is allowed to happen, we will be left with no significant military presence in the region. Furthermore, it will be both politically difficult and enormously costly to reintroduce U.S. forces into the region.

Keeping United States forces in Panama promotes stable democracies and market economies throughout the region; also it helps support United States efforts to counter the flow of illegal drugs. Without question, then, United States forces offer the best protection and defense of the Panama Canal.

Although the United States is engaged in a draw-down of our forces

both overseas and in the United States, we are, nevertheless, leaving more than 135,000 troops in Europe and almost 100,000 in the Pacific. Maintaining forces overseas is part of the military mission. Congress budgets for this.

By the end of this year, however, only 6,000 troops will remain in Panama. This number will continue to diminish. In other words, United States presence in all of Latin America is a mere drop in the bucket compared to our presence in other parts of the world.

A continued United States presence is also supported by the Panamanian people. Current polls in Panama indicate that more than 70 percent of Panamanians questioned want the United States to maintain a military presence in Panama.

Since a continued U.S. military presence is in the interests of both nations, it is the time to negotiate a new base rights agreement. The Panama Canal treaties provide for a continued United States military presence, and the Panamanian public overwhelmingly favors it. The United States Congress should strongly urge the President to begin negotiating a new base rights agreement to keep United States military forces in Panama.

Mr. President, I ask unanimous consent that a copy of the results of a recent public opinion poll commissioned by the U.S. Information Agency be printed in the RECORD.

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

#### PANAMANIANS WANT U.S. TROOPS TO STAY

Most Panamanians still hold favorable views of the United States, despite political and economic frustrations since Operation “Just Cause” in 1989. Moreover, Panamanians continue to believe that some U.S. troops should remain in Panama after 1999, despite the Canal Treaty agreements on complete withdrawal.

#### KEY FINDINGS

In a September 1994 poll, large majorities expressed favorable opinions of the United States. Most thought the U.S. had “done much” to promote democracy and economic development in Panama.

An overwhelming majority rated the U.S.-Panama relationship as “good;” many called it “very” good. Many also thought the U.S. treated Panama with “dignity and respect,” but opinion was more negative on U.S. efforts to understand Panamanian problems. And a large majority thought the U.S. expected Panama to cede to its wishes on important issues.

Better than eight in ten continued to believe that at least some U.S. troops should remain in Panama beyond 1999—with half endorsing the maintenance of present troop levels and one-third favoring reduced levels. The main reasons given for the extended U.S. military presence were “security reasons” and “employment opportunities.”

Eight in ten or more also said it would be acceptable for U.S. troops to remain in Panama to provide security for the Canal, to continue the regional counter narcotics, fight, and to provide assistance in natural emergencies or for refugees. Better than six



in ten thought it acceptable that the U.S. provide support for American military forces in other parts of the hemisphere from Panama bases.

In contrast to widespread doubts expressed in previous years, half the public thought the Panamanian government would be able to manage the canal well when it assumes full control in the year 2000.

#### OPINION OF THE UNITED STATES REMAINS VERY HIGH

Panamanians have faced a variety of political and economic frustrations since 1989 when General Manuel Noriega was removed from power. These appear to have had little effect on the favorable views most Panamanians have held of the United States.<sup>1</sup> In a September 1994 poll, eight in ten (82%)—across all regional and educational levels—voiced favorable opinions of the United States. Half (47%) expressed “very” favorable views, while just over one in ten (14%) regarded the U.S. unfavorably. On two key U.S. initiatives:

Eight in ten (83%) agreed that the U.S. had “done much to promote democracy” in Panama. Six in ten were in strong agreement, perhaps influenced in part by the successful democratic elections in May.<sup>2</sup>

A similar majority (82%) also thought that the U.S. had “done much to promote the economic development” of Panama. Again, six in ten agreed strongly with the statement.

#### MOST JUDGE THE U.S.-PANAMA RELATIONSHIP AS GOOD

A great majority believed that relations between Panama and the United States were good (89%); four in ten (39%) felt they were “very” good. Seven in ten agreed (72%)—and half (48%) “strongly” agreed—that the U.S. treats Panama with “dignity and respect.” (The university-educated were somewhat less likely to agree with this statement than Panamanians with less schooling.)

Public opinion was less favorable on two other aspects of the relationship:

Opinion was split about evenly on whether the U.S. tries to understand the problems facing Panama (44% said it does, 49% said it doesn’t).

A large majority agreed (80%; 58% “strongly”) that the U.S. expects Panama to “give in to its wishes in matters of importance to both countries.” This perception apparently did not influence favorable opinions on other issues, however.

#### MOST STILL WANT SOME U.S. TROOPS TO REMAIN—

Panamanians continue to want a U.S. military presence in Panama beyond December, 1999, when the Torrijos-Carter Canal Treaties stipulate the withdrawal of all American troops. There has been virtually no change in public attitudes on this issue since 1991: Half the public (50%) said the U.S. should maintain “about the same number of troops it has now,” while a third (35%) said the troop presence should remain in “reduced” form. Just one in ten (10%) preferred that all U.S. troops leave Panama. In general, the less-educated tended to support the status quo, while the university-educated were somewhat more likely to favor a reduced presence.

#### FOR SECURITY AND EMPLOYMENT REASONS

When those favoring a continued U.S. presence in Panama were asked why they

thought the troops should stay, most mentioned either the security of the canal (46%) or employment opportunities generated by the U.S. base (34%). Political stability was mentioned by only a few (7%).

In addition, when asked if it would be “acceptable” for U.S. troops to remain in Panama for selected purposes, large majorities say yes to the following: to provide security for the canal (87%); to continue the fight against illegal drugs in the region (87%); to provide assistance in times of natural disasters or for refugees in Panama (81%); and to provide support for U.S. military forces in other parts of the hemisphere (64%).

Only the last purpose, “support for U.S. military forces in other parts,” was considered “unacceptable” by significant minorities of the general public (27%) and the university-educated (40%).

#### CONFIDENCE INCREASES ON GOVERNMENT MANAGEMENT OF CANAL

Public confidence in the Panamanian government’s ability to manage the canal when it assumes full control in 2000 appears to have increased in recent years: Half (51%) believed the government would manage the canal at least fairly well, while four in ten (42%) thought it would manage the canal badly. Interestingly, the university-educated were considerably more optimistic about the government’s management capacity than the less-educated (62% to 45%). Polls in 1990 and 1992 had found that large majorities believed the Panamanian government was paying little or no attention to canal-management matters and that it would be best if the U.S. and Panama managed the canal together.

#### HOW THIS POLL WAS TAKEN

This public opinion survey was commissioned by USIA and conducted by CID-Gallup of Costa Rica. It is based on face-to-face interviews with 1200 adults aged 18 and over in all regions of Panama. Fieldwork took place September 8-18, 1994. Sample construction and fieldwork were performed by CID in accordance with USIA instructions. Questions were written by USIA in consultation with AID and USIS Panama. They were translated by the contractor, with final review by USIA.

The survey sample was selected by a modified probability method, and covered both urban and rural populations. When necessary, respondent selection was adjusted for age, sex, and education to more closely match estimated population profiles.

Ninety-five times out of one hundred, results from samples of this size will yield results which differ by no more than about 3 percentage points in either direction from what would have been obtained were it possible to interview everyone in the population. The comparison of smaller subgroups increases the margin of error. In addition, the practical difficulties of conducting any survey of public opinion may introduce other sources of error.

Additional information on methodology may be obtained from the analyst.

#### SENATE RESOLUTION 120—ESTABLISHING A SPECIAL COMMITTEE ADMINISTERED BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. D’AMATO (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 120

*Resolved,*

#### SECTION 1. ESTABLISHMENT OF SPECIAL COMMITTEE.

(a) ESTABLISHMENT.—There is established a special committee administered by the Committee on Banking, Housing, and Urban Affairs to be known as the “Special Committee to Investigate Whitewater Development Corporation and Related Matters” (hereafter in this resolution referred to as the “special committee”).

(b) PURPOSES.—The purposes of the special committee are—

(1) to conduct an investigation and public hearings into, and study of, whether improper conduct occurred regarding the way in which White House officials handled documents in the office of White House Deputy Counsel Vincent Foster following his death;

(2) to conduct an investigation and public hearings into, and study of, the following matters developed during, or arising out of, the investigation and public hearings concluded by the Committee on Banking, Housing, and Urban Affairs prior to the adoption of this resolution—

(A) whether any person has improperly handled confidential Resolution Trust Corporation (hereafter in this resolution referred to as the “RTC”) information relating to Madison Guaranty Savings and Loan Association or Whitewater Development Corporation, including whether any person has improperly communicated such information to individuals referenced therein;

(B) whether the White House has engaged in improper contacts with any other agency or department in the Government with regard to confidential RTC information relating to Madison Guaranty Savings and Loan Association or Whitewater Development Corporation;

(C) whether the Department of Justice has improperly handled RTC criminal referrals relating to Madison Guaranty Savings and Loan Association or Whitewater Development Corporation;

(D) whether RTC employees have been improperly importuned, prevented, restrained, or deterred in conducting investigations or making enforcement recommendations relating to Madison Guaranty Savings and Loan Association or Whitewater Development Corporation; and

(E) whether the report issued by the Office of Government Ethics on July 31, 1994, or related transcripts of deposition testimony—

(i) were improperly released to White House officials or others prior to their testimony before the Committee on Banking, Housing, and Urban Affairs pursuant to Senate Resolution 229 (103d Congress); or

(ii) were used to communicate to White House officials or to others confidential RTC information relating to Madison Guaranty Savings and Loan Association or Whitewater Development Corporation;

(3) to conduct an investigation and public hearings into, and study of, all matters that have any tendency to reveal the full facts about—

(A) the operations, solvency, and regulation of Madison Guaranty Savings and Loan Association, and any subsidiary, affiliate, or other entity owned or controlled by Madison Guaranty Savings and Loan Association;

(B) the activities, investments, and tax liability of Whitewater Development Corporation and, as related to Whitewater Development Corporation, of its officers, directors, and shareholders;

(C) the policies and practices of the RTC and the Federal banking agencies (as that term is defined in section 3 of the Federal Deposit Insurance Act) regarding the legal representation of such agencies with respect to Madison Guaranty Savings and Loan Association;

<sup>1</sup> A USIA poll in mid-1990 found that 87 percent approved (77% “strongly”) of the U.S. sending troops to remove Gen. Noriega and 75 percent considered the operation a “liberation” rather than an “invasion.”

<sup>2</sup> The winner, Perez Balladares, was inaugurated just a week before interviewing for the poll began on September 8.



(D) the handling by the RTC, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Federal Savings and Loan Insurance Corporation of civil or administrative actions against parties regarding Madison Guaranty Savings and Loan Association;

(E) the sources of funding and the lending practices of Capital Management Services, Inc., and its supervision and regulation by the Small Business Administration, including any alleged diversion of funds to Whitewater Development Corporation;

(F) the bond underwriting contracts between Arkansas Development Finance Authority and Lasater & Company; and

(G) the lending activities of Perry County Bank, Perryville, Arkansas, in connection with the 1990 Arkansas gubernatorial election;

(4) to make such findings of fact as are warranted and appropriate;

(5) to make such recommendations, including recommendations for legislative, administrative, or other actions, as the special committee may determine to be necessary or desirable; and

(6) to fulfill the constitutional oversight and informational functions of the Congress with respect to the matters described in this section.

## SEC. 2. MEMBERSHIP AND ORGANIZATION OF THE SPECIAL COMMITTEE.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The special committee shall consist of—

(A) the members of the Committee on Banking, Housing, and Urban Affairs; and

(B) the chairman and ranking member of the Committee on the Judiciary, or their designees from the Committee on the Judiciary.

(2) SENATE RULE XXV.—For the purpose of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as the chairman or other member of the special committee shall not be taken into account.

(b) ORGANIZATION OF SPECIAL COMMITTEE.—

(1) CHAIRMAN.—The chairman of the Committee on Banking, Housing, and Urban Affairs shall serve as the chairman of the special committee (hereafter in this resolution referred to as the "chairman").

(2) RANKING MEMBER.—The ranking member of the Committee on Banking, Housing, and Urban Affairs shall serve as the ranking member of the special committee (hereafter in this resolution referred to as the "ranking member").

(3) QUORUM.—A majority of the members of the special committee shall constitute a quorum for the purpose of reporting a matter or recommendation to the Senate. A majority of the members of the special committee, or one-third of the members of the special committee if at least one member of the minority party is present, shall constitute a quorum for the conduct of other business. One member of the special committee shall constitute a quorum for the purpose of taking testimony.

