SENATE—*Thursday, August 6, 1987*

(Legislative day of Wednesday, August 5, 1987)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the Honorable KENT CONRAD, a Senator from the State of North Dakota.

PRAYER

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

Let us pray.

O Lord, Thou hast searched me and known me. Thou knowest my down sitting and my uprising; Thou understandest my thought afar off. Thou compassest my path and my lying down, and art acquainted with all my ways. For there is not a word in my tongue, but, lo, O Lord, Thou knowest it altogether.—Psalm 139:1-4.

Omniscient Lord, the words of the psalmist remind us that You know all things. You know us in every detail of our lives past, present, and future. We have no secrets from You, no surprises for You. You know the struggles, the frustrations, the disappointments—You know our desires, our hopes, our dreams, our ambitions—You know each of us and all of us in the total context of our being. Mighty God, work Your will in our personal and collective lives in these final hours in ways that will satisfy and fulfill the responsibilities of the Senate in the present situation and the needs of all of us with our families. To the glory of God and the honor of Your name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 6, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KENT CONRAD, a Senator from the State of North Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order the acting majority leader is recognized.

RESERVATION OF LEADER TIME

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time of the majority and minority leaders both be reserved for their use later today.

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

HOW HUMAN FALLIBILITY WILL UNDERMINE SDI

Mr. PROXMIRE. Mr. President, when the young West German pilot flew his Cessna plane through the most heavily defensed air space in the world and landed right on target in Red Square, Moscow, he made a loud statement about the pitiful imperfection of 1987 military technology. Think about it. First, was this an isolated once in a million accident? No way. Less than a month earlier hadn't our own United States suffered an entirely different reminder of the same principle? It sure had. The attack on the U.S.S. *Stark* that killed 37 of our servicemen also reminded us of the limitations of what many regarded as red-hot, up-to-the-minute, cannot-go-wrong antimissile technology. The *Stark* was equipped to defend oil tankers that might have been miles away. We found that it couldn't even defend itself. Some may say that the Cessna that landed in Red Square just proves how inept, how antedated, how behind the technology curve is the Soviet military defense. The fact is that air defense is the one deployed and in full-effect military technology where the Soviets are far ahead of the United States. Does anyone doubt that a Cuban plane piloted by some Cuban hot-rod teenager could penetrate what we call our country's defense and land right outside this Capitol Building today. Frankly this Senator wouldn't be surprised if when I leave this building in a few minutes and walk back to the Dirksen Office Building a Castro special lands in the parking lot.

So here, Mr. President, is another reminder of the futility of the strategic defense initiative [SDI] or star wars. Just suppose we had star wars fully deployed. Conceivably it could smash into Soviet missiles that took 6 or 7 minutes to rise from their land-based, stationary launch pads at the pace of a sleepy snail, while giving off immense heat and blinding light. Maybe with many decades of improvements in lasers and particle beams, SDI could even succeed in finding and intercepting warheads in flight. The physicists, mathematicians, and engineers at the American Academy of Science don't believe this will happen. But they could be wrong. A top panel representing the American Physical Society and chaired by a Nobel Prize winning physicist tells us that the improvement required in our present technology for SDI to work will be virtually infinite. The panel also tells us that some of the future strategies on which SDI would rely may not even be based on sound scientific principles. But again they may be wrong. Maybe a marvelous new technology can someday solve all these problems. Maybe we can have a defense that can do the job. Let's assume we do. Doesn't the vulnerability of our superpower equipment on the U.S.S. *Stark* and the penetration of the world's most heavily defensed air space by a young German kid, flying a little old Cessna right through the most heavily defended air space on Earth and landing right at the very center of the Soviet's superpower government tell us something? Doesn't it tell us that no matter how many hundreds of billions we pour into a defense against nuclear attack that it can never be enough to protect us.

The ironic fact is that the more elaborate, the more complex, the more advanced and automatic the defensive military technology, the more certain it is that somewhere along the line human fallibility, some slip, some mistake in design, some error in deployment or in maintenance or in operation will make the system vulnerable. Mathias Rust, the German teenager, proved this with his Cessna gambit. The still unidentified Iraqi pilot did it with his missile. Can anyone really believe that the most complex military technology ever conceived, designed, deployed and operated by fallible, mistake-prone human beings that of course is SDI will not be subject to the same failings? Undoubtedly star wars will not be overcome by a vagrant missile or a Cessna. But the enormous variety of countermeasures open to the Soviets will certainly permit the development of an offense that can successfully penetrate SDI. Think of it the

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Soviets can endlessly multiply the number of nuclear warheads to penetrate SDI at a cost far below what it will take our country to deploy SDI. The Soviets can go from 10,000 strategic warheads to 100,000. They can perfect decoys. They can send up endless chaff. They can fire cruise missiles flying at tree top level from submarines 4 or 5 miles off our thousands of miles of coastline. They can fire from bombers launching their nuclear warheads from anywhere in the vast air envelope of the Earth. They can equip commandos to carry nuclear warheads ashore. They can turn the onrushing technology of lasers and particle beams to offensive nuclear purposes. All this they can do for a fraction of the cost of a fully deployed and operating SDI.

But the final word is that SDI with all its elaborate, complex technology cannot defend against a determined attack even if it works perfectly. SDI with all its enormous complexity will face only one test: That one and only test would be an all-out preemptive nuclear attack from the Soviet Union. But isn't it clear that the kind of inevitable human fallibility so dramatically portrayed by the U.S.S. *Stark* and the West German Cessna will also undermine SDI. The answer, Mr. President, is that we cannot win a nuclear arms race with the Soviet Union. Continuation of the nuclear arms race like a nuclear war will leave only losers. The answer is not a trillion dollar SDI. It is arms control.

Mr. President, I ask unanimous consent that an article on this issue by John Ullmann a professor at Hofstra University and carried in the New York Times on June 2, be printed in the RECORD.

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

[From the New York Times, June 2, 1987]

THE CESSNA LANDED IN EVERY CAPITAL

(By John E. Ullmann)

The flight of Mathias Rust's Cessna into Red Square is no occasion for finding comfort in the Soviet Union's discomfort. The young pilot sent a message to us about our defense system—especially about "Star Wars"—and to other nations about theirs, too.

Once again we see the dramatic failure of complex technological systems that rely at crucial points on humans. Once again, we see that the technology that is supposed to enhance national security fails, and thus diminishes it.

It is hardly news to the United States that a small plane can duck under a radar screen. Our drug enforcement agencies contend with such illicit flights every day—with limited success.

As the Cessna wended its way to Moscow, the Soviet and Finnish air-control systems demonstrated "blind spots." They received stimuli or alarms for which they were not prepared. The Soviet system was set up for military incursions by fast, high-flying objects; the Finnish one was simply run-of-the-mill.

So instead of looking at Mr. Rust's flight as a lark, let's consider it an urgent invitation to examine a whole string of similar failures—most recently, the frigate Stark's nonreaction to the Iraqi attack in the Persian Gulf.

The Stark's antimissile system also seems to have had a blind spot—like the one in a car's rear-view mirror. The ship, in a low state of alert, did not expect an attack even though it was sailing in a war zone.

Perhaps the Soviet air defense system was similarly relaxed. Why not? International tensions are at a low level.

And what about the other failures?

After the attack on Libya in May 1986, we learned that nearly one-third of our aircraft were unable to complete their missions. Furthermore, in spite of being fitted with so-called smart bombs, they failed to hit certain targets that had been carefully pinpointed by intelligence reports.

Moreover, this happened a few months after the Challenger disaster and a succession of failures of other rockets such as the Titan 34D and the Delta, and the grounding of the Atlas-Centaur rocket.

The inquiries into these events all demonstrated a common pattern—a combination of human and equipment failures. Taken together with the flight to the Kremlin, these malfunctions showed themselves independent of the political systems that produced them. In other words, it is crucial for both superpowers to recognize the limits of such systems.

There is a real danger that this lesson will not be learned. Rather, our reaction to the attack on the Stark was to escalate the Navy's role in the Gulf and to place our naval forces there on high alert.

Surely, we can expect that the defenders of Soviet airspace will also be placed on higher alert, with orders to shoot more quickly, as in the case of American ships in the Gulf.

In short, the Cessna and Stark affairs mean that trigger fingers will turn much more itchy—and that the world is placed in increased jeopardy.

Since the beginning of the machine age, the engineers' answer to human frailty has always been, "We'll automate human intervention away." They forget that machine systems are human creations and thus have limits of reliability. Their kind of "thinking" inevitably leaves life-and-death decisions to erratic computers, and encourages a propensity to take computers at their word.

Thus, in assessing the feasibility of the Strategic Defense Initiative—Star Wars—we must pay careful attention to the limits and reliability of technological systems. Predictably, proponents of Star Wars are dismissing the warning inherent in the Cessna incident.

But common sense tells us we cannot rely on their claims about the protection that Star Wars will provide. For example, the proponents of Star Wars have always excluded nonmissile delivery systems from their equations.

The bottom line of the Cessna incident is that with the ever-greater sophistication of weapons, ever-shorter reaction times and ever-increasing numbers of technology failures, the war system has come to a dead end.

Mr. PROXMIRE. Mr. President, I yield the floor.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Wisconsin for reserving the time. I will use a minute or two of it now.

BICENTENNIAL MINUTE

AUGUST 6, 1789:

ESTABLISHMENT OF SENATE-HOUSE JOINT RULES

Mr. DOLE. Mr. President, on August 6, 1789, 198 years ago today, the Senate agreed to establish a set of joint rules with the House of Representatives. This came in response to questions of procedure that confronted both Houses from the very first day of their existence.

A special Senate committee took the lead in proposing many of the "joint rules" that were subsequently adopted. Here are several of the first joint rules:

That while bills are on their passage between the two Houses, they shall be on paper, and under the signature of the Secretary or Clerk of each House respectively.

When enacted bills are enrolled, they shall be examined by a joint committee of one from the Senate, and two from the House of Representatives, who shall carefully compare the enrollment with the engrossed bills, as passed in the two Houses, and correcting any errors that may be discovered in the enrolled bills, make their report forthwith to the respective Houses.

That when the Senate and House of Representatives shall judge it proper to make a joint address to the President, it shall be presented to him in his audience Chamber by the President of the Senate, in the presence of the Speaker and both Houses.

Over the following years, the joint rules were updated from time to time. In 1876, after questions arose concerning their legitimacy, the Senate agreed to a resolution adopting all former joint rules. Their last major revision occurred in 1884. Since 1889, there have been no further efforts to revise the joint code, and it has been replaced by statute law, by individual orders pertaining to the operation of each body, and by custom.

ETHANOL

Mr. DOLE. Mr. President, a bit later on, I will be introducing a bill with reference to ethanol. There are a number of cosponsors who I think wanted to speak on this. The distinguished Senate from South Dakota, Senator PRESSLER, is on the floor. We have notified the distinguished Senator from Montana, Senator MELCHER, and the Senator from Iowa, Senator GRASSLEY, so there may be a number of Members

who wish to speak on that in morning business, perhaps maybe even the Presiding Officer.

But, in any event, it is a good piece of legislation.

I reserve the balance of my time.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

NO NATIONAL SECURITY WITHOUT ENERGY SECURITY

Mr. BYRD. Mr. President, as the situation in the Persian Gulf deteriorates and the American military involvement escalates, we are, once again, witnessing the disastrous consequences of the Reagan administration's refusal to develop an energy policy.

Once again, Iran appears to be threatening oil supply lines in the Persian Gulf. Just yesterday, Defense Secretary Weinberger told reporters that he did "not know when it—American military buildup in the Gulf—will be enough."

Once again, this great Nation, so blessed with energy producing resources is forced to rely upon our military might to secure the very lifeblood of our industrial society—energy.

This is not the first time we have done so. In May 1984, the Ayatollah Khomeini threatened to disrupt the oil supply lines at the Strait of Hormuz. To ensure that oil continued to flow from this strategic area, the United States was forced to rattle the saber.