(c) RULES AND PROCEDURES.—Except as otherwise specifically provided in this resolution, the special committee's investigation, study, and hearings shall be governed by the Standing Rules of the Senate and the Rules of Procedure of the Committee on Banking, Housing, and Urban Affairs. The special committee may adopt additional rules or procedures not inconsistent with this resolution or the Standing Rules of the Senate if the chairman and ranking member agree that such additional rules or procedures are necessary to enable the special committee to conduct the investigation, study, and hearings authorized by this resolution. Any such additional rules and proce-

dures shall become effective upon publication in the Congressional Record.

## SEC. 3. STAFF OF THE SPECIAL COMMITTEE.

(a) APPOINTMENTS.—To assist the special committee in the investigation, study, and hearings authorized by this resolution, the chairman and the ranking member each may appoint special committee staff, including consultants.

(b) ASSISTANCE FROM THE SENATE LEGAL COUNSEL.—To assist the special committee in the investigation, study, and hearings authorized by this resolution, the Senate Legal Counsel and the Deputy Senate Legal Counsel shall work with and under the jurisdiction and authority of the special committee.

(c) ASSISTANCE FROM THE COMPTROLLER GENERAL.—The Comptroller General of the United States is requested to provide from the General Accounting Office whatever personnel or other appropriate assistance as may be required by the special committee, or by the chairman or the ranking member.

## SEC. 4. PUBLIC ACTIVITIES OF THE SPECIAL COMMITTEE.

(a) IN GENERAL.—Consistent with the rights of persons subject to investigation and inquiry, the special committee shall make every effort to fulfill the right of the public and the Congress to know the essential facts and implications of the activities of officials of the United States Government and other persons and entities with respect to the matters under investigation and study, as described in section 1.

(b) DUTIES.—In furtherance of the right of the public and the Congress to know, the special committee—

(1) shall hold, as the chairman (in consultation with the ranking member) considers appropriate and in accordance with paragraph 5(b) of rule XXVI of the Standing Rules of the Senate, hearings on specific subjects, subject to consultation and coordination with the independent counsel appointed pursuant to chapter 40 of title 28, United States Code, in Division No. 94-1 (D.C. Cir. August 5, 1994) (hereafter in this resolution referred to as "the independent counsel");

(2) may make interim reports to the Senate as it considers appropriate; and

(3) shall make a final comprehensive public report to the Senate which contains—

(A) a description of all relevant factual determinations; and

(B) recommendations for legislation, if necessary.

## SEC. 5. POWERS OF THE SPECIAL COMMITTEE.

(a) IN GENERAL.—The special committee shall do everything necessary and appropriate under the laws and the Constitution of the United States to conduct the investigation, study, and hearings authorized by section 1.

(b) EXERCISE OF AUTHORITY.—The special committee may exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate and section 705 of the Ethics in Government Act of 1978, including the following:

(1) SUBPOENA POWERS.—To issue subpoenas or orders for the attendance of witnesses or for the production of documentary or physical evidence before the special committee. A subpoena or order may be authorized by the special committee or by the chairman with the agreement of the ranking member, and may be issued by the chairman or any other member of the special committee designated by the chairman, and may be served by any person designated by the chairman or the authorized member anywhere within or outside of the borders of the United States to the full extent permitted by law. The chairman, or any other member of the special committee, is authorized to administer oaths to any witnesses appearing before the special com-

mittee. If a return on a subpoena or order for the production of documentary or physical evidence is incomplete or accompanied by an objection, the chairman (in consultation with the ranking member) may convene a meeting or hearing to determine the adequacy of the return and to rule on the objection. At a meeting or hearing on such a return, one member of the special committee shall constitute a quorum. The special committee shall not initiate procedures leading to civil or criminal enforcement of a subpoena unless the person or entity to whom the subpoena is directed refuses to produce the required documentary or physical evidence after having been ordered and directed to do so.

(2) COMPENSATION AUTHORITY.—To employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as the special committee, or the chairman or the ranking member, considers necessary or appropriate.

(3) MEETINGS.—To sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

(4) HEARINGS.—To hold hearings, take testimony under oath, and receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study. Unless the chairman and the ranking member otherwise agree, the questioning of a witness or a panel of witnesses at a hearing shall be limited to one initial 30-minute turn each for the chairman and the ranking member, or their designees, including majority and minority staff, and thereafter to 10-minute turns by each member of the special committee if 5 or more members are present, and to 15-minute turns by each member of the special committee if fewer than 5 members are present. A member may be permitted further questions of the witness or panel of witnesses, either by using time that another member then present at the hearing has yielded for that purpose during the yielding member's turn, or by using time allotted after all members have been given an opportunity to question the witness or panel of witnesses. At all times, unless the chairman and the ranking member otherwise agree, the questioning shall alternate back and forth between members of the majority party and members of the minority party. In their discretion, the chairman and the ranking member, respectively, may designate majority or minority staff to question a witness or a panel of witnesses at a hearing during time yielded by a member of the chairman's or the ranking member's party then present at the hearing for his or her turn.

(5) TESTIMONY OF WITNESSES.—To require by subpoena or order the attendance, as a witness before the special committee or at a deposition, of any person who may have knowledge or information concerning any of the matters that the special committee is authorized to investigate and study.

(6) IMMUNITY.—To grant a witness immunity under sections 6002 and 6005 of title 18, United States Code, provided that the independent counsel has not informed the special committee in writing that immunizing the witness would interfere with the ability of the independent counsel successfully to prosecute criminal violations. Not later than 10 days before the special committee seeks a Federal court order for a grant of immunity by the special committee, the Senate Legal Counsel shall cause to be delivered to the independent counsel a written request asking the independent counsel promptly to inform the special committee in writing if, in the judgment of the independent counsel, the grant of immunity would interfere with the ability of the independent counsel successfully to prosecute criminal violations. The Senate Legal Counsel's written request of

the independent counsel required by this paragraph shall be in addition to all notice requirements set forth in sections 6002 and 6005 of title 18, United States Code.

(7) **DEPOSITIONS.**—To take depositions and other testimony under oath anywhere within the United States, to issue orders that require witnesses to answer written interrogatories under oath, and to make application for the issuance of letters rogatory. All depositions shall be conducted jointly by majority and minority staff of the special committee. A witness at a deposition shall be examined upon oath administered by a member of the special committee or an individual authorized by local law to administer oaths, and a complete transcription or electronic recording of the deposition shall be made. Questions shall be propounded first by majority staff of the special committee and then by minority staff of the special committee. Any subsequent round of questioning shall proceed in the same order. Objections by the witness as to the form of questions shall be noted for the record. If a witness objects to a question and refuses to answer on the basis of relevance or privilege, the special committee staff may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling on the objection from the chairman. If the chairman overrules the objection, the chairman may order and direct the witness to answer the question, but the special committee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to answer after having been ordered and directed to answer.

(8) **DELEGATIONS TO STAFF.**—To issue commissions and to notice depositions for staff members to examine witnesses and to receive evidence under oath administered by an individual authorized by local law to administer oaths. The special committee, or the chairman with the concurrence of the ranking member, may delegate to designated staff members of the special committee the power to issue deposition notices authorized pursuant to this paragraph.

(9) **INFORMATION FROM OTHER SOURCES.**—To require by subpoena or order—

(A) any department, agency, entity, officer, or employee of the United States Government;

(B) any person or entity purporting to act under color or authority of State or local law; or

(C) any private person, firm, corporation, partnership, or other organization;

to produce for consideration by the special committee or for use as evidence in the investigation, study, or hearings of the special committee, any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material relating to any of the matters or questions that the special committee is authorized to investigate and study which any such person or entity may possess or control.

(10) **RECOMMENDATIONS TO THE SENATE.**—To make to the Senate any recommendations, by report or resolution, including recommendations for criminal or civil enforcement, which the special committee may consider appropriate with respect to—

(A) the willful failure or refusal of any person to appear before it, or at a deposition, or to answer interrogatories, in compliance with a subpoena or order;

(B) the willful failure or refusal of any person to answer questions or give testimony during the appearance of that person as a witness before the special committee, or at a deposition, or in response to interrogatories; or

(C) the willful failure or refusal of—

(i) any officer or employee of the United States Government;

(ii) any person or entity purporting to act under color or authority of State or local law; or

(iii) any private person, partnership, firm, corporation, or organization; to produce before the special committee, or at a deposition, or at any time or place designated by the committee, any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material in compliance with any subpoena or order.

(11) **CONSULTANTS.**—To procure the temporary or intermittent services of individual consultants, or organizations thereof.

(12) **OTHER GOVERNMENT PERSONNEL.**—To use, on a reimbursable basis and with the prior consent of the Government department or agency concerned, the services of the personnel of such department or agency.

(13) **OTHER CONGRESSIONAL STAFF.**—To use, with the prior consent of any member of the Senate or the chairman or the ranking member of any other Senate committee or the chairman or ranking member of any subcommittee of any committee of the Senate, the facilities or services of the appropriate members of the staff of such member of the Senate or other Senate committee or subcommittee, whenever the special committee or the chairman or the ranking member considers that such action is necessary or appropriate to enable the special committee to conduct the investigation, study, and hearings authorized by this resolution.

(14) **ACCESS TO INFORMATION AND EVIDENCE.**—To permit any members of the special committee, staff director, counsel, or other staff members or consultants designated by the chairman or the ranking member, access to any data, evidence, information, report, analysis, document, or paper—

(A) that relates to any of the matters or questions that the special committee is authorized to investigate or study under this resolution;

(B) that is in the custody or under the control of any department, agency, entity, officer, or employee of the United States Government, including those which have the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States without regard to the jurisdiction or authority of any other Senate committee or subcommittee; and

(C) that will assist the special committee to prepare for or conduct the investigation, study, and hearings authorized by this resolution.

(15) **REPORTS OF VIOLATIONS OF LAW.**—To report possible violations of any law to appropriate Federal, State, or local authorities.

(16) **EXPENDITURES.**—To expend, to the extent that the special committee determines necessary and appropriate, any money made available to the special committee by the Senate to carry out this resolution.

(17) **TAX RETURN INFORMATION.**—To inspect and receive, in accordance with the procedures set forth in sections 6103(f)(3) and 6104(a)(2) of the Internal Revenue Code of 1986, any tax return or tax return information, held by the Secretary of the Treasury, if access to the particular tax-related information sought is necessary to the ability of the special committee to carry out section 1(b)(3)(B).

#### **SEC. 6. PROTECTION OF CONFIDENTIAL INFORMATION.**

(a) **NONDISCLOSURE.**—No member of the special committee or the staff of the special committee shall disclose, in whole or in part

or by way of summary, to any person other than another member of the special committee or other staff of the special committee, for any purpose or in connection with any proceeding, judicial or otherwise, any testimony taken, including the names of witnesses testifying, or material presented, in depositions or at closed hearings, or any confidential materials or information, unless authorized by the special committee or the chairman in concurrence with the ranking member.

(b) **STAFF NONDISCLOSURE AGREEMENT.**—All members of the staff of the special committee with access to confidential information within the control of the special committee shall, as a condition of employment, agree in writing to abide by the conditions of this section and any nondisclosure agreement promulgated by the special committee that is consistent with this section.

#### **(c) SANCTIONS.**

(1) **MEMBER SANCTIONS.**—The case of any Senator who violates the security procedures of the special committee may be referred to the Select Committee on Ethics of the Senate for investigation and the imposition of sanctions in accordance with the rules of the Senate.

(2) **STAFF SANCTIONS.**—Any member of the staff of the special committee who violates the security procedures of the special committee shall immediately be subject to removal from office or employment with the special committee or such other sanction as may be provided in any rule issued by the special committee consistent with section 2(c).

(d) **STAFF DEFINED.**—For purposes of this section, the term "staff of the special committee" includes—

(1) all employees of the special committee;

(2) all staff designated by the members of the special committee to work on special committee business;

(3) all Senate staff assigned to special committee business pursuant to section 5(b)(13);

(4) all officers and employees of the Office of Senate Legal Counsel who are requested to work on special committee business; and

(5) all detailees and consultants to the special committee.

#### **SEC. 7. RELATION TO OTHER INVESTIGATIONS.**

(a) **PURPOSES.**—The purposes of this section are—

(1) to expedite the thorough conduct of the investigation, study, and hearings authorized by this resolution;

(2) to promote efficiency among all the various investigations underway in all branches of the United States Government; and

(3) to engender a high degree of confidence on the part of the public regarding the conduct of such investigation, study, and hearings.

(b) **SPECIAL COMMITTEE ACTIONS.**—To carry out the purposes stated in subsection (a), the special committee is encouraged—

(1) to obtain relevant information concerning the status of the investigation of the independent counsel, to assist in establishing a hearing schedule for the special committee; and

(2) to coordinate, to the extent practicable, the activities of the special committee with the investigation of the independent counsel.

#### **SEC. 8. SALARIES AND EXPENSES.**

A sum equal to not more than \$950,000 for the period beginning on the date of adoption of this resolution and ending on February 29, 1996, shall be made available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations for payment of salaries and other expenses of the special committee under this resolution, which shall include not more

than \$750,000 for the procurement of the services of individual consultants or organizations thereof, in accordance with section 5(b)(11). Payment of expenses shall be disbursed upon vouchers approved by the chairman, except that vouchers shall not be required for the disbursement of salaries paid at an annual rate.

#### SEC. 9. REPORTS; TERMINATION.

##### (a) COMPLETION OF DUTIES.—

(1) IN GENERAL.—The special committee shall make every reasonable effort to complete, not later than February 1, 1996, the investigation, study, and hearings authorized by section 1.

(2) EVALUATION OF PROGRESS.—The special committee shall evaluate the progress and status of the investigation, study, and hearings authorized by section 1 and, not later than January 15, 1996, make recommendations with respect to the authorization of additional funds for a period following February 29, 1996. If the special committee requests the authorization of additional funds for a period following February 29, 1996, the Majority Leader and the Democratic Leader shall meet and determine the appropriate timetable and procedures for the Senate to vote on any such request.

##### (b) FINAL REPORT.—

(1) SUBMISSION.—The special committee shall promptly submit a final public report to the Senate of the results of the investigation, study, and hearings conducted by the special committee pursuant to this resolution, together with its findings and any recommendations.

(2) CONFIDENTIAL INFORMATION.—The final report of the special committee may be accompanied by such confidential annexes as are necessary to protect confidential information.

(3) CONCLUSION OF BUSINESS.—After submission of its final report, the special committee shall promptly conclude its business and close out its affairs.

(c) RECORDS.—Upon the conclusion of the special committee's business and the closing out of its affairs, all records, files, documents, and other materials in the possession, custody, or control of the special committee shall remain under the control of the Committee on Banking, Housing, and Urban Affairs.

#### SEC. 10. COMMITTEE JURISDICTION AND RULE XXV.

The jurisdiction of the special committee is granted pursuant to this resolution, notwithstanding the provisions of paragraph 1 of rule XXV of the Standing Rules of the Senate relating to the jurisdiction of the standing committees of the Senate.

#### SENATE RESOLUTION 121—RELATING TO THE ANGOLA PEACE PROCESS

Mr. FEINGOLD (for himself, Mrs. KASSEBAUM, Mr. HELMS, Mr. PELL, and Mr. SIMON) submitted the following resolution; which was considered and agreed to:

##### S. RES. 121

Whereas Angola has suffered one of the most violent and longest-running civil wars;

Whereas the United States was actively engaged in the war in Angola, has provided more than \$200 million in humanitarian assistance to Angola since 1992, and has been a key facilitator on the ongoing peace negotiations;

Whereas Angola is the last civil conflict in southern Africa, and regional leaders including South African President Nelson Mandela consider its resolution to be a top priority;

Whereas an enduring peace in Angola, a potentially wealthy country that is central to regional stability and economic development, is in the national interest of the United States;

Whereas the Government of Angola and National Union for the Total Independence of Angola (UNITA) entered into the Lusaka Protocol in November 1994 to secure a U.N.-supervised peace settlement;

Whereas the United Nations Security Council voted in February to send a U.N. peacekeeping mission to Angola to monitor and enforce the peace process, and more than 600 international monitors are deployed throughout the country;

Whereas continuing progress toward peace makes it more likely that further deployment of UNAVEM III will occur soon;

Whereas the meeting between President Eduardo dos Santos and Dr. Jonas Savimbi on May 6, 1995, at which both parties reiterated their commitment to the Lusaka Protocol, demonstrated that they possess the essential political will to resolve outstanding issues, and encouraged all who want peace in Angola;

Whereas achieving a lasting peace will require that all Angolans work together to overcome bitter legacies of war, which include a devastated infrastructure, millions of unexploded landmines, a profound distrust between the parties, weakened civil institutions, a crippled economy, and a generation of young Angolans who have never known a peaceful, civil society;

Whereas strong leadership is essential to ensure that the wealth of Angola, long spent on war, now is used to consolidate peace. Now therefore be it

##### Resolved That the Senate:

(1) Congratulates the people of Angola for the courageous and determined steps their leaders have taken in support of peace;

(2) Urges all parties in Angola to continue to strengthen their commitment to the Lusaka process, which constitutes the last, and best, chance for securing an enduring peace;

(3) Affirms that the United States will hold both Angolan parties responsible for abiding by their commitment to peace; and

(4) Calls upon the international community to remain actively engaged in support of national reconciliation, removal of landmines, economic development, and democratization in Angola.

Mr. FEINGOLD. Mr. President, today I am introducing a resolution, in conjunction with the distinguished chair of the Subcommittee on African Affairs, as well as the chairman and ranking member of the Senate Foreign Relations Committee, and others, which congratulates the people of Angola for the courageous steps their leaders have taken recently in the name of peace and reconciliation in Angola. This has been an arduous and painful process, but the recent meeting between President dos Santos and Dr. Jonas Savimbi, in addition to the deployment of the U.N. operation, signifies a dramatic breakthrough which may unlock the door to peace in Angola.

As we all know, Angola has been engulfed in civil war ever since its independence from Portugal in 1975. It not only suffered vast dislocation and neglect following the colonial occupation, but also it became a classic superpower playground as Angola struggled to find for its postcolonial identity.

Throughout the 1970's and 1980's South Africa and Zaire launched frequent military incursions in support of the Government of Angola, while mercenaries from Europe and elsewhere helped the rebel forces of UNITA and Dr. Jonas Savimbi fight from the bush. 37,000 Cuban troops supported the government and the MPLA party, and their involvement sparked more independence wars in Namibia. The United States offered covert aid to UNITA in an effort to contain communism in Africa for "national security" purposes. In addition, there were secessionist threats from the northern, oil-rich province of Cabinda, which was, ironically, home to many U.S. oil companies throughout the war.

This war killed over 1 million people, and displaced and disabled millions more. Cities and fields are completely destroyed, and 9 to 20 million unexploded landmines, supplied by outside powers, lace the countryside. Beautiful coastal lands and mineral-rich areas not only lay undeveloped, but have been damaged and destroyed by warfare. Bitter war enmities between the MPLA and UNITA have created long-lasting rifts which will take at least a full generation to heal. Young boys, who from the age of 10 have been armed and fighting, are dislocated from their families. An entire people has never known civil society.

It was with the end of the cold war, the end of the United States-Soviet rivalry, that peace actually had a chance in Angola. When Congress prohibited military aid to Angola, Cuban troops withdrew, and South Africa began to change, negotiations were finally able to begin between the MPLA and UNITA. The peace process of 1991 resulted in the Bicesse accords, and led to elections. But then disputed returns, and militant attacks on the MPLA by Savimbi, destroyed the process.

By 1992, serious negotiations had begun again. Thanks to the relentless efforts of U.N. Special Representative Bedouin Beyh, United States Ambassador to Angola, Edward de Jarnette, and others—including South African Nelson Mandela—the Lusaka accords were finally concluded on November 5, 1994.

The accords secure a U.N. supervised peace settlement, which includes the deployment of 5,600 U.N. peacekeeping troops, as well as 350 military observers and 260 civilian police. It is intended to enable national reconciliation, demilitarization, economic development, and democratization of Angola. It will also enable the continued delivery of massive food lifts, which is keeping hundreds of thousands of people alive as the society builds a peacetime environment.

There have been some glitches in the peace process, and there have been many incidents we thought Angola would not survive. But the peace process made a big step last week when President dos Santos and Dr. Savimbi finally met face-to-face in Lusaka.

They met for several hours, and in the end emerged as cooperative negotiators, both signing the Lusaka accords. They agreed to work as partners to resolve outstanding issues such as consolidation of the ceasefire, resolution of military control issues, demining operations, repair of infrastructure, acceleration of the arrival of UNAVEM troops, the retreat of Angolan soldiers, and the formation of a national unity government.

Finally, the two sides demonstrated that they have the political will necessary to reach a lasting and durable peace. This meeting was a long time in coming, and we in Congress should recognize what a milestone it is. For if Lusaka fails, Angola may lose its last opportunity for peace and prosperity. We have a lot to lose if that fails.

The resolution we are offering today congratulates the people of Angola for the courageous and determined steps their leaders have taken in support of peace. It also urges all parties in Angola to strengthen their commitment to the Lusaka process, and affirms American support for both parties to abide by their commitments. Finally, because we cannot and should not do this alone, it calls upon the international community to remain actively engaged with humanitarian, political, and economic support to make this process a success.

Angola is potentially a wealthy country with soil fertile enough to feed all of sub-Saharan Africa. It is also part of a region which has had economic and stunning political success in the past few years. As Africa seeks to put the cold war behind it, and as southern Africa consolidates into a powerhouse region, the process in Angola becomes all the more important. The meeting convened last week realized many of the gains made in recent months, and hopefully will set the process on a new course.

#### NOTICES OF HEARINGS

##### COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding an oversight hearing on Thursday, May 18, 1995, beginning at 9:30 a.m., in room 485 of the Russell Senate Office Building on the recommendations of the Joint DOI/BIA/Tribal Task Force on Reorganization of the Bureau of Indian Affairs.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.

##### SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT AND THE DISTRICT OF COLUMBIA

Mr. COHEN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management and the District of Columbia, Committee on Governmental Affairs, will hold a hearing on Wednesday, May 24, 1995, on Aviation Safety: Do Unapproved Parts Pose a Safety Risk? The hearing will be at 9:30 a.m., in room 342 of the Dirksen Senate Office Building.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON ARMED SERVICES

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, May 17, 1995 at 9:30 a.m. in open session to receive testimony on the National Security Implications of the Strategic Arms Reduction Treaty—START II.

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

##### COMMITTEE ON FINANCE

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet Wednesday, May 17, 1995, beginning at 9:30 a.m. in room SD-215, to conduct a hearing on Medicare solvency.

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

##### COMMITTEE ON GOVERNMENTAL AFFAIRS

##### COMMITTEE ON FOREIGN RELATIONS

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 17, 1995, at 10 a.m.

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

Mr. D'AMATO. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, May 17, at 10 a.m., for a hearing on Executive Reorganization: An Overview of How To Do It.

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

##### COMMITTEE ON INTELLIGENCE

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 17, 1995, at 2 p.m. to hold a closed hearing on intelligence matters.

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

##### SUBCOMMITTEE ON ACQUISITION AND TECHNOLOGY

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Subcommittee on Acquisition and Technology of the Committee on Armed Services be authorized to meet at 2 p.m. on Wednesday, May 17, 1995, in open session, to receive testimony on dual use technology programs in review of S. 727, the National Defense Authorization Act for Fiscal Year 1996, and the Future Years Defense Program.

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

#### ADDITIONAL STATEMENTS

##### HONG KONG

• Mr. THOMAS. Mr. President, I would like to address comments made in the last few weeks by two officials of the Government of the People's Republic of China regarding the United States and

Hong Kong. First, as reported by Hong Kong radio and Nanhua Zaobao, Mr. Lu Ping, the Director of the PRC's Office of Hong Kong and Macau Affairs, told a delegation of American businessmen in Beijing that he believes there is a lack of understanding in the United States regarding Beijing's attitude towards Hong Kong. Second, Foreign Minister Qian is quoted in the April 24 issue of Beijing Review as stating that the United States has no interest in Hong Kong sufficient to justify the attention we pay to the area. I am dismayed that they have reached this conclusion for two reasons. First, because I believe that the United States is all too cognizant of Beijing's attitude towards the colony and has tried to make that cognizance known; and second, because it demonstrates to me that Beijing does not really understand what our concerns are.

At the outset, let me state that I do agree in part with Minister Qian. Before the scheduled revision in 1997, Hong Kong affairs are a matter of concern primarily to Great Britain and the PRC; after 1997, they become a matter of concern primarily to Beijing. It is not our intent to instruct either London or Beijing on how best to accomplish that reversion, or on what role Hong Kong should play as a reclaimed part of greater China after 1997.

This does not mean however, that I agree with what appears to be Minister Qian's correlative argument: that other countries therefore have absolutely no role whatsoever to play before or after 1997.