President, Reagan declared that, "There's no way that we could allow that—Persian Gulf—channel to be closed." Accordingly, our Navy was moved into the area to insure that the much needed oil continued to flow.

How often must we be reminded that the national security of the United States rests upon our energy security? In other words, there is no national security if we do not have energy security. Why must the energy security of the United States be protected first with guns and not with brains or our homegrown natural resources?

Our Armed Forces should be a last resort, not an only option. That is a weak resort, if, indeed, we do not have the energy with which to operate our Armed Forces. Armed forces operate on energy.

At the time of that crisis 3 years ago, I called attention to the dangers of this administration's nonpolicy in energy. I warned:

> Nuclear weaponry and armed forces alone do not make a nation safe and secure. The United States must be able to sustain protracted wars, energy crises, and oil embargoes. * * * This administration is leaving us dangerously vulnerable to foreign transgressions.

At that time, 3 years ago, I pleaded for a return to a national energy policy that would put the United States on a path toward energy security.

No such policy came. Consequently, we have become even more, not less, dependent upon foreign oil.

Last year, the volume of imported oil increased 24 percent.

Last year, imported petroleum accounted for 37 percent of total U.S. demand, as compared to 31.5 percent in 1985. And more and more of that imported oil is coming from OPEC. In 1985, OPEC oil imports constituted 35 percent of total U.S. imported oil. Last year, it was 46 percent.

Furthermore, as Time magazine, March 16, 1987, has reported:

> The United States is doing little to defend itself against a revitalized [OPEC] cartel.

The once powerful American giant, the U.S. oil industry, is collapsing as U.S. production and exploration are rapidly declining. The Nation's production rate has fallen to 8.35 million barrels a day—the lowest level since 1977.

No wonder CBO, CRS, the Joint Economic Committee, the Energy Information Administration, the National Petroleum Council, and the Deputy Secretary of the Department of Energy, William F. Martin, have all said the same thing—American imports of oil could reach 50 percent of national consumption by the mid-1990's.

This situation should come as no surprise. National Security Adviser Frank Carlucci, Interior Secretary Donald Hodel, the Harvard University Energy and Environmental Policy Center, former Energy Secretary James Schlesinger, the World Resources Institute, and others have all voiced the same warning—the United States is on a one-way path toward another energy crisis as our dependency upon foreign oil grows.

Why must we continue to relive yesterday's misery? Unless the Reagan administration remembers the past—and learns from it—all Americans will be condemned to repeat it.

The drop in oil prices, while certainly a major factor, is not the sole culprit of our growing dependence on imported oil.

In response to the twin energy crisis of the 1970's, America undertook the development of an energy policy to ensure that the United States would never again be subjected to the vagaries of that highly unstable region or to international blackmail, as in 1973. Since 1973, there has been a bipartisan effort to set our sights on energy security by merging our technological genius with our abundant natural resources. The Reagan administration, however, did not stay the course.

In January 1981, the present administration took office and began dismantling those much needed policies. Uninhibited market forces, it claimed, would result in energy independence in just a matter of years. Believing that the best energy policy is no energy policy, the Reagan administration took a meat ax to America's domestic energy programs. It proceeded to take the Federal Government out of the energy picture

It emasculated the Department of Energy. It all but eliminated the Energy Department's fossil fuels and renewable energy programs.

It withdrew support for the development of alternative energy technologies, such as synthetic fuels from coal and oil shale.

It slashed spending for energy conservation programs.

It balked at filling the strategic petroleum reserve, even though an oil glut brought lower oil prices.

It vetoed legislation providing for emergency preparedness planning and establishing national appliance efficiency standards.

And it has proposed selling off federally owned energy resources and oil reserves.

The administration's continuing disinvestment in the Nation's energy future is revealed in its fiscal year 1988 budget. It reduces the budget for research and development for energy conservation by two-thirds. It drops the fill rate of the strategic reserve to 35,000 barrels per day—a full 40,000 barrels a day lower than the level mandated for this year.

The administration did produce a long-awaited, 300-page report, titled "Energy Security" in March. In excruciating detail, the study depicted the serious nature of our energy security problem. Yet it contained no recommendations as to what policy remedies we should employ. Thus, this long awaited document turned out to be just another example of this administration's failure to address one of the most vital problems of our time.

The Reagan administration's destruction of the Nation's long-term energy policies—policies that have been developed and promoted by every administration since President Nixon—is imperiling America's energy security. And, as Americans have learned from past events, when there is no energy security, National security is seriously jeopardized. The welfare and security of the United States stands in peril as long as we and our allies rely so heavily on imported oil.

Despite its massive arms buildup program, this administration has left us dangerously vulnerable to foreign transgressions.

The administration's energy shortsightedness has reduced our flexibility to respond to a threatened cutoff in

our oil supplies. I repeat, our Armed Forces should be a last resort, not an only option.

That, indeed, is not even an option if we do not have petroleum if we do not have the energy with which to operate our planes, our tanks, our submarines, and our battleships.

Mr. President, free enterprise has always been, and always will be, a key to energy development in the United States. But in today's complex and shifting energy world, the administration's laissez-faire policy toward energy is too simplistic, too unrealistic and, as we are again learning, too dangerous.

The administration's support of my Clean Coal Technology Deployment Program is an important step in reducing our dependency on foreign oil. It is to be commended for its support of this much needed effort. But this is only one step. We must have an overall policy. We need a comprehensive national energy plan that will fully develop our massive coal reserves, as well as our oil, gas, and other energy resources.

The United States has the resources and the technology to develop the energy security that would free us from the despots and uncertainties of the Middle East. What we need is the leadership and determination to put in place a long-term, comprehensive, energy policy. There can be no real national security without energy security.

Mr. President, I ask unanimous consent that the special report to which I have alluded be printed in the RECORD.

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

ENERGY INSECURITY . . . THE ADMINISTRATION IS PUTTING AMERICA OVER THE OPEC OIL BARREL, AGAIN!

Every American age 20 or over well remembers the energy crisis and Arab oil embargo of 1973. Soaring gasoline prices. The long waits in gas lines. OPEC using American dependency on foreign oil in an effort to dictate our foreign policy. Americans declaring that never again would this happen, and a string of presidents developing energy policies to insure that it would not.

Unfortunately, the United States is heading full speed into another energy crisis and its accompanying nightmares. The drop in oil prices is one factor in this developing situation, as low cost oil encourages consumption while rendering domestic production uneconomic.

But, price volatility is not the sole culprit. America is again becoming dangerously dependent upon foreign energy because the Reagan Administration has consistently sought to minimize the Federal government's role in energy security. The Administration's disinvestment in an energy-secure America has once more given the United States an energy policy dictated by OPEC pricing practices, with the looming potential for the same consequences we experienced in 1973 and 1979.

Six years ago, the Reagan Administration took office promising to reverse the energy security policies developed and promoted by every president from Nixon to Carter. To fulfill its promises, the Reagan Administration has—

emasculated the Department of Energy; [1]

cut Federal fossil fuels and renewable energy programs;

withdrawn Federal support for alternative energy technologies;

attempted to slice the energy conservation budget;

proposed stopping the filling of the Strategic Petroleum Reserve;

cut back Federal building temperature standards;

vetoed legislation providing for emergency preparedness planning and national appliance efficiency standard;

proposed selling Federally-owned energy resources, including hydroelectric assets [2] and oil reserves.[3]

This Administration's refusal to promote an energy security policy combined with its opposition to established, successful energy programs has not produced the energy self-sufficiency that Candidate Reagan and the Republican Party claimed they would in 1980. As in so many other areas, the Administration's performance in ensuring energy security has failed to match its promises.

Promise: "A Republican policy . . . will substantially reduce our dependence on imported oil."—1980 Republican Party Platform.

Performance: America's dependency upon foreign oil is increasing, not decreasing. Last year—

the volume of imported oil increased 24 percent. (Energy Department data cited in National Journal, January 17, 1987).

imported petroleum accounted for 37 percent of total U.S. demand in 1986 compared to 31.5 percent in 1985. (Independent Producers' Association of America and Joint Economic Committee, 1986 Annual Report);

At the time of the 1973 Arab oil embargo, imported oil constituted 35 percent of American oil consumption. As pointed out above, the United States passed that mark last year. "Last year, in effect, all the progress made since 1981 in reducing consumption of imported oil was canceled out," reports the Joint Economic Committee in its 1987 Annual Report.

Under this Administration's non-policy in energy, the future spells even deeper trouble: The Department of Energy, the Congressional Research Service, the National Petroleum Council, and the Congressional Budget Office have all concluded that unless present trends are changed, American dependency on foreign oil will climb to more than 50 percent in the 1990's.

Promise: "The answer to our having all we need and no more being dependent on OPEC is to turn the energy industry loose. . . ."—Candidate Reagan, New York Times April 14, 1980.

Performance: The United States is becoming more dependent on OPEC as imported OPEC oil is on the increase:

In 1986, OPEC oil constituted 46 percent of total U.S. imported oil, nearly the same level as in 1973! In 1985, it was 35 percent. As the Joint Economic Committee points out: "U.S. oil imports from OPEC countries last year increased at an even greater rate than oil imports in general." (Joint Economic Committee 1987 Annual Report).

Imports from Arab OPEC countries increased 186 percent through October, 1986, compared to the same period in 1985. (IPAA).

Interior Secretary Donald Hodel explains: "OPEC is being placed back in the driver's seat. The U.S. is being set up for a major oil-price shock." (Quoted in Time, March 16, 1987)

Senator Lloyd Bentsen (D-Tex.) explains: "The administration's energy policy is woefully inadequate. . . . It is a fair-weather policy, unfit for the perilous energy future we face. If the policy continues, the question is not whether we face a repetition of the 1973 OPEC embargo but when." (Congressional Record, April 9, 1987)

Promise: "Republicans believe that in order to address our energy problem we must maximize our domestic energy production capability. In the short term, therefore, the nation must move forward on all fronts simultaneously, including oil and gas, coal, and nuclear."—1980 Republican Party Platform.

Performance: America was moving forward on all fronts in the late 1970's. Conservation, coal and other fuels reduced oil's share of U.S. energy consumption from 47 percent in 1979 to 43 percent in early 1987. And imported oil's share of total U.S. energy consumption shriveled by almost one-half—from 23 percent in 1977 to 14 percent in 1983. (Fortune, March 16, 1987, and Joint Economic Committee)

But these trends are being reversed. American consumption of oil increased by 670,000 barrels a day from February 1986 to February 1987—the first time that American consumption of oil grew faster than the economy. Oil's share of total U.S. energy consumption increased from 14 percent in 1983 to 16.2 percent in 1986. (Energy Department data and Fortune, March 16, 1987)

Promise: "The government must continue supporting productive research to speed the development of renewable energy technology, including solar energy, geothermal, wind, nuclear fusion, alcohol synthesis, and biomass, to provide the next generation of energy sources."—1980 Republican Party Platform.

Performance: According to the General Accounting Office (GAO), energy's share of the Federal research and development budget tripled between 1971 and 1979. "However, under the present Administration, government support for many of these activities has decreased substantially." FY 1987 funding requests for fossil energy, renewable energy, conservation, and nuclear reactor research and development "decreased by a total of 76 percent below fiscal 1981 level." (GAO, Energy R&D: Changes in Federal Funding Criteria and Industry Response, February 1987, GAO/RCED-87-26)

Promise: "We must strive to maximize conservation and the efficient use of energy."—1980 Republican Party Platform.

Performance: The Administration's budgets would have sliced funding for energy conservation by a total of $2.4 billion by the end of FY 1986. Congress, however, refused to allow the destruction of energy conservation programs. The Administration's FY 1988 budget proposes to reduce the budget for research and development for energy conservation by two-thirds. (CRS, "Energy Impacts," IB87021, updated March 3, 1987;

[1] The Administration did request $12.0 billion for the Department of Energy in FY 1987. This was slightly more than the estimated budget authority for FY 1986. But the civilian portion of the budget would have been cut significantly (from $6.4 billion to $3.6 billion), while defense-related spending would have increased (from $7.2 billion to $8.2 billion). (CRS, "Energy Impacts")

[2] e.g., the Bonneville Power Administration.