As I previously noted in a statement about Hong Kong on the floor on April 3, the United States is keenly following developments in Hong Kong. This interest has two principle sources. First, we have a tremendous stake in the future economic and political stability of Hong Kong after reversion. Second, how the PRC handles this transition has far-reaching implications for our bilateral relations—and in some of China's multilateral relations which include us—in other important arenas. Let me address these in turn.

Our economic ties to the present Colony of Hong Kong are substantial. Hong Kong is our 13th largest trading partner—7th in terms of agricultural trade. In 1994, two-way merchandise trade topped \$21 billion; U.S. exports accounted for over \$11 billion. There are more than 1,000 United States firms with a presence in Hong Kong, of which about 370 have their regional headquarters there. At the beginning of 1994, United States direct investment in Hong Kong on a historical cost basis was approximately \$10.5 billion.

This strong economic tie is facilitated—in fact, made possible—by Hong Kong's friendly business climate, a stable government, an independent judiciary firmly rooted in the rule of law and a vibrantly free press. It is clearly a tie we have a very strong motive for

maintaining in its present form. And thus, it is from this point of view that we take an active interest in Hong Kong affairs now, and will most likely continue to take in the post-1997 world. How faithfully the PRC adheres to the Sino-British Joint Declaration and the Basic Law is of importance to us because of the impact such adherence—or lack thereof—might have on these specific areas, and, in turn, on our economic stake.

These are the logical steps that our Chinese friends do not seem to follow. I think their failure is best illustrated by an article in the May 8 edition of the Hong Kong Chinese-language newspaper *Wen Wei Po*—a newspaper with close connections to the PRC. In commenting on a speech by the United States Consul General in Hong Kong, the newspaper reported:

In his speech, Mr. Mueller said that the United States not only has tens of thousands of citizens, over 1,000 companies, and tens of billions of dollars of investments in Hong Kong, but also exports billions of dollars' worth of products to Hong Kong. These facts, he noted, show that maintaining and developing economic and trade relations with Hong Kong is conducive to safeguarding the common interests of Hong Kong and the United States, this being indeed the point Mr. Mueller was trying to make. *What is strange is that Mr. Mueller suddenly shifted from economic topics to topics such as democracy, the legal system, and human rights in Hong Kong* \* \* \*. (emphasis added).

So, let me explain simply how desiring to safeguard our economic interests triggers a concomitant interest in those topics. If the PRC cannot or does not firmly establish and safeguard a local independent judiciary in Hong Kong after 1997, then businesses will become skittish, pull out of the area, and the economy will suffer. If the civil and human rights presently available to Hong Kong citizens are not safeguarded, and are instead limited to reflect those presently available to citizens on the mainland where the government is not known for its sterling democratic reputation, then businesses will become skittish, pull out of the area, and the economy will suffer. If the present orderly and stable bureaucracy is replaced by one such as that currently in vogue in provinces like Guangdong where family or party connections and a large amount of renminbi are more important than the rule of law, then businesses will become skittish, pull out of the area, and the economy will suffer.

We understand very well the PRC's verbal pronouncements that everything is fine and will remain so after 1997. But as I pointed out after the visit here of Lu Ping, to be credible and calming those pronouncements need to be backed-up with substantive actions. So far, in some areas, that has not been the case, and it is this lack of substantive assurances that concerns us. Let me illustrate.

A free press is one of the elements essential to Hong Kong's future as a center of international trade and finance.

China has spoken about maintaining freedom of the press, but we have seen growing signs of a move to chill the colony's traditionally raucous press—a press which has been quite even-handed at denouncing Beijing and London, but has denounced Beijing nonetheless. There have been declarations that the PRC will not allow Hong Kong to become a “nest of subversives”—which in the PRC's lexicon could well include free-minded members of the media. The PRC's Ministry of Public Security recently confirmed that it has been gathering information on Hong Kong citizens who are “against the Chinese government.” The PRC also tried in secret Hong Kong reporter Xi Yang and sentenced him to 12 years in prison for “stealing state financial secrets”—a term which could include such simple figures as production levels of consumer goods, provincial GDP's, etc. Finally, there were the not-so-coincidental hostile actions taken by the PRC against the Beijing commercial establishments of Hong Kong publisher Jimmy Lai after Lai published an open letter critical of Li Peng.

A continuation of the present common law, independent judiciary is another element of Hong Kong's continuing economic success after 1997. Businesses feel secure if they know that any commercial dispute in which they may be involved will be determined using settled points of law adjudicated by jurists beyond the influence of local politics or influence. The PRC has promised a continuation of this system, but again their actions speak louder to us. Beijing has failed to endorse the Hong Kong Government's draft legislation designed to implement the Court of Final Appeal; failure to do so soon may leave the Hong Kong SAR without such a court for the critical period just after 1997. Moreover, China's past commitment to the rule of law has been very spotty at best. Although a signatory to the International Convention on Arbitration, the PRC has blatantly violated that accord by allowing a Shanghai firm to refuse to pay an arbitral award against it in favor of a U.S. concern named Revpower. China is a signatory to several agreements concerning intellectual property rights, but their compliance until lately was almost nonexistent. The terms of contracts in general in China appear to be binding on the foreign firm, and fungible as far as the Government is concerned—witness the recent unilateral breaking of McDonald's lease for a site on Tiananmen Square with which my colleagues are no doubt familiar.

Aside from our specific interest in these specific issues and the ramifications they will have for Hong Kong's future, how the PRC handles this transition also has implications in other non-Hong Kong specific arenas. How well the PRC keeps to their word will, I think, demonstrate their dependability as they seek to accede to the WTO and other similar organizations. More-

over, it will serve as an indicator as to whether the Chinese are serious about their own commitments to foreign investors, and will be a signal to those considering future investment.

Mr. President, on May 25 the Subcommittee on East Asian and Pacific Affairs, which I chair, will hold a hearing on this topic entitled “Hong Kong: Problems and Prospects for 1997.” I look forward to hearing from several Hong Kong specialists about the present state of the transition, where the problem areas are, and what they think the prospects are for the continuation of the colony's present economic prosperity after 1997.

In closing, let me reiterate that we are not seeking to meddle in Great Britain and China's purely bilateral affairs. But, where the actions of either party might effect the business climate in Hong Kong—and thus international investment—I believe that we have a legitimate reason for showing interest, and the parties can be sure that we will. This is our message to Beijing. ●

#### THOUGHTFUL HOMILY OF MOST REV. EDWARD M. EGAN

● Mr. LIEBERMAN. Mr. President, I recently came across a copy of a homily delivered last year by the Most Rev. Edward M. Egan, bishop of Bridgeport, that I believe is worthy of inclusion in the RECORD.

With so much debate of late about the quality of public discourse in this country, the words of Bishop Egan remind us of the need to be respectful of the heartfelt opinions of others, no matter how strongly we might disagree with their point of view.

The bishop's homily was delivered at the red Mass at Saint Matthew's Cathedral here in Washington on October 2, 1994. The red Mass is an annual Mass celebrated for people involved in the legal profession and the bishop urges lawyers, as “protectors of thought and its free expression,” to do all they can to protect the speech of those who utter unpopular beliefs and to ensure that all people in our society are allowed to enter the national dialogue over the issues that govern our fate. Speaking to leaders of the legal community, including the Attorney General, and members of the Supreme Court, Bishop Egan cautioned that lawyers must “insist that the unapproved point of view be heard and explored.”

Bishop Egan has provided wonderful leadership in his time in Connecticut in so many different ways. I am proud to consider him a friend. Whether my colleagues agree or disagree with all of Bishop Egan's words and examples regarding political correctness, I know they will find his homily to be eloquent and thought-providing. It is in that spirit that I ask that it be printed in the RECORD.

The homily follows:

HOMILY OF THE MOST REV. EDWARD M. EGAN,  
BISHOP OF BRIDGEPORT

Your Excellency, Archbishop Cacciavillan, Reverend Clergy, Members of the John Carroll Society, Distinguished Representatives of the Bench and Bar, and Friends All:

This past summer, in Canton in the South of China, I sat in a hotel restaurant with a Chinese tour-guide who spoke English quite well. He had brought a busload of tourists to a store that sold porcelain and silk; and once they were safely inside, he invited me to join him for a cup of tea.

He was forty-five years of age, he told me. In his youth he had dreamed of mastering the English language and French as well. However, in the second year of his university studies, the so-called Cultural Revolution had intervened.

His eyes flashed as he described that decade of madness in China. He and dozens of his fellow students had been forced to watch two of their professors killed in a public square by a government-inspired mob. He had stood at attention for hours on several occasions as thousands of books from the university library were destroyed in bonfires. And in due course, he had been taken to the West of China to labor for three years on collective farms, his whereabouts unknown to family and friends.

"What," I asked him, "were the leaders of the Cultural Revolution hoping to achieve with all of this?"

"They wanted the people to stop having unapproved thoughts," he replied. "They felt that the nation could prosper only if all were thinking in the same way—their way, the approved way."

He winced a bit as he offered this explanation but was clearly convinced that his analysis was correct. For he repeated it word for word as he stared into his empty teacup: "They felt that the nation could prosper only if all were thinking in the same way—their way, the approved way."

You and I, my dear friends, are privileged to live in a land in which the imposition of thought by government is rejected out of hand. And in no small measure we have the legal profession to thank for this blessing.

It was lawyers like Montesquieu and Montaigne who were crucial in developing the basic political ideas of our free society. Twenty-five of the fifty-six who signed the Declaration of Independence, with its cry for justice and equality, were practicing attorneys. Even more, the fundamental charters of our nation, such as the Constitution and the Bill of Rights, with their uncompromising commitments to freedom of thought, were largely the work of legal experts with names like Jefferson, Adams, Wilson, Jay, Wythe, and Marshall.

Still, there are in our country today rumblings in many quarters about thoughts that are approved and thoughts that are not. Thus, the expression, "politically correct," has become a staple in our vocabularies. Indeed, over the past year or two it has graduated to the level of a familiar abbreviation. Few there are who do not know the meaning of "p.c."

One is politically correct, we understand, when one agrees with the "important" newspapers, the "quoted" professors, the "best" commentators, the "most influential" personalities. Nor can there be any doubt that this understanding is operating with remarkable efficiency. From Atlantic to Pacific, the vast majority of adult Americans are able to identify with extraordinary ease and accuracy those ideas, positions, and thoughts which are today in our land "correct" or, if you prefer, "approved."

The Readings from Sacred Scripture in our Mass this morning remind us of two cases in

point. The first of these Readings, from the Book of Genesis, is among the most familiar in all of Holy Writ. It speaks of the mind of the Divinity as regards the basics of the human condition. The male, we read, was from the time of creation not to be left alone. Rather, he was to be joined by a companion, a partner, a wife, so that together they might live out their years, two in fact but one in heart and love. And from that love was to result a miracle within the wife, a miracle before which every generation since creation has stood in awe.

In our time, however, the miracle has become as well a source of controversy. Simply put, the matter under discussion is this: May society stand idly by while a private party puts a violent end to the miracle?

Those who have embraced the "approved" thinking, the "correct" thinking, answer with a resounding "yes." The miracle, they allege, may be killed with impunity.

Others, however, dare to sing outside the chorus. Their reasoning should not be difficult to understand. The being within the mother, they note, gives strong indications of being a human being, a person with an inalienable right to live. Certainly, no one has ever been able to prove the contrary. Hence, they conclude, society has no choice but to fulfill its most fundamental duty as regards the being in question. It must protect it against attack.

There is no hint of religion in any of this unapproved thinking, though many religious people, for a multitude of religious reasons, support it. There is no mention of doctrine, dogma, sacred writings, or anything of the sort. At issue are only matters which are properly and strictly matters of the law: the meaning of personhood, the basic rights of individuals, the power of legal presumptions, and the most elementary and essential duties of society. These and nothing more.

Still, there is a tactic abroad in our land to characterize the unapproved thinking as exclusively religious and to refuse to allow it a fair hearing on this score. The tactic is clever, widespread, and effective. It should also be frightening to all who cherish the free and honorable exchange of ideas, positions, and thoughts—lawyers first and foremost.

The Gospel Reading, too, calls to mind a controversy of our time in which only certain thoughts appear to be approved.

The Lord, in the lovely account of Saint Luke, instructs His closest followers not to keep children from Him. "Let them come to Me, do not hinder them." He says, "for it is to such as these that the kingdom of God belongs."

Parents there are, to be sure, who would not be comfortable with having their children, the miracles of their love, accept such an invitation. And in this free land of ours their point of view is properly and vigorously protected. But other parents there are who firmly believe that the invitation of the Lord is most worthy, parents who wish their offspring to be educated according to the mind and will of the One Whom they call their God.