[3] e.g., the Naval Petroleum Reserves.

Joint Economic Committee, 1986 Annual Report).

Promise: "The free world—indeed western civilization—needs a strong United States. That strength requires a prospering economy. That economy will be secure with a vigorous domestic energy industry."—1980 Republican Party Platform.

Performance: The domestic energy industry is hardly "vigorous" under this Administration:

During the past year, crude oil production dropped from 9.2 million barrels a day in February, 1986, to 8.3 million a day in February, 1987—the lowest level since 1977. (Joint Economic Committee, 1986 Annual Report; Energy Department data in New York Times, February 17, 1987)

75 percent of all American drilling rigs are now idle. (Time, March 16, 1987)

The Chairman of the American Petroleum Institute, George Keller, explains: "A significant part of the U.S. petroleum industry is struggling to survive after the worst year in our industry's modern history." (Quoted in National Journal, January 17, 1987)

And the future spells more trouble: The Congressional Research Service projects that the current 3 billion barrels per year of domestic production will fall to about 2.5 billion barrels per year by the year 2000. This 17 percent decline will drop domestic oil production to its lowest level since 1961. (CRS, "Domestic Oil Production Projected to Year 2000," Report No. 86-177SPR, November 1986).

Promise: Initiate an energy policy that will allow our economy to grow and our standard of living to rise.—Candidate Reagan, Television Address, October 24, 1980, DCCC, The 1980 Campaign Promises of Ronald Reagan.

Performance: The failure of the Administration's non-policy in energy is retarding, not encouraging, American economic growth. Imported oil, for example, accounted for $25 billion of last year's record-breaking trade deficit. Senator J. Bennett Johnston (D-La.) points out:

"Unless we take steps to decrease imports, that four million barrels a day [of foreign oil] will quickly become five, then six, then seven million barrels per day. Our trade balance will skyrocket, no matter what type of 'competitiveness package' Congress enacts." (Statements to Energy Committee Hearings on World Oil Outlook, March 11, 1987).

Furthermore, the standard of living in America's oil producing regions is declining dangeroulsy:

Over the last year, 150,000 American oil workers lost their jobs. (Joint Economic Committee);

Last year, oil-rich Texas suffered the largest year-to-year increase in state unemployment (from 7.0 percent to 8.9 percent). (BLS);

Last year, oil-rich Louisiana, with an unemployment rate of 13.1 percent, replaced coal-rich West Virginia as the state with the highest jobless rate. (BLS);

30 percent (42) of the nation's record breaking 138 bank failures in 1986 were in two of the nation's largest oil producing states. In Texas, 26 banks failed (only 6 were agricultural banks). In Oklahoma, 16 banks failed (only 5 were agricultural banks). (FDIC).

Promise: Boost energy supplies by several hundred thousand barrels a day by eliminating energy price controls.—Candidate Reagan, Philadelphia Bulletin, May 20, 1980, DCCC, The 1980 Campaign Promises, of Ronald Reagan.

Performance: Price controls have been eliminated. Rather than increasing by "several hundred thousand barrels a day," domestic oil production:

Plummeted by 833,000 barrels a day between February and December 1986. (Energy Department data cited in New York Times, February 17, 1987).

And the future, under this Administration's non-policy in energy, is bleak: The Department of Energy projects that U.S. oil production will fail by an additional 44,000 barrels a day through 1987. (Time, March 16, 1987).

Promise: "The truth is America has an abundance of energy. But the policies of this [Carter] Administration consistently discourage its discovery and production."—Candidate Reagan, Washington Post, September 11, 1980.

Performance: As pointed out above, domestic oil production is dangerously declining. The incentives for discovery and production are also dangerously declining:

Real investment in the oil and gas industry dropped more than $10 billion in the first half of 1986, and this accounted for more than half the decline in real business fixed investment. (Economic Report of the President: 1987, p. 25-26).

Last year, firms spent an estimated $16 billion in exploration and production, In 1983, they had spent $33 billion. (Time, March 16, 1987).

Promise: "The answer obvious to anyone except those in the administration it seems is more domestic production of oil and gas."—Candidate Reagan, Announcement Speech, November 13, 1979.

Performance: In 1981, the year this Administration took office, there were 4,530 oil and gas rigs in operation. Last year, 1986, there were only 964 rotary drilling rigs looking for new oil and natural gas reserves—the lowest number since World War II. (IPAA, Senate Committee on Energy and Natural Resources, and CRS)

Energy Secretary John Herrington has stated:—"There is nothing we can do as a government to stop domestic petroleum production from declining." (Quoted in Fortune, March 16, 1987).

Promise: Every available resource we have must be used to free us from OPEC domination."—Candidate Reagan, New York Times, September 11, 1980.

Performance: with more than 150,000 unemployed oil workers in the United States last year, and 75 percent of all American drilling rigs now idle, it is obvious that every available resource is not being used to free the country from OPEC domination.

The National Petroleum Council reports that by 1990, OPEC will be producing at 80 percent of its capacity as compared to 66 percent today. According to the Council, when OPEC has reached 80 percent of its capacity—as it did in 1973 and 1979—the cartel "has been able to increase world oil prices and maintain them." (Fortune, March 16, 1987).

Promise: "The coal industry has been virtually ignored by the Carter Administration. . . . [C]oal production has increased by only 11 percent to date [since 1977] and future prospects are dim."—1980 Republican Party Platform.

Performance: During the Carter Administration, coal production increased 21 percent; under the Reagan Administration, coal production has increased only 7 percent:

Coal production (tons millions)	Absolute	Difference (millions)	Percent	Difference
1976—685				
1980—829	1976-80	+144	1976-80	21
1986—885	1980-86	+56	1980-86	7

Promise: "The coal industry has been virtually ignored by the Carter Administration. . . . Today, thousands of coal miners are out of work."—1980 Republican Party Platform.

Performance: During the Carter Administration, employment in the American bituminous coal industry increased by 35,000; during the Reagan Administration, it has decreased by 83,000 and is currently below the level of ten years ago. (Bureau of Labor Statistics):

Employment in bituminous mining

1976	221,000
1980	256,000
1987	173,000

Promise: "The threat of the United States and its allies is not only a military one. . . . Our access to energy and raw material resources is challenged by civil unrest, Soviet sponsored subversion, and economic combination of restraint of free trade."

Performance: Despite the massive increase in defense spending during the past six years, this Administration is leaving this country's national security seriously vulnerable to foreign transgressions. Without energy security, national security is jeopardized.

Three years ago, when the Iran-Iraq war flared and the Ayatollah Khomeini threatened to stop oil shipments in the Persian Gulf, Senator Robert C. Byrd (D-W.VA.) warned:

"Nuclear weaponry and armed forces alone do not make a Nation safe and secure. The United States must be able to sustain protracted wars, energy crises, and oil embargoes. . . .This Administration is leaving us dangeously vulnerable to foreign transgressions." (Congressional Record, May 14, 1984).

Senator Byrd is not alone is pointing out the dangers to America's national security from dependency on foreign oil. According to a UPI Wire Story (March 4, 1987): "President Reagan's National Security Adviser, Frank Carlucci, views the rising level of imported oil as a threat to national security and will urge his boss to create a national energy policy to deal with the problem."

Promise: "We believe that it is necessary to resume rapid filling of strategic oil reserves to planned levels of 500 million barrels in the short-term and ultimately to the one-billion barrel level."—1980 Republican Party Platform.

Performance:

The Strategic Petroleum Reserve was created as a deterrent to oil supply disruptions. This large, operational reserve of crude oil is intended to help deter future oil cutoffs and discourage the of oil supply disruptions as a weapon against the U.S. By calming markets and mitigating sharp price hikes, it will protect the United States against a repetition of the economic dislocation caused by the 1973-74 oil embargo. Despite the Reserve's strategic and economic importance, for the past five years, the Reagan Administration has continuously attempted to undermine it:

On December 1, 1982, in a message to Congress, President Reagan stated: "I find it would not be in the national interest to fill the Strategic Petroleum Reserve at the rate

of 300,000 per day in 1983." At that time, the law required the President to fill the reserve at 300,000 barrels per day unless he made this finding.

On May 5, 1983, the Comptroller General of the United States determined that the Reagan Administration had illegally impounded $800 million of funds that Congress had appropriated to fill the SPR, but which the Administration refused to spend.

In its FY 1987 budget request, the Administration proposed an indefinite moratorium on further development of SPR after it reached 500 million barrels. That is 250 million barrels less than the level required by law.

In its FY 1988 budget request, the Administration proposed to drop the fill rate to 35,000 barrels per day. This is 40,000 barrels a day lower than the level mandated in the FY 1987 Omnibus Budget Reconciliation Act, thus reducing purchases for the Strategic Petroleum Reserve by more than 50 percent.

The Administration's FY 1988 budget proposed an indefinite moratorium on SPR cavern development after 580 million barrels of capacity is reached.

If the fill rate is lowered to the level requested by the Administration, the Reserve will not reach the planned 750 million barrel level until the year 2004.

Promise: "We believe that the proven American values of individual enterprise can solve our energy problems." (1980 Republican Party Platform.)

Performance: After six years of non-policy in energy, it is obvious that the Federal government must be actively involved in securing America's energy future. In regard to Administration cutbacks in Federal funding for energy research and development, GAO reports: "There is little indication that the private sector has compensated for cutbacks in DOE R&D. Among the reasons are (1) market factors (such as low prices for oil and other conventional fuels) have generally reduced the potential profitability of technology development and (2) many of the activities curtailed by DOE have involved expensive demonstrations and other large-scale activities viewed as too risky to finance without government support." (GAO, Energy R&D).

The Energy Department's recent report, Energy Security, reveals the failure of this Administration's nonpolicy in energy as page after page warns of the risks of America's growing dependency on foreign oil:

"Growing dependence on Persian Gulf suppliers has important implications for the economic, foreign policy, and national security interests of the United States."

"[T]he projected increase in reliance on relatively few oil suppliers implies certain risks for the United States and the free world."

Yet, typical of this Administration, the report made no specific, concrete recommendations for what the United States should do to adopt an energy policy that will lead to energy security. Senate Energy Committee Chairman Bennett Johnston (D-La.) justifiably complained that the report contained no "meaningful" options or new information. (Energy Daily, March 18, 1987).

Senate Majority Leader Robert C. Byrd (D-W.Va.) has explained the necessity for a national energy policy leading toward American energy security: "Free enterprise has ever been a key to energy development in the United States. But in today's complex and shifting energy world, expecting the government to maintain a totally laissez-faire policy toward energy is unrealistic." (Speech to Independent Oil and Gas Association, February 11, 1987).

CONCLUSION

Addressing America's growing overdependence on imported oil, Senator BENTSEN warned: "This country, indeed, faces a serious threat to its national security. All the statistics point to it. All the trends are bad, and are getting worse." (Statement at Senate Finance Committee Hearing on the Impact of Imports and Foreign Investment on National Security, March 25, 1987).

Despite the statistics and the trends, however, as Time (March 16, 1987) pointed out: "The U.S. is doing little to defend itself against a revitalized [OPEC] cartel. . . . This much is certain: the oil shocks of the 1970's came as a complete surprise. The next one will not."

[Epilogue]

(Check me out. And do that with everyone who tries to bring a message to you. Don't become a sucker generation. It isn't insulting or anything, just make sure always that you're being told the truth. President Reagan, Remarks to National Association of Student Councils, June 29, 1983.)

CORRECTING THE FACTS ON WHO'S TO BLAME FOR THE ENERGY MESS

On May 6, 1987, the Administration issued a statement in which President Reagan asserted: I have already proposed a number of significant steps on which the Congress has failed to act. If these policies had been in place, our domestic oil industry would not be so seriously impaired today.

That statement prompted the Energy Daily on May 7, 1987 to headline: "President Blames Congress For Plight of Domestic Oil Industry."

The first part of this report shows that it is this Administration's non-policy in energy that is paving the road for the next energy crisis by wiping out successful, previously established energy programs. And Congress has prevented further deterioration of the domestic energy industry by fighting the Administration on many of its energy proposals.

The May 6 statement also contains more detailed erroneous or misleading statements that should be corrected. Those include the following:

May 6 statement: Pursuant to Section 3102 of the Consolidated Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509: 100 Stat. 1889). I am transmitting my views and recommendations on the energy and national security concerns related to oil import levels.

Correction: The Administration's May 6, 1987, statement fails to comply with the requirements of that law. The President is required to identify what level of imports constitutes a threat to the nation's national security. The statement did not contain such an identification.—My Administration has done a great deal to build the Nation's foundation for long-term energy security.

Correction: As pointed out on page 2, the Reagan Administration has:

Emasculated the Department of Energy;

Withdrawn Federal support for alternative energy technologies;

Attempted to slice the energy conservation budget;

Pushed for a lower fill rate of the Strategic Petroleum Reserve;

Vetoed legislation providing for Emergency Preparedness Planning and national appliance efficiency standards;

Proposed selling Federally-owned energy resources, including hydroelectric assets and oil reserves.

May 6 statement: Price and allocation controls on oil have been eliminated.

Correction: This is accurate, but misleading. The first step toward removing controls began in 1976 with the Energy Policy and Conservation Act.

May 6 statement: [T]he Strategic Petroleum Reservce (SPR) has been increased nearly fivefold to more than 500 million barrels.

Correction: That level has been achieved over the objections of the Administration. The Administration has held the fill rate to a mere one-third of congressionally mandated levels for the past five years.

May 6 statement. I have recently forwarded to the Congress a $2.5 billion clean coal initiative.

Correction: This is accurate, and the Administration's support of this measure is welcomed. But it was an initiative developed and proposed by the Congress over the initial objections of the Administration: May 6 statement: My goal—[is to] maintain a strong domestic oil industry.

Correction: With the loss of 150,000 jobs in the oil industry over the past year, and 75 percent of all American drilling rigs now idle, the Administration is far short of this goal.

Furthermore, as pointed out in the first part of this report:

American domestic oil production dropped from 9.2 million barrels a day in February, 1986, to 8.3 million barrels a day in February, 1987—the lowest level since 1977.

Fixed investment in the oil and gas industry dropped more than $10 billion in the first half of 1986, and this accounted for more than half the decline in real business investment. (Economic Report of the President: 1987)

Under this Administration's non-energy policy, the United States will remain far short of this goal.

The Congressional Research Service projects that the current 3 billion barrels per year of domestic production will fall to about 2.5 billion barrels per year by the year 2,000. This 17 percent decline will drop domestic oil production to its lowest level since 1961. (CRS, "Domestic Oil Production Projected to Year 2000").

May 6 statement: My Administration has done a great deal. . .to strengthen the domestic oil industry.

Correction: The first part of this report shows how erroneous as well as misleading this statement is. Furthermore, it appears to be directly contradictory to the position stated by Energy Secretary John Herrington who has said—"There is nothing we can do as a government to stop domestic petroleum production from declining." (Fortune, March 16, 1987).

May 6 statement: "My goal—[is to] continue conservation."

Correction: The Administration's budgets would have sliced funding for energy conservation by $2.4 billion by the end of FY 1986. Congress, however, refused to allow this destruction of energy conservation programs. The Administration's FY 1988 budget proposes to reduce the budget for research and development for energy conservation by two-thirds.

May 6 statement: I again urge the Congress to act quickly in adopting my propos-

als [including]—approval of the Department of the Interior five-year offshore oil and gas leasing plan.

Correction: The Administration only submitted this proposal to Congress only nine days earlier on April 27, 1987.

Mr. FOWLER. Mr. President, will the leader yield for a moment?

Mr. BYRD. I yield.

Mr. FOWLER. Mr. Leader, I rise to commend you not only for your statement but being a clear, calm voice of prophecy over many years, linking our energy security with the national security of our country.

We talk about national security a lot, but we seem to always focus on the military aspects of our country's national strength and forget the national strength of our country is made up of the ability to feed ourselves, the strongest possible agricultural policy for our country, and the ability to produce and sustain our own energy needs. Without all three of those components, we cannot be safe, we cannot be secure, and we cannot look our fellow Americans in the eye and say that we are strong and we have policies in place to attest to the continued national strength of our country.

We know how to produce energy that is not subject to the whims of ayatollahs and sheikhs in far-off lands. We have spent, Mr. President, over $4 billion of the taxpayers' money in the last 20 years in developing technologies for biothermal, for fusion, for solar, and from the ocean. We know how to be self-sustaining.

We have cut off our nose to spite our face, as the leader pointed out, and abandoned the research technology of the United States of America and are now losing to the Middle East and to other parts of the world, the most dangerous parts of the world, the leadership in energy that our country and our countrymen developed.

I thank you as one Member of the U.S. Senate for your leadership in the past and for highlighting for the American people what we often forget, that military security depends on energy security, and without that energy policy, a comprehensive policy, we cannot say to our fellow countrymen that we are safe and secure from all threats.

Mr. BYRD. Mr. President, I thank my friend, the distinguished Senator from Georgia [Mr. FOWLER]. I also thank him and congratulate him on conducting studies and hearings in committee as to this problem. I look forward to his leadership as he develops legislation that will deal with this very serious threat to our energy security and to our national security. I thank him again.

Mr. FOWLER. I thank the leader very much.

Mr. BYRD. I welcome his continued efforts.

Mr. LEVIN. Mr. President, will the leader yield for another moment?

Mr. BYRD. Yes.

Mr. LEVIN. I happened to be on the floor when the leader gave his remarks a moment ago about energy security. I would like to add my thanks and gratitude for what you are doing to highlight what is happening with the dismantlement of an energy policy in this country. When the history of the 1980's is written, this will be a sad chapter indeed, the dismantlement of aa energy-independence policy.

Mr. President, we are now taking risks in the Persian Gulf to protect oil tankers. We are risking American boys' lives to protect those tankers. I will have more to say about that later today.

The point here is that what we are unwilling to do is to reduce the risk to American lives by reducing the number of tankers that have to come out of the Persian Gulf. By increasing our reliance on Middle East oil, which is what we are doing daily, by increasing the reliance on Persian Gulf oil, which is what we are doing hourly, we are increasing the number of tankers which come out of the Persian Gulf. That means risking the lives of our boys more and more every day.

We are not willing to take steps at home to reduce the dependence on that oil which would result in the reduction of the risk directly to American lives.

So I commend and thank the leader for making the point that he has this morning. You have done a great service to the Nation.

Mr. BYRD. Mr. President, I thank the distinguished Senator. He, too, is an astute observer of the Middle East and very cognizant of our energy needs. I look forward to hearing his subsequent remarks.

Mr. President, I thank all of my colleagues for their patience and forebearance.

MORNING BUSINESS.

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

The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I thank the majority leader and minority leader.

TRIBUTE TO SENATOR THURMOND

Mr. PRESSLER. Mr. President, I wish to pay tribute to Senator THURMOND, the former President pro tempore of this body.

Two nights ago, Senator THURMOND spent part of an evening visiting with the Senate pages at a reception for them that my wife and I held in our home. I was amazed that Senator THURMOND took as much time as he did. He sat down for over an hour and talked about the old days and the new days in the Senate. He captured the attention of the pages. He told them tales of the Senate. They asked him questions.

With both Senator THURMOND and I recently returning from the reenactment of the Constitutional Convention in Philadelphia, the party's discussion centered around the 200th anniversary of our Nation's Constitution. Senator THURMOND explained to the pages the importance of the "Great Compromise" where the big States and little States reached a compromise which created the two Houses of Congress—the House of Representatives based on a State's population and the Senate based on equal representation. STROM stressed that without this compromise, the States may have never been united. Furthermore, he told how Gen. George Washington gave the Convention credibility.

In addition, Senator THURMOND told the young pages what a great program they were in and that he wishes he would have had such an opportunity when he was their age. STROM was amazed how these young men and women often changed after their page experience. He further advised them that earning a law degree was helpful in many different professions, whether it be business or government.

I am told by the Senate pages that Senator THURMOND is collectively their favorite Senator because he pays attention to them and he is interested in them, perhaps because he has children of his own that age.

But it was amazing to see a man of 85 years of age relating so well to young people. It was amazing to see a man who has great responsibilities, as the ranking member on the Judiciary Committee and other committees, spend that kind of time with the Senate pages.

I wanted to pay tribute to his dedication and to the unusual relationship he has had with the Senate pages. It was a wonderful thing to see.

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

Mr. SANFORD. I thank the Chair.

(The remarks of Mr. SANFORD appear in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

EXTENSION OF MORNING BUSINESS FOR 30 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that morning business thereafter be extended to allow

for six additional speakers at 5 minutes each, for 30 minutes.

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

The Republican leader is recognized.

Mr. DOLE. Mr. President, do I have any leadership time remaining?

The ACTING PRESIDENT pro tempore. The Republican leader has 8 minutes remaining.

Mr. DOLE. I shall not use the 8 minutes. I apologize to my colleagues waiting on the floor.

RELYING ON ETHANOL FOR AMERICA PROGRAM

Mr. DOLE. Mr. President, since Senator MELCHER is here, I would like to introduce a bill we have both been working on, a bill which I believe is very, very important, that has also been cosponsored by Senators GRASSLEY, PRESSLER, CONRAD, and KARNES, and I hope by others. We have made contacts and phone calls with other offices, Republican and Democratic, because this is and should be bipartisan.

Mr. President, I am speaking about the bill we are calling "Relying on Ethanol for America Program," or REAP for short. There will be a companion bill introduced in the House today with a bipartisan group of sponsors, Republicans and Democrats, in the House that come from farm States, primarily corn-producing areas. There are many of us who have worked for a long time on trying to increase utilization of products we grow in rural areas.

Why ethanol? Well, there are more than a few of us in Congress and many more throughout our country who happen to believe—and some of us have believed it and worked for it for two decades or more—that using ethanol as a major fuel source is just good common sense.

One reason for a surplus is that we do not utilize the product. We have had difficulty with our exports. The result is that we have about $10 billion worth of surplus commodities, and we are paying huge storage costs every year. So we are looking for a better way to utilize the products farmers produce.

To date, there have been at least seven ethanol-related measures introduced in the Senate during the 100th Congress and there have been at least six measures introduced in the House, all geared to finding some way to increase the use of ethanol over the years. Each would, if enacted, be beneficial for the future of ethanol. Yet none of those measures goes as far as the legislation we introduce today.

Our legislation, REAP, can improve farm income by reducing our enormous grain surpluses. REAP can improve our air quality through increased use of clean-burning ethanol. REAP can make America less dependent on foreign oil imports and make us more energy secure domestically. And REAP can result in creating jobs here at home.

Not often do we have an opportunity to achieve so many worthy goals in a single act, and it is less often that we can do it with such simple logic in a measure founded in common sense.

REAP would establish an ethanol development fund making available $100 million in loan guarantees each year for 5 years to finance ethanol development projects that do not exceed 40 million gallon capacity. REAP dedicates 5 percent of that, or $25 million, in 5 years for selected research and development projects designed to develop marketable commercial or industrial crops that may be used in ethanol or food production.

These crops could be marketed internationally through a cooperative effort by the USDA and the U.S. Trade Representative.

In addition, several important provisions are included in REAP that will help promote the development of the domestic ethanol industry. One important provision is that only domestic commodities may be used in the production of ethanol under this legislation.