The thought of this second group is, of course, unapproved; and the tactic for dismissing it is well-known. All monies that governments collect to support schools, it is announced, must go only to those institutions in which every mention of the Divinity is outlawed. For otherwise, the state would be sustaining religion.

But when such a rule is implemented, the unapproved thinkers protest, is not irreligion being sustained? Why erect a wall only between religion and the state? Why not erect another, no less high, between the state and irreligion? Or more to the point: Why not simply concede to all parents equally the right to choose the schools of their

children and to share in the funds gathered by society to support them.

The plea is somehow ruled out of order. The "important" newspapers, the "quoted" professors, the "best" commentators, the "most influential" personalities have spoken. It remains, it would seem, for lawyers to insist that the unapproved point of view be heard and explored. For they are uniquely positioned to do this as counselors, judges, writers, thinkers, and legislators; and what is more: they have a long and noble tradition in this land of respecting and defending thought, even when it is "unapproved."

But the second Reading of our Mass this morning, from the Epistle to the Hebrews, provides yet another reason for lawyers to address the aforementioned issues of unapproved thinking and any others that come to mind. That reason is, I confess, plainly and exquisitely religious. It is simply this: We are all children of the one Father in heaven; hence, we have no choice but to listen to one another with attention, concern, and love.

Many years ago I pastored a parish on the Southside of Chicago. The community was African-American. In fact, one of my parishioners often reminded me that I was very likely the only white voter in the precinct.

My closest adviser was a retired army major who spent many an evening chatting with me about life in the distressed neighborhoods of the Windy City.

"Father," he used to tell me, "we are never going to be the nation we should be as long as any of us are kept out of the national conversation. We've got to find some powerful folks to let us all in."

This morning, thanks to the very kind invitation of the Archbishop of Washington, James Cardinal Hickey, I have the honor to speak to just such "powerful folks." Over the past thirty years, we as a nation have learned that the Black community must be a respected participant in the "national conversation." We are every day becoming more aware that the same is true of the Hispanic community. I pray that now is the time for the religious community as well. And I pray too that lawyers will lead the way in this regard, not only because of their historic position as protectors of thought and its free expression but also, and especially, because they realize, indeed, embrace in faith, that we are all children of one God, sisters and brothers who need—and have a right—to be heard.●

#### TRIBUTE TO MR. DARWIN HINDMAN AND THE DOLPHIN DEFENDERS

● Mr. BOND. Mr. President, I rise today to pay special tribute to Mr. Darwin Hindman of Columbia, MO, and the Dolphin Defenders of St. Louis, MO. These outstanding Missourians are among 15 honorees nationwide to receive this year's Chevron-Times Mirror Magazines Conservation Award. This honor is being bestowed in recognition of the contributions made by Mr. Hindman and the Dolphin Defenders to environmental conservation and development. I congratulate them for their highly notable achievements and encourage their continued efforts to create balanced solutions to natural resources problems.

Mr. Darwin Hindman, Jr., the newly elected mayor of Columbia and president of Missouri Rails Trails Foundation, Inc., is one of five receiving the Citizen Volunteer Award. Mr. Hindman

is responsible for establishing Katy Trail State Park along the north bank of the Missouri River. Through his public activism and fundraising efforts, Mr. Hindman successfully spearheaded creation of the Katy Trail that follows the historic Lewis and Clark expedition of 1804 to 1806. Mr. Hindman also was instrumental in developing the MKT Fitness/Nature Trail. Mr. Hindman and the foundation are working with the State and others to expand the Katy Trail, with the goal of extending it across the State.

The Dolphin Defenders of St. Louis is a group of more than 50 inner city children working to restore their neighborhood by improving the environment. Their name comes from the group's desire to mimic dolphin behavior of protecting each other from danger. The Dolphin Defenders revitalized a once trash laden vacant lot used by drug dealers and abusers into a beautiful environmental retreat now known as the Promised Land. The group has also recognized children surviving in violent communities by planting 31 trees on Arbor Day in Visitation Park. The Dolphin Defenders are one of five nonprofit organizations/public agencies to receive this year's Conservation Award. Moneys raised from the youth group's continuous collection and recycling of tires and glass bottles enable the Dolphin Defenders to pursue new environmental projects.

The honorees will be recognized at an awards dinner on May 17 in Washington, DC, and will receive a \$2,000 award along with a bronze plaque acknowledging their achievements and continued efforts to enhance the environment. The awards program was established in 1954 by the late Ed Zern, a nationally recognized sportsman, humorist, author, and former columnist for *Field & Stream*. Nearly 900 individuals and organizations have received this award since its conception to honor individuals and groups who protect and enhance renewable natural resources.

My sincerest congratulations to Mr. Hindman and the Dolphin Defenders for their significant accomplishments and contributions to conservation and the environment.●

#### DEPARTMENT OF THE INTERIOR POSITIONS

● Mr. MURKOWSKI. Mr. President, on April 7, 1995, the Committee on Energy and Natural Resources filed the report to accompany S. 610, a bill to provide for a visitor center at the Civil War Battlefield of Corinth, MS.

At the time this report was filed, the Department of the Interior had not submitted its position regarding this measure. The committee has since received this communication from the Department of the Interior, and I ask that it be printed in the RECORD for the advice of the Senate.

The communication follows:

DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, DC, May 10, 1995.

Hon. FRANK MURKOWSKI,  
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Legislation authorizing the construction of a visitor center at Corinth, Mississippi, S. 610, has been reported out of the Committee on Energy and Natural Resources. In addition to providing for a visitor center, which would be administered as part of Shiloh National Military Park, the bill authorizes the Secretary to mark sites associated with the Siege and Battle of Corinth National Historic Landmark.

On July 25, 1994, we testified before the House Subcommittee on National Parks, Forests, and Public Lands regarding the proposed visitor center at the Civil War Battlefield of Corinth. In our testimony we opposed construction of an interpretive center at Corinth. We believe such a facility is unnecessary given the presence of the National Park Service visitor center at nearby Shiloh Military Park. A visitor center at Corinth is particularly difficult to justify in light of current fiscal constraints. The cost estimate for the proposed 5,300-square-foot interpretive center is \$6 million which includes the cost of development, operation and maintenance for 5 years.

We continue to oppose proposals to construct a visitor center at Corinth. The current legislation, S. 610, would give the National Park Service primary responsibility for interpreting the story of Corinth. We believe this responsibility rests more appropriately at the local level. It is not fiscally possible for the National Park Service to have interpretive centers at every significant site associated with the Civil War. We believe we can appropriately relate the story of the Civil War in this area from our current facilities at Shiloh National Military Park.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,  
GEORGE T. FRAMPTON, JR.,  
Assistant Secretary for  
Fish and Wildlife and Parks.

Mr. MURKOWSKI. Mr. President, on April 7, 1995, the Committee on Energy and Natural Resources filed the report to accompany H.R. 400, a bill to provide for the exchange of lands within Gates of the Arctic National Park and Preserve.

At the time this report was filed, the Department of the Interior had not submitted its position regarding this measure. The committee has since received this communication from the Department of the Interior, and I ask that it be printed in the RECORD for the advice of the Senate.

The material follows:

U.S. DEPARTMENT OF THE INTERIOR,  
Washington, DC, April 26, 1995.

Hon. FRANK MURKOWSKI,  
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to express the Department of the Interior (Department) position on H.R. 400, "To provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes," as reported by the Committee on Energy and Natural Resources. The proposed legislation includes two titles which relate to Gates of the Arctic National

Park (Title I) and the acquisition of subsurface rights from Koniag, Inc. (Title II) on the Alaska peninsula.

We strongly support Title I of H.R. 400, "Anaktuvuk Pass Land Exchange and Wilderness Redesignation," as approved by the Committee. Title I authorizes a land exchange involving the National Park Service (NPS), the Nunamut Corporation and the Arctic Slope Regional Corporation concerning lands in and around Gates of the Arctic National Park and Preserve. The proposed exchange marks thousands of hours of work and over 10 years of negotiations among the affected parties. We believe the proposed exchange would resolve difficult land use issues, improve the management of the Park and benefit the people of Anaktuvuk Pass. Accordingly, the Alaska native community, the Department and private groups all supported the version of H.R. 400 that the House of Representatives passed unanimously on February 1, 1995.

As reported to the Senate, however, Title II of H.R. 400, "Alaska Peninsula Subsurface Consolidation," directs the Secretary of the Interior to acquire oil and gas rights and other subsurface interests on the Alaska peninsula from Koniag, Incorporated. We strongly oppose Title II for the following reasons. First, we do not believe that Koniag has valid selections to some of the lands that the proposed legislation would direct the Secretary to acquire. Second, both the NPS and the U.S. Fish and Wildlife Service (FWS) consider the acquisition of Koniag's mineral interests to be an extremely low priority in terms of the missions of the two agencies. However, even if we were to disregard this factor, there is a third and most critical problem with the bill as currently drafted: we believe that the directed appraisal methodology would establish a significant negative precedent in terms of longstanding and widely accepted appraisal practices. In sum, we believe that the valuation and acquisition of these interests, as directed by Title II, do not serve the interests of the Department, the Federal Government or the public at large.

A more detailed statement of our objections follows:

1. Status of Koniag entitlements and selections has not yet been determined.—The Alaska Native Claims Settlement Act, as amended, authorizes Koniag to receive the rights to oil and gas and sand and gravel used in connection with exploration and development of the oil and gas to 343,000 acres. However, Koniag has selected approximately 465,158 acres of subsurface estate, an overselection of approximately 122,158 acres: Alaska Peninsula NWR: 266,068 acres of subsurface selections.

Becharof NWR: 14,080 acres of subsurface selections.

Aniakchak NM and pres.: 185,010 acres of subsurface selections.

Total selections: 465,158 acres of subsurface estate.

Overselections: 122,158 acres of subsurface estate.

Title II does not resolve the issue of Koniag's overselections. It is our understanding that the map referenced in Section 201(8) includes all of Koniag's selections, but does not identify Koniag's 275,000 acre entitlement. The validity of certain Koniag selections is currently the subject of administrative litigation. On October 12, 1993, the Bureau of Land Management (BLM) rejected a portion of Koniag's selections. Koniag has appealed the BLM decision and the issue is currently before the Interior Board of Land Appeals.

Based on the above, we object to proposed legislation which would require the Federal Government to acquire property where the validity of certain selections is under appeal.



2. Federal land management agencies have determined that these properties have extremely low priority for acquisition by the Department.—It is our understanding that the proposed subsurface selections have been examined for their economic potential for oil and gas development. We also understand that test wells have been drilled in the area and that the results of the test drilling have not indicated commercially-viable oil and gas deposits. Therefore, we do not believe that the continued private ownership of oil and gas rights within the conservation system units of the Alaskan peninsula would pose a significant threat to refuge or park resources.

Title II envisions that the acquisition cost not exceed \$300 per acre on average. If this average cost is met, the Federal Government would be required to provide \$82.5 million in land assets for these low priority mineral interests. We believe that the market value of these interests, as determined by an approved appraisal, will not exceed a tiny fraction of this envisioned value.

3. Proposed appraisal methodology would establish a significant negative precedent for the standard appraisal process.—We strongly oppose several provisions of the bill which direct a specific appraisal methodology.

Section 202(b)(2) directs that the appraisal will be conducted according to the standards of the "Appraisal Foundation," and that the "risk adjusted discounted cash flow methodology" would be the sole method to establish value. This direction that the appraiser must utilize one single appraisal method violates broadly supported and adopted appraisal principles and would likely lead to inflated values for the subsurface rights at the expense of the taxpayer. This section, therefore, is inconsistent with the Appraisal Foundation standards referred to in the bill.

The Federal Government currently uses the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA), a product of the Interagency Land Acquisition Conference, which is chaired by the U.S. Department of Justice. Federal and State agencies use these standards to appraise lands for possible acquisition. Federal courts have upheld these uniform standards, which are based on fairness and equity. To support the uniform appraisal standards, the Appraisal Standards Board of the Appraisal Foundation has issued the Uniform Standards of Professional Appraisal Practices.

The uniform appraisal standards used by both public and private sectors establish three basic approaches to determine fair market value: sales comparison, income and cost approaches. The standards allow for all three approaches to be considered and weighted according to specified factors.

In the case of the Koniag subsurface selections, there is no proven mineral reserve, nor an established market. In these situations, the uniform standards do not favor the discounted cash flow methodology, as directed by Section 202(b)(2). In fact, the uniform standards specifically caution against using the discounted cash flow methodology in isolation. When appraising non-producing mineral interests, the market comparison approach is considered the fairest and most equitable appraisal method. Legislation that distorts this process will lead to inequitable transactions and set a harmful precedent that could seriously undermine future land exchanges in Alaska.

Congressional action mandating that only one of the several standard appraisal methodologies be used, particularly when that methodology may be totally inappropriate to the circumstances, would render meaningless the principles of fairness and equity that form the basis of the uniform appraisal standards. Such action could encourage land

owners throughout the United States to demand that their lands be valued in ways that have not gained acceptance throughout the community of professional appraisers.

We also note one additional constraint in Title II that deviates from the standard appraisal practice. In contravention of appraisal ethics and standards, Section 202 of Title II would limit the appraised value to a cap of \$300 an acre on average. Based on our desire to maintain the integrity of the appraisal process, we object to imposing a cap on the valuation process, just as we would oppose any artificial floor.

4. The mandated timetables would divert personnel and resources from other high priority acquisitions.—With the consent and approval of the Congress, both the NPS and the FWS are reducing the number of Federal employees in their respective regions and headquarters offices. The respective realty offices are also facing significant staff and budget reductions in order to meet downsizing and budget targets. The remaining realty staffs are currently working to reach agreements with landowners within the Kodiak National Wildlife Refuge, the Kantishna area of Denali National Park and many other areas in Alaska. Negotiating and implementing a priority land exchange would add to the current workload.

Based on the Department's experience in appraising subsurface rights, mineral appraisals require significant expenditures of staff time and appropriated funds to complete. Directing the realty offices to complete these appraisals within the 180 day time period would lead to significant delays in work on the other high priority activities to meet the terms of the proposed legislation.

5. Ability to execute appraisals within mandated timetable.—Section 202 of Title II would require an appraiser to submit an appraisal to the Secretary within 180 days after the selection of an appraiser. Given the complexity of the mineral appraisal process of such a large area, and putting aside the issue of the discounted cash flow method, this timetable would at best lead to a hastily prepared appraisal that would not accurately value the rights in question.

Because Title II could significantly harm the financial interests of the American taxpayer, would undermine the integrity of the standard appraisal process and would not enhance the protection of natural resources or improve land management, we strongly urge that the Senate not approve Title II. We continue to support passage of Title I of H.R. 400, to protect significant natural resources in Gates of the Arctic National Park.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

GEORGE T. FRAMPTON, Jr.,  
Assistant Secretary for Fish  
and Wildlife and Park.

Mr. MURKOWSKI. Mr. President, on March 29, 1995, the Committee on Energy and Natural Resources filed the report to accompany H.R. 694, the Minor Park Boundary Adjustments and Miscellaneous Park Amendments Act of 1995.

At the time this report was filed, the Department of the Interior had not submitted its position regarding this measure. The committee has since received this communication from the Department of the Interior, and I ask that it be printed in the RECORD for the advice of the Senate.

The communication follows:

DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, DC, May 9, 1995.

Hon. FRANK MURKOWSKI,  
Chairman, Committee on Energy and Natural  
Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Energy and Natural Resources favorably reported H.R. 694, the Minor Park Boundary Adjustments and Miscellaneous Park Amendments Act of 1995 on March 29. The National Park Service testified in support of this legislation when it was considered in the House, and recommended several amendments. We would like to provide our views on the substitute adopted by the Energy and Natural Resources Committee.

Sec. 105. Craters of the Moon. The National Park Service supports Section 105, which revises the boundaries of Craters of the Moon National Monument. We prefer the language in the House version of H.R. 694 that authorizes the NPS to acquire "lands, water, and interests therein" on the land being included in the boundary adjustment. One of the primary reasons for the boundary adjustment is to protect the monument's potable water source and "waters" is not currently included in the Senate version of Section 105.

Sec. 108. New River Gorge. Sec. 109. Gauley River, and Sec. 110. Bluestone River. We have no objection to the boundary changes to existing units proposed in these sections. These sections would amend the boundaries by including uneconomical remnants, a large parcel proposed for donation, and two State parks. The addition of the State parks would not change the management of either State park.

Sec. 201. Advisory Commissions. This section would extend advisory commissions for Kaloko-Honokohau National Historical Park and Women's Rights National Historical Park. On February 10, 1993, the President issued Executive Order 12838, "Termination and Limitation of Federal Advisory Committees," ordering each agency to prepare a detailed review of all existing advisory committees. As a general policy, the Administration does not support provisions that would establish or reauthorize advisory commissions; however, with respect to Kaloko-Honokohau, given the limited extension requested and the unique circumstances in this case, the Administration has no objection to this short extension.

Sec. 203. Cumberland Gap National Historical Park. We recommend enactment of this section, which would clarify the authority of the Secretary of the Interior to acquire lands or interests in lands with appropriated funds. Passage of this section would enable the NPS to use monies in the Land and Water Conservation Fund for a specific parcel without necessitating an Act of Congress to authorize each purchase. We believe the proposed amendments would enable us to respond to conservation and recreation opportunities as they arise within the authorized area of the park.

Sec. 204. William O. Douglas Outdoor Classroom. The President's budget estimate for fiscal year 1996 for the NPS includes funds for the William O. Douglas Outdoor Classroom in the Santa Monica Mountains National Recreation Area. The classroom is a nonprofit organization, which operates an environmental and special multicultural program in the Los Angeles area that serves some 100,000 people annually, including many inner-city elementary school children. The language of this section would provide the authorization necessary for the classroom to receive funding and for the Secretary of the Interior to enter into cooperative agreements.

Sec. 206. Gauley Access, and Sec. 207. Visitor Center. We recommend that these sections be deleted from the bill. The public comment period on the Draft General Management Plan (GMP) for Gauley River NRA ended in November 1994. Those comments are guiding the completion of the final plan, which will address the issue of a visitor contact facility and will recommend locations for river access. We continue to maintain that the general management planning process should be the proper vehicle for determining the location of visitor facilities within Gauley River NRA. It is anticipated the plan will be released by the end of 1995.

Sec. 205. Miscellaneous Provisions, Sec. 208. Extension, and Sec. 209. Bluestone River Public Access. We support extending the provisions of the Wild and Scenic Rivers Act for a 5-year period for segments of the Bluestone and Meadow Rivers previously studied and determined eligible for wild and scenic river designation. The general provisions relating to cooperative agreements and remnant land for Bluestone River Public Access are acceptable to the Department. We recommend that any remnants purchased pursuant to Sec. 205 be automatically included within the boundary of that park unit. The costs of implementing the above sections, if amended as we have suggested, would be between \$1.5 million and \$2 million in additional land acquisition for the three existing NPS units.

Sec. 305. Volunteers in the Parks. The National Park Service increasingly relies on volunteers in many program areas and reaps many benefits from this program. We recommend the elimination of any cap on this appropriation as it would allow for any budgetary increases that may be adopted in future years.

Sec. 306. Cooperative Agreements for Research. The Senate version allows the NPS to enter into cooperative agreements with several entities, including "private conservation organizations." We prefer that this authority reflect similar language in 16 U.S.C. 753, which allows the Fish and Wildlife Service to establish Cooperative Research Units with "non-profit organizations." The House version deleted this authority completely.

Sec. 306. Carl Garner Cleanup Day. We have no objection to establishment of the Carl Garner Federal Lands Cleanup Day.

Sec. 307. Corinth Interpretive Center. In addition to providing for a visitor center, which would be administered as part of Shiloh National Military Park, this section authorizes the Secretary to mark sites associated with the Siege and Battle of Corinth National Historic Landmark.

We oppose construction of an interpretive center at Corinth. We believe such a facility is unnecessary given the presence of the National Park Service visitor center at nearby Shiloh Military Park. A visitor center at Corinth is particularly difficult to justify in light of current fiscal constraints. The cost estimate for the proposed 5,300-square-foot interpretive center is \$6 million, which includes the cost of development, operation, and maintenance for 5 years.

We support each of the other sections not specifically mentioned in this letter. However, we note that the committee-reported bill does not include the extinguishment of a reservation for the Army Corps of Engineers to deposit dredging spoils at Fort Pulaski National Monument. We support the House provision eliminating this reservation as the reserved area contains two significant historic structures listed on the National Register of Historic Places and significant natural resource values. Extinguishment of this reservation would assure permanent protection of these values.

The Office of Management and Budget has advised that there is no objection to the

presentation of this report from the standpoint of the Administration's program.

Sincerely,

GEORGE T. FRAMPTON, JR.,

*Assistant Secretary for  
Fish and Wildlife and Parks.*

Mr. MURKOWSKI. Mr. President, on April 7, 1995, the Committee on Energy and Natural Resources filed individual reports to accompany S. 115, Colonial Park land conveyance; S. 127, Women's Rights NHP amendments; S. 134, FDR Family land acquisition; S. 188, Great Falls Historic District; S. 197, Carl Garner Federal Lands Cleanup Day; S. 223, Sterling Forest land acquisition; S. 357, Kaloko-Honokohau advisory commission; S. 392, Dayton American Heritage amendment; S. 551, Hagerman Fossil Beds and Craters of the Moon boundary change; S. 587, Old Spanish Trail study; and S. 601, Blackstone Heritage Area revision.

At the time these reports were filed, the Department of the Interior had not submitted its position regarding these measures. The Committee has since received a communication from the Department of the Interior, regarding these bills, and I ask that it be printed in the RECORD for the advice of the Senate.

The communication follows:

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, DC, May 9, 1995.

Hon. FRANK MURKOWSKI,  
*Chairman, Committee on Energy and Natural  
Resources, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Committee on Energy and Natural Resources recently reported several bills. The National Park Service testified in support of similar versions of many of these bills in the 103rd Congress. The following provides the National Park Service's position on most of the bills reported.

S. 115, COLONIAL (VA) PARK LAND CONVEYANCE

S. 115, which authorizes the Secretary of the Interior to acquire and convey certain lands or interests in lands to improve the management, protection, and administration of Colonial National Historical Park, was reported with an amendment to conform it to the bill approved by the committee last year. The amendment struck the provisions which would have allowed for the expansion of a specific area of Colonial Parkway and in turn would have permitted the acquisition of property immediately adjacent to the parkway. The property in question has been subdivided and development of such will result in a major visual intrusion to the parkway. The Department of the Interior/National Park Service strongly supported this section of S. 115. If a boundary expansion for this area of the Colonial Parkway is not enacted by Congress, the National Park Service will not be able to purchase this land and it will be developed.

We support the provisions of S. 115 that would allow the National Park Service to transfer the sewage systems to York County, Virginia. We urge the Senate to consider restoring the boundary adjustment and acquisition provisions struck by the committee on March 15, 1995, when S. 115 comes before the entire Senate for consideration.

S. 127, WOMEN'S RIGHTS NHP (NY) AMENDMENTS

S. 127, which would improve the administration of the Women's Rights National Historical Park in the State of New York, was reported from committee with the same

amendments as in 1994. These amendments delineate the properties the National Park Service may acquire at Women's Rights NHP. A property is also removed from the park. The development/land acquisition ceiling is increased by \$2 million to cover the expenses which will be incurred for the permitted expansion. The National Park Service has no objection to S. 127 as reported by the Senate Energy and Natural Resources Committee on March 15, 1995, and supports the legislation as amended.

S. 134, FDR FAMILY LAND (NY) ACQUISITION

S. 134, which would provide for the acquisition of certain lands formerly occupied by the Franklin D. Roosevelt family, was approved by the committee with the same amendments adopted in 1994. These amendments delineate specifically the properties the National Park Service may acquire at the Roosevelt Sites. Although we did not testify about specific lands, the amended language, which delineates the tracts, addresses the National Park Service's concerns for protecting property at the Roosevelt Sites. The National Park Service has no objection to S. 134 as reported by the Senate Energy and Natural Resources Committee on March 15, 1995, and supports the legislation as amended.

S. 188, GREAT FALLS (NJ) HISTORIC DISTRICT

S. 188, which would establish the Great Falls Historic District in the State of New Jersey, was approved by the committee with language similar to a bill reported from the committee in September 1994, requiring a 50 percent local match and limiting Federal funds. This language supports the National Park Service's position and belief that defining the maximum funding and requiring local participation through matching funds is appropriate and necessary to limiting National Park Service involvement in a site that is not a unit of the National Park System.

S. 197, CARL GARNER FEDERAL LANDS CLEANUP DAY

We have no objection to the enactment of S. 197, a bill that recognizes the contribution of Carl Garner to our Federal lands cleanup efforts. This is consistent with the position the Department took on this legislation when we testified before the Senate Subcommittee on Public Lands, National Parks and Forest in the 103rd Congress. Carl Garner originated this day, and we feel it is appropriate to include his name in the official title.