This legislation also would extend the 6-cent excise tax exemption for ethanol blenders until the year 2000. Some may say, "Why so long?" We need time to plan. People are going to invest their money, and they want to know that the exemption is going to be there for some time.

The combination of this provision with the other incentives REAP offers will significantly move ethanol into the reach of all citizens. It will greatly aid the efforts we are making to help those in rural America sell their abundant crops as well as help to solve the air pollution problem in our country.

REAP makes sense. It is one step we can and should take to help solve some of the problems we face both in rural America and in urban America.

I welcome the support of my colleagues and invite them to join Senators MELCHER, GRASSLEY, PRESSLER and me in cosponsoring this legislation, and I urge its prompt consideration and adoption.

Mr. President, I ask unanimous consent that the bill may remain at the desk for the remainder of the day, so that additional cosponsors may be added, and that the text of the bill may be printed in the RECORD.

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

S. 1598

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 "Relying on Ethanol for America Program Act".

SEC. 2. ETHANOL DEVELOPMENT FUND.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Secretary of Agriculture shall establish (within the Commodity Credit Corporation) an Ethanol Development Fund (hereinafter referred to in this section as the "Development Fund") to guarantee loans made to finance eligible ethanol related projects.

(2) ADMINISTRATION OF FUND.—The Development Fund shall be administered by the Assistant Secretary of Agriculture for Science and Education (hereinafter referred to in this section as the "Assistant Secretary").

(b) FUNDING.—Subject to section 3, and section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427), the Commodity Credit Corporation shall make available to the Development Fund not less than $100,000,000 in each of the next 5 fiscal years, in commodities at market prices, or an equivalent amount of funds, to enable the fund to finance ethanol development projects that do not exceed a 40,000,000 gallon capacity.

(c) PROJECTS.—

(1) ELIGIBLE PARTICIPANTS.—The Assistant Secretary may enter into agreements under this section with State, county, and municipal governments, and private entities to guarantee loans made to fund ethanol development projects.

(2) ELIGIBLE ACTIVITIES.—

(A) USE OF LOANS.—Loans guaranteed under this section may be used for—

(i) small business start-up costs;

(ii) construction of plants;

(iii) purchase of equipment; and

(iv) improvement of existing plants.

(B) DOMESTIC COMMODITIES.—Participants shall use only domestic commodities for the production of ethanol with funds provided under this section.

(d) COLLATERAL.—Collateral shall not be required to guarantee loans under this section in excess of ½ of the anticipated project cost.

(e) LOAN GUARANTEES.—

(1) AMOUNT OF GUARANTEE.—Subject to paragraph (2), a loan made to finance a project shall receive a 100 percent guarantee, of which—

(A) the share of a private lender shall be limited to 10 percent of the loan value;

(B) the share of a State shall be limited to 5 percent of the loan value; and

(C) the share of the Federal government shall be limited to 85 percent of the loan.

(2) DEFAULT.—If a borrower defaults on a loan—

(A) the assets of the borrower shall be utilized to pay off the loan to the extent practicable;

(B) the lender shall be liable for the next 10 percent of the value of the loan; and

(C) the State shall be liable for the next 5 percent of the value of the loan; and

(D) the Federal government shall be liable for the remainder of the loan up to 85 percent of the value of the loan.

(f) INFORMATION.—The Assistant Secretary shall issue regulations that require the private fuel industry to gather and develop existing information and data concerning ethanol research and production into a form that shall be usable by commercial ventures funded under this section.

(g) COORDINATION WITH CLEAN AIR ACT.—The Administrator of the Environmental Protection Agency shall consider projects funded by States under this section as con-

tributing toward clean air standards prescribed for that State under the Clean Air Act (42 U.S.C. 7401 et seq.).

(h) REPORT.—Not later than 30 days after the end of the fiscal year after the 1st fiscal year to which this Act applies, and each fiscal year thereafter, the Assistant Secretary shall report to the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on—

(1) the status of the Development Fund program during the preceding fiscal year;

(2) the number and types of projects approved for loan guarantees by the Assistant Secretary during the preceding fiscal year;

(3) the amounts of collateral pledged during the preceding fiscal year; and

(4) the reasons for any shortfall in using maximum collateral during the preceding fiscal year.

SEC. 3. GOVERNMENT SPONSORED RESEARCH AND DEVELOPMENT PROJECTS.

(a) AUTHORIZATION.—The Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall select various research and development projects that are to receive funding under this section, for purposes of research to develop and produce marketable commercial or industrial crops that may be specifically used in the production of ethanol or food for export.

(b) APPROPRIATE PROJECTS.—Each project shall target research on, or development of, a new crop, or modification of an existing crop or crop material, that will create a marketable commercial or industrial crop that may be used specifically in the production of ethanol or food for export.

(c) FUNDING.—

(1) PURPOSE.—Funding shall only be provided under this section to those projects that have as the principal purpose the development of marketable commercial or industrial crops that may be used specifically in the production of ethanol or food for export.

(2) CONSORTIA.—Unless the Secretary finds it appropriate for a single research entity to conduct a project, each project shall be conducted by a project group that may include a consortium of any of the following—

(A) public and private colleges and universities;

(B) private research facilities and personnel;

(C) State agricultural experiment stations; and

(D) Federal research laboratories.

(3) PERIOD OF FUNDING.—Funding shall cover the proposed research necessary for not less than 5 years, or until a marketable product is developed or determined to be unattainable.

(4) ALLOTMENT.—The Secretary shall reserve no more than 5 percent of the amounts made available to the development fund under section 2(b) in each fiscal year to funds the projects selected by the Secretary under this section.

(d) CONTRACTS.—The Secretary may sign contracts that assign research responsibilities to an appropriate consortia capable of conducting the appropriate research over the applicable research period.

(e) EXPORT AGREEMENTS.—The Secretary and the United States Trade Representative shall coordinate activities concerning any export agreements that may be reached involving products developed under this section.

(f) REVIEW AND REPORTING.—A project group shall report, on the progress of the group, to the Secretary annually or as may be otherwise required by the Secretary.

SEC. 4. EXTENSION AND MODIFICATION OF REDUCTION IN EXCISE TAXES ON ALCOHOL FUELS.

(a) 7-YEAR EXTENSION.—Each of the following provisions of the Internal Revenue Code of 1986 are amended by striking out "1993" and inserting in lieu thereof "2000":

(1) Section 4041(b)(2)(C).

(2) Section 4041(k)(3).

(3) Section 4081(c)(4).

(b) REDUCTION LIMITED TO ETHANOL.—

(1)(A) Section 4041(b)(2)(B) of the Internal Revenue Code of 1986 (defining qualified methanol or ethanol fuel) is amended by striking out "methanol, ethanol, or other alcohol" and inserting in lieu thereof "ethanol".

(B) Section 4041(b)(2) of such Code is amended by striking out "qualified methanol and ethanol fuel" each place it appears in the text and headings thereof and inserting in lieu thereof "qualified ethanol fuel".

(2)(A) Section 4041(m)(2) of such Code is amended by striking out "methanol, ethanol, or other alcohol" and inserting in lieu thereof "ethanol".

(B) Section 4041(m) of such Code is amended by striking out "methanol or ethanol fuel" each place it appears in the text and heading thereof and inserting in lieu thereof "ethanol fuel".

(3) Section 4081(c)(3) of such Code is amended by striking out "includes methanol and ethanol but does not include alcohol" and inserting in lieu thereof "means ethanol other than ethanol".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales, uses, and removals after September 30, 1993.

Mr. MELCHER. Mr. President, will the Republican leader yield?

Mr. DOLE. I am happy to yield to my distinguished cosponsor.

Mr. MELCHER. I thank the Senator for yielding.

BLENDED ENERGY AND AGRICULTURE POLICY

Mr. President, God helps those who help themselves.

We can help ourselves by joining U.S. agriculture's abundance with our inadequate energy supplies by continuing to develop and use ethanol.

Montana is an energy State. We are blessed with huge supplies of coal, natural gas, oil, and we have very good hydroelectric sites. All are a source of energy.

Montana is also a wheat and barley State. And that, too, contributes to our status as an energy producer.

All of the traditional fossil fuel sources are important to the economy of Montana and the Nation. Ultimately, however, they are exhaustible. Alcohol fuels, based on grain production, are renewable.

At this time, however, the economics simply are not there. When oil prices tumbled, gasohol production also tumbled.

To put this potential energy source into a perpetual state of limbo would be penny wise and pound foolish. This is not new technology. It has been around for a long time. But it needs encouragement and support if it is to be economically viable.

We have provided this support in the past and we should continue to do so.

That is why I am pleased to sponsor legislation today that would expand our commitment to ethanol development.

The bill establishes an ethanol development fund which makes available $100 million in Federal loan guarantees in commodities or cash each year for 5 years. Five percent of the yearly funding shall be used to finance selected research and development projects designed to develop marketable crops that may be used for ethanol production. All commodities used must be domestically produced.

This aspect of the bill is important not only as a stimulus to ethanol production but also as a wise and effective use of the huge surpluses of grain that we have.

The legislation also requires that the projects under the bill shall be considered by EPA as contributing toward Clean Air Act standards. Denver, a major regional center of fossil fuel activity, will likely soon require the use of 10 percent grain alcohol in fuel as a means of controlling pollution.

Finally, the 6-cent exemption to the gasoline excise tax for ethanol blenders is extended from 1993 to 2000. This is important to assure those who are making long-term investments in this technology that our commitment is also long term.

Ethanol makes sense. This bill is an important step in continuing its growth and development. It deserves consideration and enactment.

Mr. DOLE. Mr. President, I thank particularly the distinguished Senator from Montana for his continuing efforts to help the American farmer and his continuing efforts to do precisely what we hope this legislation will do. There is no one on this floor I have known over the years who has spent more time focusing on the needs of the American farmer than the distinguished Senator from Montana.

Mr. MELCHER. I thank my friend.

Mr. DOMENICI. Mr. President, will the Senator add my name as a cosponsor of the bill?

Mr. DOLE. Mr. President, I ask unanimous consent that the name of the Senator from New Mexico [Mr. DOMENICI] be added as a cosponsor.

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

Mr. PRESSLER. Mr. President, I am pleased to join today with the distinguished minority leader and some of my other colleagues in introducing legislation to create the Relying on Ethanol for American Program [REAP]. The importance of this bill can be seen not only in its bipartisan sponsorship in the Senate, but by the fact that a companion measure will be introduced

today by a bipartisan group of eight of our colleagues in the House of Representatives.

While the major provisions of this legislation will be explained more fully later, I would like to briefly touch upon the sections I find most compelling. The ethanol development fund established by the bill would make $100 million in Federal loan guarantees available each year for 5 years. The guarantee funds would be provided by the Commodity Credit Corporation in the form of either commodities at market price or an equivalent amount of money. The development fund would then finance ethanol development projects which do not exceed a 40-million-gallon capacity.

Loans guaranteed by this program could be used for the startup costs associated with small businesses involved in ethanol production, the construction of plants, the purchase of equipment and the improvement of existing plants. Five percent of the yearly funding would be set aside to finance selected research and development projects designed to develop marketable commercial or industrial crops that may be used for ethanol or food production.

I think it is also important to note that only domestic commodities could be used for the production of ethanol under REAP. Finally, the ethanol blenders 6-cent exemption to the gasoline excise tax is extended from its current sunset date of 1993 to the year 2000.

Mr. President, I have advocated often the expanded use of alternative fuels such as ethanol and methanol during my 12½ years in Congress. In fact, earlier this year I submitted Senate Concurrent Resolution 36 which calls upon the U.S. Departments of Agriculture, Energy, Transportation, and the Environmental Protection Agency to work in conjunction with State, metropolitan and local governments to establish the use of ethanol blended and methanol fuels to reduce both pollution and surplus grain stocks and to more effectively utilize urban wastes.