S. 223, STERLING FOREST (NY/NJ) LAND ACQUISITION

The National Park Service (NPS) supports S. 223, the "Sterling Forest Protection Act of 1995", as approved by the Senate Energy and Natural Resources Committee. In the 103rd Congress, the NPS had opposed the original Sterling Forest legislation that was introduced. A substitute was adopted and subsequently passed the Senate, which addressed the concerns of the NPS and the Department of the Interior. The bill just reported from the committee, S. 223, reflects our view that Department of Interior/National Park Service involvement in Sterling Forest be limited to areas adjacent to the Appalachian Trail.

S. 357, KALOKO-HONOKOHAU (HI) ADVISORY COMMISSION

S. 357 would extend the advisory commission for Kaloko-Honokohau National Historical Park. On February 10, 1993, the President issued Executive Order 12838, "Termination and Limitation of Federal Advisory Committees," ordering each agency to prepare a detailed review of all existing advisory committees. As a general policy, the Administration does not support provisions that would

establish or reauthorize advisory commissions; however, given the unique circumstances in this case, the Administration has no objection to this short extension.

S. 392, DAYTON (OH) AMERICAN HERITAGE  
AMENDMENT

S. 392 will facilitate the appointment of the Dayton Aviation Heritage Commission. This bill will satisfy the Department of Justice's concern that the process for appointing commission members raises constitutional issues, limiting the Secretary's discretion to appoint members to the commission. These amendments will correct this issue and we support enactment of S. 392.

S. 551, HAGERMAN FOSSIL BEDS AND CRATERS OF  
THE MOON (ID) BOUNDARY CHANGE

The National Park Service supports S. 551, which would revise the boundaries of Hagerman Fossil Beds National Monument and Craters of the Moon National Monument. Similar legislation was unsuccessful in the past two Congresses. Passage of this legislation is critical to both parks. We recommend however that S. 551 incorporate language from the House version of H.R. 694 regarding Craters of the Moon National Monument. That language authorizes the NPS to acquire "lands, waters, and interests therein" for the area of the boundary adjustment. One of the primary reasons for the boundary adjustment is to protect the monument's potable water source and "waters" is not currently included in S. 551.

S. 587, OLD SPANISH TRAIL (CO/NM/NV/CA) STUDY

The National Park Service supports S. 587, which authorizes the study of the Old Spanish Trail for potential inclusion into the National Trails System as a national historic trail. The present language is not specific, however, as to whether national historic or national scenic trail status is sought. Because of the existing highway and other development along the trail we do not believe it would meet the national scenic trail criteria. We recommend the bill be amended to limit the study to national historic trail feasibility, which would greatly reduce study cost and time to complete the project. In addition, we recommend that the legislation be broadened to allow study of all components of the Old Spanish Trail, including the Dominguez-Escalante Trail, to assure a fair and complete assessment of the trail, and if designation is recommended, to allow inclusion of the trail's best components.

S. 601, BLACKSTONE (MA/RI) HERITAGE AREA  
REVISION

S. 601, would revise the boundaries of the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island. The bill approved by the Senate committee is the same bill reported by the committee in September 1994. The National Park Service supports S. 601, however, it does not address the Department of Justice's concern regarding appointments to Federal Advisory Committees. We will be happy to provide the committee draft language to resolve this concern. We hope the Senate will take this matter into consideration before it takes final action on S. 601.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

GEORGE T. FRAMPTON, Jr.,  
Assistant Secretary for Fish and  
Wildlife and Parks.●

ALASKA POWER ADMINISTRATION  
ASSET SALE AND TERMINATION  
ACT

The text of the bill (S. 395) to authorize and direct the Secretary of Energy to sell the Alaska Power Marketing Administration, and for other purposes, as passed by the Senate on Tuesday, May 16, 1995, is as follows:

S. 395

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

**TITLE I**

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Alaska Power Administration Asset Sale and Termination Act".

**SEC. 102. SALE OF SNETTISHAM AND EKLUTNA HYDROELECTRIC PROJECTS.**

(a) The Secretary of Energy is authorized and directed to sell the Snettisham Hydroelectric Project (referred to in this Act as "Snettisham") to the State of Alaska in accordance with the terms of this Act and the February 10, 1989, Snettisham Purchase Agreement, as amended, between the Alaska Power Administration of the United States Department of Energy and the Alaska Power Authority and the Authority's successors.

(b) The Secretary of Energy is authorized and directed to sell the Eklutna Hydroelectric Project (referred to in this Act as "Eklutna") to the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc., and the Matanuska Electric Association, Inc. (referred to in this Act as "Eklutna Purchasers"), in accordance with the terms of this Act and the August 2, 1989, Eklutna Purchase Agreement, as amended, between the Alaska Power Administration of the United States Department of Energy and the Eklutna Purchasers.

(c) The heads of other Federal departments and agencies, including the Secretary of the Interior, shall assist the Secretary of Energy in implementing the sales authorized and directed by this Act.

(d) Proceeds from the sales required by this title shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

(e) There are authorized to be appropriated such sums as may be necessary to prepare, survey, and acquire Eklutna and Snettisham assets for sale and conveyance. Such preparations and acquisitions shall provide sufficient title to ensure the beneficial use, enjoyment, and occupancy by the purchaser.

**SEC. 103. EXEMPTION AND OTHER PROVISIONS.**

(a)(1) After the sales authorized by this Act occur, Eklutna and Snettisham, including future modifications, shall continue to be exempt from the requirements of the Federal Power Act (16 U.S.C. 791a et seq.) as amended.

(2) The exemption provided by paragraph (1) does not affect the Memorandum of Agreement entered into among the State of Alaska, the Eklutna Purchasers, the Alaska Energy Authority, and Federal fish and wildlife agencies regarding the protection, mitigation of, damages to, and enhancement of fish and wildlife, dated August 7, 1991, which remains in full force and effect.

(3) Nothing in this title or the Federal Power Act preempts the State of Alaska from carrying out the responsibilities and authorities of the memorandum of Agreement.

(b)(1) The United States District Court for the District of Alaska shall have jurisdiction to review decisions made under the Memorandum of Agreement and to enforce the pro-

visions of the Memorandum of Agreement, including the remedy of specific performance.

(2) An action seeking review of a Fish and Wildlife Program ("Program") of the Governor of Alaska under the Memorandum of Agreement or challenging actions of any of the parties to the Memorandum of Agreement prior to the adoption of the Program shall be brought not later than ninety days after the date on which the Program is adopted by the Governor of Alaska, or be barred.

(3) An action seeking review of implementation of the Program shall be brought not later than ninety days after the challenged act implementing the Program, or be barred.

(c) With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

(1) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers—

(A) at no cost to the Eklutna Purchasers;

(B) to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals, or replacements; and

(C) sufficient for the operation of, maintenance of, repair to, and replacement of, and access to, Eklutna facilities located on military lands and lands managed by the Bureau of Land Management, including lands selected by the State of Alaska.

(2) If the Eklutna Purchasers subsequently sell or transfer Eklutna to private ownership, the Bureau of Land Management may assess reasonable and customary fees for continued use of the rights-of-way on lands managed by the Bureau of Land Management and military lands in accordance with existing law.

(3) Fee title to lands at Anchorage Substation shall be transferred to Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to, and selections of, those lands are invalid or relinquished.

(4) With respect to the Eklutna lands identified in paragraph 1 of Exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey to the State, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85-508, 72 Stat. 339, as amended), and the North Anchorage Land Agreement dated January 31, 1983. This conveyance shall be subject to the rights-of-way provided to the Eklutna Purchasers under paragraph (1).

(d) With respect to the Snettisham lands identified in paragraph 1 of Exhibit A of the Snettisham Purchase Agreement and Public Land Order No. 5108, the State of Alaska may select, and the Secretary of the Interior shall convey to the State of Alaska, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85-508, 72 Stat. 339, as amended).

(e) Not later than one year after both of the sales authorized in section 102 have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—

(1) complete the business of, and close out, the Alaska Power Administration;

(2) submit to Congress a report documenting the sales; and

(3) return unobligated balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

(f) The Act of July 31, 1950 (64 Stat. 382) is repealed effective on the date, as determined

by the Secretary of Energy, that all Eklutna assets have been conveyed to the Eklutna Purchasers.

(g) Section 204 of the Flood Control Act of 1962 (76 Stat. 1193) is repealed effective on the date, as determined by the Secretary of Energy, that all Snettisham assets have been conveyed to the State of Alaska.

(h) As of the later of the two dates determined in subsections (f) and (g), section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152(a)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E) respectively; and

(2) in paragraph (2) by striking out “and the Alaska Power Administration” and by inserting “and” after “Southwestern Power Administration.”

(i) The Act of August 9, 1955, concerning water resources investigation in Alaska (69 Stat. 618), is repealed.

(j) The sales of Eklutna and Snettisham under this title are not considered disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the “Surplus Property Act of 1944” (50 U.S.C. App. 1622).

(k) The sales authorized in this title shall occur not later than 1 year after the date of enactment of legislation defining “first use” of Snettisham for purposes of section 147(d) of the Internal Revenue Code of 1986, to be considered to occur pursuant to acquisition of the property by or on behalf of the State of Alaska.

#### **SEC. 104. DECLARATION CONCERNING OTHER HYDROELECTRIC PROJECTS AND THE POWER MARKETING ADMINISTRATIONS.**

Congress declares that—

(1) the circumstances that justify authorization by Congress of the sale of hydroelectric projects under section 102 are unique to those projects and do not pertain to other hydroelectric projects or to the power marketing administrations in the 48 contiguous States; and

(2) accordingly, the enactment of section 102 should not be understood as lending support to any proposal to sell any other hydroelectric project or the power marketing administrations.

#### **TITLE II**

##### **SEC. 201. SHORT TITLE.**

This title may be cited as “Trans-Alaska Pipeline Amendment Act of 1995”.

##### **SEC. 202. TAPS ACT AMENDMENTS.**

Section 203 of the Act entitled the “Trans-Alaska Pipeline Authorization Act”, as amended (43 U.S.C. 1652), is amended by inserting the following new subsection (f):

“(f) EXPORTS OF ALASKAN NORTH SLOPE OIL.—

“(1) Subject to paragraphs (2) through (6), of this subsection and notwithstanding any other provision of law (including any regulation), any oil transported by pipeline over right-of-way granted pursuant to this section may be exported after October 31, 1995 unless the President finds that exportation of this oil is not in the national interest. In evaluating whether the proposed exportation is in the national interest, the President—

“(A) shall determine whether the proposed exportation would diminish the total quantity or quality of petroleum available to the United States;

“(B) shall conduct and complete an appropriate environmental review of the proposed exportation, including consideration of appropriate measures to mitigate any potential adverse effect on the environment, within

four months after the date of enactment of this subsection; and

“(C) shall consider, after consultation with the Attorney General and Secretary of Commerce, whether anticompetitive activity by a person exporting crude oil under authority of this subsection is likely to cause sustained material crude oil supply shortages or sustained crude oil prices significantly above world market levels for independent refiners that would cause sustained material adverse employment effects in the United States.

The President shall make his national interest determination within five months after the date of enactment of this subsection or 30 days after completion of the environmental review, whichever is earlier. The President may make his determination subject to such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that the exportation is consistent with the national interest.

“(2) Except in the case of oil exported to a country pursuant to a bilateral international oil supply agreement entered into by the United States with the country before June 25, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to this section, shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

“(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), or the National Emergencies Act (50 U.S.C. 1601 et seq.) to prohibit exportation of the oil.

“(4) The Secretary of Commerce shall issue any rules necessary for implementation, including any licensing requirements and conditions, of the President’s national interest determination within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

“(5) If the Secretary of Commerce finds that anticompetitive activity by a person exporting crude oil under authority of this subsection has caused sustained material crude oil supply shortages or sustained crude oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused sustained material adverse employment effects in the United States, the Secretary of Commerce may recommend to the President who may take appropriate action against such person, which may include modification or revocation of the authorization to export crude oil.

“(6) Administrative action with respect to an authorization under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.”

##### **SEC. 203. ANNUAL REPORT.**

Section 103(f) of the Energy Policy and Conservation Act (42 U.S.C. 6212(f)) is amended by adding at the end thereof the following:

“In the first quarter report for each new calendar year, the President shall indicate whether independent refiners in Petroleum Administration for Defense District V have been unable to secure adequate supplies of crude oil as a result of exports of Alaskan North Slope crude oil in the prior calendar year and shall make such recommendations to the Congress as may be appropriate.”