There are numerous reasons for our colleagues to join us in cosponsoring this legislation. As a member of the Senate Environment and Public Works Committee I know that ethanol blended gasoline has been found to significantly reduce harmful auto emissions. The vital importance of this fact comes to light when you realize that currently over 70 of this Nation's metropolitan areas are out of compliance with clean air standards.

While we in South Dakota are not as directly affected by this problem as those living in other parts of the country, we do have a significant interest in the development of ethanol technology. The demand for corn in ethanol production significantly increases corn prices. Studies estimate that corn prices are increased by 10 cents per bushel due to demand for ethanol production. Obviously, increased production would further stimulate demand and raise the price even further.

I might add, Mr. President, that this is good news not only for the farmers of this country, but for every taxpayer. The 10 cents per bushel increase I just mentioned resulted in a savings of $623 million in farm program costs in 1985 alone. Thus, increased ethanol production actually decreases Federal budget deficits.

Finally, increased use of ethanol, a renewable source of energy, reduces our demand for imported oil. Currently the United States is importing a higher percentage of its oil than it did in 1973 when we experienced our first energy crisis. This is more than simply an unfortunate circumstance—it cuts right to the heart of our security as a nation.

So, Mr. President, this is much more than a bill to increase the production of ethanol. This legislation is aptly named as we would indeed REAP significant environmental, energy, farm, economic and national security benefits from its enactment.

So, Mr. President, in conclusion, let me say that I strongly support this increased development of ethanol. It will help our farmers. It will help our taxpayers. It will help our city people by reducing pollution.

We are now working on a bill in the Environment and Public Works Committee which would use scrubbers to clean up some of the coal that is burned which causes acid rain. We do have a pollution problem in our cities, but much of that pollution is also caused by gasoline and diesel-burning engines. This legislation would help to solve that problem.

It would help reduce our surplus of some agricultural commodities. It would help reduct our budget deficit. I am happy to join in this legislation because I think it is something we need to do in America and, indeed, in the entire Western World.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

ETHANOL FOR AMERICA PROGRAM ACT

Mr. KARNES. Mr. President, I rise today as an original cosponsor of the Relying on Ethanol for America Program Act. I compliment the distinguished minority leader, Senator DOLE, and others for their work on this important piece of legislation.

The ethanol industry has proven successful since its very beginnings. My State of Nebraska has been a leader in ethanol legislation. For example, State vehicles must use ethanol blended fuels. This accounts for nearly 900 vehicles driven 11 or 12 million miles annually in the State of Nebraska.

The ethanol industry is also a value added industry, the type of industry we want to encourage in our country. It used a domestic renewable resource, and ethanol use lessens our dependence on foreign oil and thus improves our balance of payments.

It is estimated that increased ethanol production could benefit agriculture by raising grain prices 6 to 15 cents per bushel in localities where ethanol plants are purchasing grain.

Also it is important to producers and to ethanol manufacturers and processors to know that they will have the support through the tax consideration that this bill includes.

Mr. President, I am proud to be an original cosponsor of this legislation. I emphasize that this is indeed a vitally important piece of legislation for not only my State of Nebraska but for our country.

Mr. President, I yield the floor.

Mr. CONRAD. Mr. President, I rise in support of the Relying on Ethanol for America Program of which I am an original cosponsor. It is an unusual opportunity to be able to support a measure that can offer to increase farm income, better air quality, provide jobs and make us less dependent on foreign supplies of crude oil, all in one measure. But that is what this program can do.

I think it is important to understand the specifics of what is being offered because there are five elements to the bill that we have introduced here this morning.

First, we extend the 6-cent exemption to the gasoline excise tax from 1993 to the year 2000.

Second, we make available $100 million in Federal loan guarantees for 5 years, each year for 5 years, to finance ethanol development projects.

Third, these projects will be considered by the EPA as contributing toward clean air standards.

Fourth, 5 percent of the yearly funding shall be used to finance research and development projects to develop marketable commercial or industrial crops that may be used for ethanol or food production.

Fifth, only domestic commodities may be used for the production of this ethanol.

Those are the elements of the bill that we have offered here today. I want to add that this is the thrid measure that I have now cosponsored to develop and enhance the use of ethanol in this country. Earlier I joined with my colleague, Senator DASCHLE, and others to support a bill that would require the use of ethanol in nonattainment areas of the country.

We now know that the EPA is about to require the use of ethanol or methanol blends in 80 cities next year that are nonattainment areas. We believe that ought to be spread to the other

nonattainment areas of the country so we can improve and increase the use of ethanol, but also so that we are able to bring down the air pollutants in those cities and those regions that have not met the attainment standards.

Finally, I supported a measure that will make the District of Columbia a demonstration project. We believe that when the people come to visit our Nation's Capital they ought not only to be able to see the Supreme Court of the United States, the White House, the executive office buildings, the Capitol or our country, they ought also to be able to see a blue sky above and they ought to be able to have clean and healthy air to breathe.

That is not the case as those of us know who have suffered through July and August here in the Nation's Capital. We can relieve that situation by making the District of Columbia a demonstration project. We would not only be able to improve the air quality of our Nation's Capital, we would also be able to demonstrate that we can do something for the farmers of America, a partnership of the urban areas of this country and the rural areas. We would also be able to show the economic miracle that we could bring to industry—and also at the same time enhance our national security—by making us less dependent on foreign sources of crude oil.

Mr. President, I want to thank the Chair for the time and indicate to my colleagues that we have put before the body a bill that merits their support.

I yield the floor.

PEACE PLAN IN CENTRAL AMERICA

Mr. McCAIN. Mr. President, as we are all aware, in the last couple of days a comprehensive peace plan in Central America has been formulated in a bipartisan fashion and presented to the five Presidents who are meeting in Guatemala City as we speak, in another effort to bring about peace in that very unhappy region of the world.

I have noticed that this proposal has been greeted by both sides of the political spectrum with some derision, scorn, and a great deal of skepticism. I think it proves to a large degree that Adlai Stevenson's words were very applicable to this situation, when he said, "Making peace is harder than making war."

Mr. President, if I had written this proposal, I would have written it far differently. I think very few Members of this body agree with everything in that proposal.

I point out, however, that for the first time in the 7 years that we have been involved in this great tragic situation, we have obtained a degree of bipartisanship that we have not seen before on this issue.

I think it is an important point to be made here, as we discuss this issue, that the Speaker of the House was the person who wrote this proposal, a man who, in my opinion, showed great courage in assuming a leadership role on this issue.

It is important that we recognize that if there is any good that may have come from the Iran-Contra hearings, it is the absolute necessity for bipartisanship in the conduct of foreign policy, and we cannot conduct a consistent or legitimate policy in Central America if we have five separate foreign policies dictated by the Congress of the United States over 5 years.

I should like to address some of the criticism that has been leveled at this proposal.

One is that this is simply a ploy on the part of the President, that he will use this as a way to garner further support for aid to the Contras, and that he is not serious.

The President, of the United States, time after time, has reiterated his commitment to a peaceful settlement in the region. He has tried to make the American people aware of the threat of a Cuban-Soviet satellite in our hemisphere, but he has also reiterated his commitment to a peaceful settlement. I believe that the elements of this proposal can achieve that.

I also think it is important for us to recognize that this proposal can be a means for the five Presidents who are meeting in Guatemala City to use it as a framework. There is a question of timing. There has been criticism about the timing of this proposal. Should it have been at exactly the time the Presidents are meeting in Guatemala City, or should we have allowed them to come up with a proposal?

In my dealings with all those leaders, the one thing they have requested time after time in the last 7 years is a clear bipartisan voice on this issue. They get divided messages and different messages from Congress—from the House and the Senate—and various public figures throughout this country. For the first time, they may be receiving a proposal that has broad-based support.

My friends on the right are deeply concerned about the possibility that this will be used as a ploy to drag out negotiations while the Sandinistas continue to consolidate an oppressive government in Nicaragua.

I point out that there is a date on this proposal and it is September 30, 1987, which I think is entirely sufficient time for us to arrive at a negotiated settlement. Why is only 2 months sufficient? Every one of these issues has been discussed and rediscussed for the last 7 years. There is nothing new about the situation in Central America; and I believe that if there is seriousness on the part of the Sandinista government, that agreement can be arrived at by September 30. I believe there is a commitment on the part of Congress who support this proposal to declare that all bets are off as of September 30, 1987.

Let me also address the response that the Sandinistas have made in the last 24 hours; that they are ready to negotiate with the United States anywhere and at any time, under any circumstances.

I would say that the appropriate response to that is, yes, we will negotiate after there is a cease-fire and after there is a restoration of civil liberties which were promised to the people of Nicaragua and to the people of the United States and the Organization of American States when the Sandinista government came to power. If the Sandinistas refuse this proposal, then I think we have a very clear understanding and a very clear message.

Let us be frank: There has been great cynicism on the part of a lot of Americans as to the true intentions of this Government and this administration toward peace in Central America.

Mr. President, there is a lot more than I would like to say on this issue. But let me just close by saying there is an old song that I found rather offensive in previous years in a previous war, but I think the words of that song are as appropriate now as they have ever been and that song said "All we are saying is give peace a chance."

I would ask my colleagues to give peace a chance and give this proposal the bipartisan support that it needs if we are going to be successful and bring about peace in Central America.

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

TRANSPORTATION INFRASTRUCTURE

Mr. BURDICK. Mr. President, the building and rebuilding of our transportation infrastructure is a major national concern. It is especially critical to the well-being of rural communities. The economic future of North Dakota and other rural States depends on our efforts today to maintain and plan for a sound highway system.

Rural economies continue to be heavily dependent on agriculture, and on the efficient movement of goods from farm to market. Several factors, however, are making it more difficult than ever to keep rural roads and bridges in good shape. First, the ongoing farm crisis has had a devastating impact on the property tax base in rural areas. And that, coupled with the loss of revenue sharing, has made it nearly impossible for many small governments to finance road construction and repairs.

Second, many rural roads and bridges are nearing the end of their design life. Third, as branch rail lines are eliminated, there is an increase in truck traffic and in the size and weight of those vehicles. This has led, particularly on lower system roads, to greater pavement damage and repair costs.

So we have a rural highway system that is in poorer condition, older, and in many instances unsuited to today's transportation demands. Last year, we observed the 30th anniversary of the Interstate Highway System, the largest public works project in history.

Now, as the interstate nears completion, it is time to reassess present transportation programs and begin the planning necessary to meet needs into the 21st century. During this period of reappraisal, I want to underscore the significant role our rural road network plays nationally and even internationally. Transportation of agricultural products and natural resources benefits the entire country. There must be a strong Federal commitment to funding the rural transportation system which moves essential products such as oil, coal, and wheat to the Nation and to world markets as well.

Last year, I directed the Department of Agriculture's Office of Transportation to analyze rural transportation needs and related highway financing issues. The study is now finished, and it shows that:

First: Rural residents pay a greater per capita tax to finance roads, yet their average per capita incomes are lower; second, they consume more gasoline, drive more miles, and are much more dependent on highways for travel; third, only about 20 percent of the roads they drive on are even eligible for Federal funding; and fourth, they receive fewer local benefits from the Federal-aid highway spending that does occur. To illustrate the predicament rural States are in, let me use North Dakota as an example.

On a per capita basis, North Dakotans use 669 gallons of gas and pay $147 in gas taxes annually, compared to someone here in Washington who is taxed $74 for using 302 gallons of gas on average. In North Dakota, we have 163 miles of road for every 1,000 people, and while that is the highest in the Nation, many other rural States have a similar situation. With so many lane miles and low population densities, there is not the financial capability locally to construct and maintain a road system, especially one suitable for heavier truck traffic.

Although North Dakota receives $1.79 for every $1 paid into the highway trust fund, only 17,000 miles of the States 86,000-mile road network are on the Federal-aid system. In total, 98 percent of the States road mileage is rural, and of those roads, 90 percent are the responsibility of local governments. The letters I receive from North Dakota's mayors, county commissioners, and township representatives indicate that rural highway financing is one of their most critical problems. I share those concerns.

Last year and again this year, there was intense debate over the factors used to distribute Federal-aid highway funds. Widespread differences existed between the Senate and House highway bills in funding levels for rural States.

House Members favored formula changes that would place greater weight on population factors, but that is only one measure of need. States with large land areas and extensive road mileage must receive a fair share of funding if there is to be an interconnected, national road network.

My fellow Senate conferees and I succeeded in retaining current formulas which strike a balance between urban and rural needs. If we had not, rural States would have lost millions in Federal highway funds.

For North Dakota alone, it would have meant a loss of $25 million annually, or one-third of its entire program. Clearly, equity questions will become even more pronounced in the future, particularly as financing becomes so critical for all levels of Government and all types of roads.

As chairman of the Committee on Environment and Public Works, I will be conducting a field hearing in North Dakota later this month to examine the highway transportation needs in small communities and rural areas.

We will hear testimony from the Federal Highway Administration, the U.S. Department of Agriculture's Office of Transportation, State and local officials, and other groups concerned about the ability of States with large land areas and small populations to fund their transportation needs.

Last month, the Environment and Public Works Committee held the first of a series of hearings on the Nation's infrastructure needs. This will be another good forum for discussion of the highway needs, and public works needs overall, of rural States such as North Dakota.

I am committed to assuring an equitable balance, and Federal interest in addressing those needs. Rural America is depending on fair policies and strong initiatives to make certain its transportation needs are met. I intend to make certain they are.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from New Mexico is recognized.

CONSTITUTIONAL BICENTENNIAL

Mr. DOMENICI. Mr. President, we all know that this is our bicentennial anniversary with reference to our basic magnificent document called the Constitution.

I would like to share a few things with the U.S. Senate today that have occurred in my State that I think are rather interesting.

As we all know our Bicentennial Commission arranged to have a national essay contest for high school students. From that national contest there would be one winner from each of the States who would come to our Nation's Capital from which one national winner would be selected.

When I found out about that, it seemed to the Senator from New Mexico that it was a pity that only one high school student, probably a senior, from my State would have a chance to visit Washington and perhaps Philadelphia, Annapolis, other places where she or he could see the living history of our Constitution's beginnings.

So I asked 15 or 20 businessmen in my State if they would join me in funding a trust fund, and they did so willingly, and from that we broadened that contest and decided that we could have 15 winners in New Mexico as best we could; 5 from each of the 3 congressional districts.

Mr. President, I ask unanimous consent that the names of the 15 winners of the scholarship competition in my State be printed in the RECORD.

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

WINNERS OF THE DOMENICI ESSAY CONTEST

Lynda Olman, Sandia High School, Albuquerque.

Timothy Shead, Manzano High School, Albuquerque.

Beverly Ann Bell, Corona High School, Corona.

Wanda Miller, Corona High School, Carrizozo.

Kien Huynh, Mayfield High School, Las Cruces.

Holly Norman, Mayfield High School, Las Cruces.

Mariam Shouman, Mayfield High School, Las Cruces.

Tanya Gallegos, Grants High School, Grants.

Phillip Goforth, Grants High School, Grants.

Veronica Griego, Grants High School, Grants.

Brent Hunsberger, McCurdy High School, Santa Cruz.

Kathleen Roybal, McCurdy High School, Espanola.

Sally Salas, McCurdy High School, Fairview.

Amy Leyba, Mora High School, Chacon.

Manuel Rodriguez, Santa Fe High School, Santa Fe.

Mr. DOMENICI. Mr. President, we judged these young people on the same basis that the National Commission was judging the essay winners. I am very pleased that this has worked out such that 15 of my New Mexico high school winners are here today, thanks to 20 businessmen in my State and to some teachers who were excited

about encouraging our young people to know something about our Constitution. I decided that, while they were here and they were then going to visit Philadelphia to see what they could see about the hall where the delegates sat and look at that history and see some of the documents, I decided that I might take a few minutes and think about the Constitution as it applies, as I see it, and why we ought to revere it and what it means to be an American and free under that document. So permit me, Mr. President, for the young people from my State who are here and for the Senate and for the Senate's record to give you a few thoughts as I view this Constitution.

Mr. President, 80 years ago, my parents in Italy were making their plans to sail to this country. You know what they called this country—America—novo mondo—the new world. A new world where any one, regardless of his race, religion, or economic background, could make it. A new world where dreams could be made to come true.

And yet this new world has the oldest constitution in the world. We are the oldest freely elected government in the world.

I think even our Founding Fathers might be surprised by the durability of the charter they forged. Remember the lady who approached Benjamin Franklin as the convention ended two centuries ago this September? "What kind of government did you give us, Dr. Franklin?" she asked. "A republic," Franklin replied, "if you can keep it."

Well, the Founding Fathers underestimated their achievement; 80 years ago as my parents were planning to immigrate here, William Gladstone, the great British Prime Minister, called "the U.S. Constitution—the noblest document ever conceived by a group of men at a given time."

Well, what is it that makes it so great? Very simply, it is the balance between liberty and order. You see, if we had total liberty, it would be anarchy. But complete and total order would require a totalitarian state.

The difference is that in the Soviet Union and other totalitarian states like Nazi Germany, the government owns the people. But in ours—the people own the government.

And General Washington gave the assembling delegates in Philadelphia in April 1787 this summons. "Let us raise a standard", he said, "to which the wise and honest can repair."

What a splendid ideal—and the founding fathers did just that.

Yet with the rights of liberty there is a load of responsibility.

When Abraham Lincoln journeyed by train to Washington from Illinois to be inaugurated in 1861, he asked that the train make a detour to Philadelphia. On Washington's birthday he made a stop to visit Independence Hall where the Constitution was drafted. Lincoln delivered some brief remarks and ended saying:

> Finally, my fellow citizens, it is not with the presidents or with politicians, but with you, remains the question—shall the freedom forged by our founding fathers be preserved for posterity—for our children's children?

Lincoln knew that a democracy unlike a dictatorship is not reliant on extraordinary leaders—but on rather ordinary people—ordinary people who go about the ordinary tasks of citizenship extraordinarily well.

Benjamin Franklin in the closing day of debate in Philadelphia in September 1787 said something similar. He said that if the charter fails, it will not be because of what he and others had just written, but because of what we the people later did.

Our Constitution with its appended bill of rights and its guaranteed freedoms is based on an ideal—and ours is the only country in history that is based on an ideal. Other countries owe the reason for their existence to race, religion, or language. But ours is based on an ideal—that all men are created equal.

Oh, I know that there are some critics who say that we have not always lived up to that ideal—that we have not always lived up to those ideals our Founding Fathers wrote—well, if that's true—isn't that because no other country ever wrote higher ideals to live up to?

This ideal—that anyone regardless of racial, religious, or economic background—can find fulfillment. That is the ideal that Jefferson wrote in 1776—that is what Washington meant in his appeal to the Delegates in 1787 or that is what Lincoln said at Gettysburg in 1863—that "government of the people, by the people, and for the people should not perish from the Earth."

Oh, I know there are some who say that the ideal that anyone despite color, class or creed can seek his own destiny, shape his own future. They say it's a dream. They are right. It is a dream. The American dream—our unfinished dream.

You see, America is much more than a geographical fact—it is a political, spiritual, and moral fact. It is the only country in the world that has institutionalized freedom, responsible government and human equality. But that fact places an inescapable burden on you—on all of us.

Theodore Roosevelt is that other President besides Washington, Jefferson, and Lincoln who has his face carved on Mount Rushmore. President Theodore Roosevelt was once asked by a citizen after a speech, "Mr. President, you just spoke on the Constitution and about our duty as citizens. But I'm just an ordinary small-town businessman. What can I do?" And Theodore Roosevelt in that high staccato voice of his replied, "Do what you can—where you are—with all your heart, but do it."

Well, we honor the Constitution when we obey the law, when we vote, when we serve on jury duty, when we pay our taxes, and when we lay a wreath on a veteran's grave.

But reverence for our Constitution, love of our country is more than a series of acts—it's an attitude. It's more than a series of observances, it's an obligation. Patriotism is not just the sentiment of 1 day—it's the commitment of a lifetime.

And don't we honor the Constitution and don't we justify the confidence our Founding Fathers placed in us when we continue to build an America on the foundation they so nobly laid. It is our duty to reforge that faith. When we as parents make our house a home—when we as workers make our job our vocation—when we as citizens make our communities a neighborhood—and when we as members of a church or synagogue make our creed our life's work—we reforge that faith. We redeem that dream.

I believe in that dream—the American dream—because I saw it come true in my life, in my own father's and mother's life, who came here, as I indicated, from a foreign country. And I believe in that Constitution because it made possible that dream—freedom in a stable and secure society to pursue a dream.

When the Convention's work was completed and the Constitution written, an enfeebled Benjamin Franklin in his 82d year negotiated his way haltingly to the front table during the signing of the Constitution, using the desks as crutches. He scrawled his name and then as he watched the others sign, he said with broken voice and tears staining that benign face:

> Mr. President, I have often noticed the design on the back of the presiding chair—a design of the sun low on the horizon. I must confess there were days during the Convention when I thought it was a picture of a setting sun. But today I know for the first time it is a rising sun—a new day for America, a new dawn for freedom.

And I know with the invocation of God's blessing and the enlistment of your help, this Constitution will most assuredly celebrate a tricentennial.

I yield the floor.

EXECUTIVE SESSION

TIME FOR DEBATE ON MR. RUDER'S NOMINATION

Mr. BYRD. Mr. President, I make this request with the approval of the distinguished Republican leader. I ask unanimous consent as in executive session that the time for debate on the nomination of Mr. Ruder, which will occur at the close of morning business—Mr. Ruder is to be a member of

the Securities and Exchange Commission, at least he is nominated for that position—I ask the time be limited to 1 hour equally divided between that of Mr. PROXMIRE and Mr. GARN.

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

THE DEBT CEILING: KEEPING DEFICIT REDUCTION ON TRACK

Mr. KARNES. Mr. President, I take the floor today to offer some observations on the actions we took last week with regard to the debt ceiling and the budget process. I would like to commend the majority of my colleagues who demonstrated bipartisan leadership and voted in the best long-term interest of the Nation by putting in place the constitutionally sufficient revisions to the Gramm-Rudman-Hollings law.

The debate centering on the debt ceiling extension was very illuminating for this Senator. Obviously, the huge Federal deficit did not appear over night and was formed long before I arrived in the Senate. The deficit gap has dramatically widened over, over the past years, in my view, due to the failure of Congress to make the difficult budget decisions that the voters expect of their elected representatives. As a relatively recent arrival in the Senate, I take some personal comfort in the fact that the huge deficit problems we now must fix did not come about during my time in office.

I wasn't here to be part of the problem, but now that I am here I hope to be part of the solution.

Many of my colleagues have fought valiantly over the years to try to control spending, the single best way to reduce the deficit. On the other hand, there are those who have resisted efforts to put in place tough, effective controls of the congressional budget process. Even worse in my view, some talk in vague but disturbing terms of the "necessity" or the "wisdom" of raising taxes in order to cut the deficit. It is curious to me how many different terms people can invent to say "taxes" without sounding like they are saying "taxes." I have heard examples here on the floor of the Senate. Terms such as "boosting revenues," "revenue enhancement," or even references like "improving receipts" have been used to describe ways of cutting the deficit. Well, Mr. President, I agree with several of my colleagues who understand that the American people want deficit reduction and they want it without Uncle Sam taking a bigger chunk out of their paychecks.

Mr. President, I think we should call a horse a horse. Those who attack the Gramm-Rudman process but announce that the budget problem can be resolved in part by increasing receipts are talking about one thing—tax increases. You can call it whatever you want, but the end result is a tax increase with the American taxpayers footing the bill for our inability to handle the power of the purse responsibly. I feel we should be absolutely clear in the terms we use to describe that situation. It is possible that, at some point down the road, the American people will say that cutting spending is not the only way to cut the deficit, and that they want a tax increase. But I do not believe they have reached that point yet. They want us to try stringent, mandatory controls on spending first. That is precisely what Gramm-Rudman attempts to do.