##### **SEC. 204. GAO REPORT.**

The Comptroller General of the United States shall conduct a review of energy pro-

duction in California and Alaska and the effects of Alaskan North Slope crude oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast. The Comptroller General shall commence this review four years after the date of enactment of this Act and, within one year after commencing the review, shall provide a report to the Committee on Energy and Natural Resources in the Senate and the Committee on Resources in the House of Representatives. The report shall contain a statement of the principal findings of the review and such recommendations for consideration by the Congress as may be appropriate.

#### **SEC. 205. RETIREMENT OF CERTAIN COSTS INCURRED FOR THE CONSTRUCTION OF NON-FEDERAL PUBLICLY OWNED SHIPYARDS.**

(a) IN GENERAL.—The Secretary of Energy shall—

(1) deposit proceeds of sales out of the Naval Petroleum Reserve in a special account in amounts sufficient to make payments under subsections (b) and (c); and

(2) out of the account described in paragraph (1), provide, in accordance with subsections (b) and (c), financial assistance to a port authority that—

(A) manages a non-Federal publicly owned shipyard on the United States west coast that is capable of handling very large crude carrier tankers; and

(B) has obligations outstanding as of May 15, 1995, that were dated as of June 1, 1977, and are related to the acquisition of non-Federal publicly owned dry docks that were originally financed through public bonds.

(b) ACQUISITION AND REFURBISHMENT OF INFRASTRUCTURE.—The Secretary shall provide, for acquisition of infrastructure and refurbishment of existing infrastructure, \$10,000,000 in fiscal year 1996.

(c) RETIREMENT OF OBLIGATIONS.—The Secretary shall provide, for retirement of obligations outstanding as of May 15, 1995, that were dated as of June 1, 1977, and are related to the acquisition of non-Federal publicly owned dry docks that were originally financed through public bonds—

- (1) \$6,000,000 in fiscal year 1996;
- (2) \$13,000,000 in fiscal year 1997;
- (3) \$10,000,000 in fiscal year 1998;
- (4) \$8,000,000 in fiscal year 1999;
- (5) \$6,000,000 in fiscal year 2000;
- (6) \$3,500,000 in fiscal year 2001; and
- (7) \$3,500,000 in fiscal year 2002.

##### **SEC. 206. OIL POLLUTION ACT OF 1990.**

Title VI of the Oil Pollution Act of 1990 (Public Law 101-380; 104 Stat. 554) is amended by adding at the end thereof the following new section:

##### **“SEC. 6005. TOWING VESSEL REQUIRED.**

“(a) IN GENERAL.—In addition to the requirements for response plans for vessels established in section 311(j) of the Federal Water Pollution Control Act, as amended by this Act, a response plan for a vessel operating within the boundaries of the Olympic Coast National Marine Sanctuary or the Strait of Juan de Fuca shall provide for a towing vessel to be able to provide assistance to such vessel within six hours of a request for assistance. The towing vessel shall be capable of—

“(1) towing the vessel to which the response plan applies;

“(2) initial firefighting and oilspill response efforts; and

“(3) coordinating with other vessels and responsible authorities to coordinate oilspill response, firefighting, and marine salvage efforts.

“(b) EFFECTIVE DATE.—The Secretary of Transportation shall promulgate a final rule to implement this section by September 1, 1995.”

**SEC. 207. EFFECTIVE DATE.**

This title and the amendments made by it shall take effect on the date of enactment.

**TITLE III****SEC. 301. SHORT TITLE.**

This Title may be referred to as the "Outer Continental Shelf Deep Water Royalty Relief Act".

**SEC. 302. AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT.**

Section 8(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)), is amended by striking paragraph (3) in its entirety and inserting the following:

"(3)(A) The Secretary may, in order to—

"(i) promote development or increased production on producing or non-producing leases; or

"(ii) encourage production of marginal resources on producing or non-producing leases; through primary, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease(s). With the lessee's consent, the Secretary may make other modifications to the royalty or net profit share terms of the lease in order to achieve these purposes.

"(B)(i) Notwithstanding the provisions of this Act other than this subparagraph, with respect to any lease or unit in existence on the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act meeting the requirements of this subparagraph, no royalty payments shall be due on new production, as defined in clause (iv) of this subparagraph, from any lease or unit located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, until such volume of production as determined pursuant to clause (ii) has been produced by the lessee.

"(ii) Upon submission of a complete application by the lessee, the Secretary shall determine within 180 days of such application whether new production from such lease or unit would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph. In making such determination, the Secretary shall consider the increased technological and financial risk of deep water development and all costs associated with exploring, developing, and producing from the lease. The lessee shall provide information required for a complete application to the Secretary prior to such determination. The Secretary shall clearly define the information required for a complete application under this section. Such application may be made on the basis of an individual lease or unit. If the Secretary determines that such new production would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph, the provisions of clause (i) shall not apply to such production. If the Secretary determines that such new production would not be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i), the Secretary must determine the volume of production from the lease or unit on which no royalties would be due in order to make such new production economically viable; except that for new production as defined in clause (iv)(aa), in no case will that volume be less than 17.5 million barrels of oil equivalent in water depths of 200 to 400 meters, 52.5 million barrels of oil equivalent in 400–800 meters of water, and 87.5 million barrels of oil equivalent in water depths greater than 800 meters. Redetermination of the applicability of clause (i) shall be undertaken by the Sec-

retary when requested by the lessee prior to the commencement of the new production and upon significant change in the factors upon which the original determination was made. The Secretary shall make such redetermination within 120 days of submission of a complete application. The Secretary may extend the time period for making any determination or redetermination under this clause for 30 days, or longer if agreed to by the applicant, if circumstances so warrant. The lessee shall be notified in writing of any determination or redetermination and the reasons for and assumptions used for such determination. Any determination or redetermination under this clause shall be a final agency action. The Secretary's determination or redetermination shall be judicially reviewable under section 10(a) of the Administrative Procedures Act (5 U.S.C. 702), only for actions filed within 30 days of the Secretary's determination or redetermination.

"(iii) In the event that the Secretary fails to make the determination or redetermination called for in clause (ii) upon application by the lessee within the time period, together with any extension thereof, provided for by clause (ii), no royalty payments shall be due on new production as follows:

"(I) For new production, as defined in clause (iv)(I) of this subparagraph, no royalty shall be due on such production according to the schedule of minimum volumes specified in clause (ii) of this subparagraph.

"(II) For new production, as defined in clause (iv)(II) of this subparagraph, no royalty shall be due on such production for one year following the start of such production.

"(iv) For purposes of this subparagraph, the term 'new production' is—

"(I) any production from a lease from which no royalties are due on production, other than test production, prior to the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act; or

"(II) any production resulting from lease development activities pursuant to a Development Operations Coordination Document, or supplement thereto that would expand production significantly beyond the level anticipated in the Development Operations Coordination Document, approved by the Secretary after the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act.

"(v) During the production of volumes determined pursuant to clauses (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for light sweet crude oil exceeds \$28.00 per barrel, any production of oil will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clause (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds \$28.00. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

"(vi) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds \$3.50 per million British thermal units, any production of natural gas will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clauses (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds

\$3.50. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

"(vii) The prices referred to in clauses (v) and (vi) of this subparagraph shall be changed during any calendar year after 1994 by the percentage, if any, by which the implicit price deflator for the gross domestic product changed during the preceding calendar year."

**SEC. 303. NEW LEASES.**

Section 8(a)(1) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1337(a)(1)) is amended as follows:

(1) Redesignate section 8(a)(1)(H) as section 8(a)(1)(I); and

(2) Add a new section 8(a)(1)(H) as follows:

"(H) cash bonus bid with royalty at no less than 12 and ½ per centum fixed by the Secretary in amount or value of production saved, removed, or sold, and with suspension of royalties for a period, volume, or value of production determined by the Secretary. Such suspensions may vary based on the price of production from the lease."

**SEC. 304. LEASE SALES.**

For all tracts located in water depths of 200 meters or greater in the Western and Central Planning Area of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any lease sale within five years of the date of enactment of this title, shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act, as amended by this title, except that the suspension of royalties shall be set at a volume of not less than the following:

(1) 17.5 million barrels of oil equivalent for leases in water depths of 200 to 400 meters;

(2) 52.5 million barrels of oil equivalent for leases in 400 to 800 meters of water; and

(3) 87.5 million barrels of oil equivalent for leases in water depths greater than 800 meters.

**SEC. 305. REGULATIONS.**

The Secretary shall promulgate such rules and regulations as are necessary to implement the provisions of this title within 180 days after the enactment of this Act.

### SUPPORTING THE ANGOLA PEACE PROCESS

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Senate Resolution 121, a resolution submitted earlier today by Senators FEINGOLD, KASSEBAUM, HELMS, PELL, and SIMON, regarding the Angola peace process, that the resolution and the preamble be agreed to, the motion to reconsider be laid on the table en bloc, and any statements thereon appear at the appropriate place in the RECORD as though read.

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

The resolution (S. Res. 121) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas Angola has suffered one of the most violent and longest-running civil wars;

Whereas the United States was actively engaged in the war in Angola, has provided more than \$200 million in humanitarian assistance to Angola since 1992, and has been a

key facilitator on the ongoing peace negotiations;

Whereas Angola is the last civil conflict in southern Africa, and regional leaders including South African President Nelson Mandela consider its resolution to be a top priority;

Whereas an enduring peace in Angola, a potentially wealthy country that is central to regional stability and economic development, is in the national interest of the United States;

Whereas the Government of Angola and National Union for the Total Independence of Angola (UNITA) entered into the Lusaka Protocol in November 1994 to secure a U.N.-supervised peace settlement;

Whereas the United Nations Security Council voted in February to send a U.N. peacekeeping mission to Angola to monitor and enforce the peace process, and more than 600 international monitors are deployed throughout the country;

Whereas continuing progress toward peace makes it more likely that further deployment of UNAVEM III will occur soon;

Whereas the meeting between President Eduardo dos Santos and Dr. Jonas Savimbi on May 6, 1995, at which both parties reiterated their commitment to the Lusaka Protocol, demonstrated that they possess the essential political will to resolve outstanding issues, and encouraged all who want peace in Angola;

Whereas achieving a lasting peace will require that all Angolans work together to overcome bitter legacies of war, which include a devastated infrastructure, millions of unexploded landmines, a profound distrust between the parties, weakened civil institutions, a crippled economy, and a generation of young Angolans who have never known a peaceful, civil society;

Whereas strong leadership is essential to ensure that the wealth of Angola, long spent on war, now is used to consolidate peace. Now therefore be it

*Resolved*, That the Senate:

(1) Congratulates the people of Angola for the courageous and determined steps their leaders have taken in support of peace;

(2) Urges all parties in Angola to continue to strengthen their commitment to the Lusaka process, which constitutes the last, and best, chance for securing an enduring peace;

(3) Affirms that the United States will hold both Angolan parties responsible for abiding by their commitment to peace; and

(4) Calls upon the international community to remain actively engaged in support of national reconciliation, removal of landmines, economic development, and democratization in Angola.

#### ORDERS FOR THURSDAY, MAY 18, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:15 a.m. on Thursday, May 18, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period for the transaction of morning business not to extend beyond the hour of 12 noon, with Senators to speak for up to 5 minutes each except for the following: Senator SPECTER, 45 minutes; Senator THOMAS, 20 minutes; Senator DORGAN, 20 minutes; Senator CAMPBELL, 15 minutes; Senator REID, 10 minutes; Senator SANTORUM, 20 minutes.

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

Mr. DOLE. I further ask unanimous consent that at the hour of 12 noon tomorrow the Senate begin consideration

of Senate Concurrent Resolution 13, the concurrent budget resolution.

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

#### PROGRAM

Mr. DOLE. Mr. President, for the information of all Senators, the Senate will begin consideration of the budget resolution tomorrow at noon, so I think Senators can expect rollcall votes throughout the day tomorrow, probably late into the evening, and again on Friday and, as I said earlier, on Monday. Because it is our desire to finish the budget resolution either on late Tuesday or Wednesday. And then if possible, take up the antiterrorism measure before the recess, which begins on Friday of next week. I just urge my colleagues, alert my colleagues there will be votes unless something happens I am not aware of on Friday and on Monday.

So, please plan your schedules accordingly.

#### RECESS UNTIL 9:15 A.M. TOMORROW

Mr. DOLE. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 6:10 p.m., recessed until Thursday, May 18, 1995, at 9:15 a.m.