Clearly, Congress has shown that it is unable to use the current budget process to effectively deal with the deficit unless it has hard targets to aim for. The mandatory controls of the Gramm-Rudman-Hollings approach appear to be the only way to bring a measure of fiscal discipline to the Hill.

Just last Friday the Senate adopted a tough but manageable Gramm-Rudman-Hollings fix. The new targets contained in the amendment will bring about timely deficit reductions through an orderly process over a period of time.

Anybody who doesn't think we need budget reform to introduce real discipline in our spending system hasn't taken a hard look at our deficit and the legislative dynamics that allowed the deficit to balloon to huge proportions.

Haven't we learned over the last several years that the institution of the Congress is simply unable to make the budget cuts necessary to bring spending under control? We need this country to go on a fiscal diet—an enforced but controlled diet. You don't feed a person more food if he already eats too much. You restrict his eating. Our only alternative to Gramm-Rudman is to go on with the old game Congress has played for years, the same game that got us here in the first place. All the efforts to use smoke and mirrors last Friday to short-circuit the only mandatory spending control system that shows any promise of being effective were only that—smoke and mirrors.

Of course, the debt ceiling had to be increased. This Senator played cards with the hand he was dealt. I heard a lot of talk about acting responsibly on the floor last week. Does anyone wish to make the case that it would have been more responsible to allow the Government to shut down for several days or a week before passing the ceiling increase? Does anyone want to have the country default on its obligations for the first time in 200 years? Does anyone argue that there was any realistic possibility of not increasing the debt ceiling without causing the greatest economic calamity since the Great Depression? The situation reminds me of the individual who goes to a restaurant with his appetite bigger than his wallet. He orders the best meal on the menu. He enjoys his dinner, but, when the check is brought he argues that he can't pay because it costs too much.

I was also perplexed by the amendment introduced to give a one-time reduction of the deficit by $36 billion. I think we all knew that this was really an effort to cut short the long-term approach that the Gramm-Rudman law provides. That fact was made apparent by the party-line vote on the matter. If this amendment had passed, we would have had 1 month or so to come up with $36 billion of cuts. Mr. President, pushing the panic button is no way to bring the deficit under control. Had the amendment passed, we would be in a panic right now to come up with the cuts, keeping in mind that the August recess would make it impossible to spend even a minimal amount of time on the matter. Of course, this would have been a one-time gimmick. What about future years? We would still be facing huge deficits in years to come with no comprehensive mechanism for dealing with the problem. I think the American people will recognize the wisdom of the Senate voting this one-time reduction down and continuing to direct in earnest our efforts at deficit reduction.

The key now is to forge ahead and look to the future, and keep in place a system of graduated spending controls, that people can plan for, to bring the deficit down to zero in the early 1990's. People will accept spending cuts if they are made in a way that treats everyone fairly and equally. That is what the people want, and that is what Congress should strive to achieve.

Mr. President, I thank the majority leader, and I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

FAMILY FARMER BANKRUPTCY LAW

Mr. GRASSLEY. Mr. President, it has been just 8 months since Congress responded to the needs of America's farmers through some very important changes that we made last year in the Federal bankruptcy laws, now referred to as the new chapter 12. This new law, which was authored by Congressman SYNAR of Oklahoma and myself on the part of the Senate, is designed to give family farmers a fighting chance at the restructuring of their debts. This is no less an opportunity than we have always provided big corporations, like recently LTV, Johns-Manville, A.H. Robins, and Continental Airlines. Over these 8 months since

passage of chapter 12, I have followed very closely the evolution of the use of chapter 12. I have talked with farmers, bankers, judges, lawyers, among many others, who have given me their opinions and I have requested their views on this legislation.

On balance, I believe the evidence is that the law is working very much as we intended.

Of course, there has been some criticism of this law. Some say that it has unfairly hurt farm lenders, particularly some commercial bankers will say this. But in comparison with the hit these lenders would ultimately take even without chapter 12, the impact is very modest.

To a great extent, the write-down of debt authorized by chapter 12 only ratifies what has already occurred, the economic facts of life. Given the free-fall in farmland values, secured lenders could never recover the full amount of their claims under any circumstances.

The newly restructured debt merely reflects economic reality. Chapter 12 does not guarantee anyone the right to farm. It does not guarantee any farmer profitability. And, of course, no bankruptcy law can or should do that.

What chapter 12 can do and has done is to act as an incentive to all parties to work together to reach compromise outside of the court. All sides now can avoid the legal expense and the uncertainty of litigation simply by being more cooperative.

With chapter 12, Mr. President, farmers now have some clout in these negotiations with their creditors. The resulting agreements between all parties is perhaps the greatest measure of chapter 12's success. In the end, when the American farmer rebounds to profitability, farmers can again be valued customers to their lenders.

This week, the Cedar Rapids Gazette, in my home State, published an article describing how chapter 12 is working in my State. I ask unanimous consent that a copy of this article appear in the RECORD at this point.

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

[From the Cedar Rapids Gazette, July 26, 1987]

EXCELLENT BANKRUPTCY LAW SAVING FAMILY FARMS: LAWYER

CHAPTER 12 LAW TRIES TO KEEP FARMERS FARMING

(By Vanesse Shelton)

Iowa farmers drowning in debt are grasping onto an eight-month-old bankruptcy law tailored to keep them financially afloat.

More than 282 farmers have filed in U.S. District Courts in Iowa to restructure their debts under the new law, referred to as Chapter 12 for its placement in the federal bankruptcy code.

Local authorities say the law is well suited for most of these financially troubled farmers.

Chapter 12, as opposed to other bankruptcy avenues, shields farmers in a speedy, yet simple, way from creditors wanting to repossess equipment or to sell off farmland in default actions.

"It's an excellent law," observed Cedar Rapids attorney Fred Dumbaugh, who testified to Congress about the need for special bankruptcy provisions for farmers before the law was passed.

"It works in saving the family farm," he said.

"Farming is capital intensive," he explained. "It costs a lot to operate and farmers have to borrow great sums of money. High interest rates or bad weather, both of which farmers have no control over, can kill a farmer's business."

So can the repossession of equipment or land when a farmer falls on hard times.

The new bankruptcy law allows a farmer to ride out the tide, holding on to tools needed to remain viable while revamping plans for a productive season.

Dumbaugh cautioned that not all farmers with financial difficulties can be saved by the bankruptcy law.

Good prospects for Chapter 12 resuscitation are farms with a reasonable potential for generating a profit, he said. They need the money to pay off what's left of debts after the bankruptcy judge, under the new law's guidance, reduces and reshapes them and spreading them out over longer periods.

Dumbaugh and other lawyers take inventory of a client's financial picture to determine the feasibility of a farm continuing to operate after getting help from bankruptcy court. This inventory generally is done free of charge.

He urges financially pressed farmers to take advantage of it early, before debts snowball to where there's no recourse but to liquidate and quit business.

"If I take a farmer through a (Chapter) 12, he can probably make it," Dumbaugh said.

Once the decision is made to file for Chapter 12 bankruptcy, he said, the process can last about four months compared to other bankruptcy actions with life spans measured in years.

A Chapter 12 filing can cost up to $14,000, although the average price is half that amount depending on the case, said Dumbaugh.

Since the law went into effect last November, clerks of bankruptcy courts in Iowa report 136 cases were filed in the Southern District court at Des Moines, and 148 petitioned in the Northern District court at Cedar Rapids through early July.

The number of farmers seeking relief in the Northern District peaked at 36 in February and 32 in March, according to Bankruptcy Clerk of Court Barbara Everly. As crops have progressed, the filings dwindled to eight in June.

She suggested farmers are trying to tough it out through one more season in hopes of a bountiful crop.

Dumbaugh frowns on this spirited diehard attitude because for 20 percent to 25 percent of financially distressed farmers, it meant they waited too long to get help under Chapter 12.

"Waiting ran them right down the tubes. They didn't get help soon enough," he said.

More than 250 farmers have turned to Dumbaugh's law firm in Cedar Rapids since December but bankruptcy petitions were filed for only 70 of them, who were deemed able to pull themselves up by their boot straps with the court's assistance.

An unknown number of those who did not seek court protection in reorganizing their debts, still could have used the law to work out their financial problems, Dumbaugh said.

The new law provides an incentive to businesses to work out an amicable agreement without the court's help, he pointed out. They can avoid paying attorney fees, court-related expenses and the whole array of legal entanglements.

"I think it's neat," Dumbaugh said of the law that expires in seven years. "It's designed to get us over what people say doesn't exist—the farm crisis.

"When Chapter 12 dies, I hope it can be said of it: Here lies Chapter 12. It did its job bringing the farmers and creditors together without having to file Chapter 12."

Otherwise, businesses are at the mercy of bankruptcy judges to set repayment terms in accordance with the new law, he said.

Judges under Chapter 12, for instance, can reduce the debt owed by the farmer to an amount equal in value to the collateral he put up in order to get the loan.

What that means is instead of paying a bank the $300,000 balance on a loan taken out to buy equipment, feed, seeds and fertilizer, through debt restructuring the farmer may wind up paying only $120,000 to buy back the land he put up for collateral plus a little extra to pay the banker back for use of the money.

Bankers have balked at this arrangement, since the remaining $180,000 is written off as what is called unsecured debt and will likely go unpaid.

However, Dumbaugh, while empathizing with financers, is quick to note the repayment arrangement under Chapter 12 is better than the no-win scenario between farmers and lenders under other bankruptcy laws.

Lenders come out about the same with the new law, receiving money by selling the collateral land, he said.

However, the farmer comes out in better shape now, instead of losing his land and livelihood, he's still in business. And if he rebounds to profitability, he can once again be a valued customer for the lender, Dumbaugh said.

Mr. GRASSLEY. This favorable report is not an isolated one. Last month, the Los Angeles Times published a similar article, this one focusing on the benefits to Nebraska farmers. I ask unanimous consent that this article also appear in the RECORD at this point.

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

[From the Los Angeles Times, June 23, 1987]

FARM SAGA: CHAPTER 12 TELLS OF HOPE

(By Larry Green)

WALTHILL, NEB.—Robert and Jan Stansberry got advice—not money—when they applied for a loan to operate their farm this year. Quit farming, liquidate, line up the machinery and have a farm sale, they were told.

That was last January, when the Farmers Home Administration turned down the couple's loan application. "They said it didn't look like we could pay them back the $225,000 we owed them," Jan Stansberry recalls.

But, the Stansberrys, farmers for 16 years, did not quit. They are fighting.

They are among the first in the nation to declare "Chapter 12 bankruptcy"—using a federal law from the Depression era aimed at helping family farmers save the family farm. The law, revived and revised by Congress last year in the wake of the prolonged weakness in agriculture, generally protects farmers from creditors and from foreclosure or forced liquidation.

MOST FILINGS IN NEBRASKA

This spring, amid faint signs that the national farm crisis may be bottoming out, thousands of farmers still faced with massive debts are expected to turn to Chapter 12 for protection. Early figures indicate that in the Midwest, the largest number of cases have been filed here, in Nebraska.

Saving their 440-acre hog and grain farm will be a rough row to hoe for the Stansberrys, even with Chapter 12.

The couple, who have three teen-age daughters, were $289,000 in debt before going into court. They now must pay back at least $66,800.

To do that they will not rely entirely on agriculture—a slender financial reed to lean on in recent years. Instead, both Jan and Robert are holding down full-time jobs off the farm. Jan is working as a secretary. Robert is fixing sewers and waterlines for the village of Walthill. He makes $1,150 a month. Jan earns less.

WORKS "NIGHTS, WEEKENDS"

That leaves "nights and weekends to get the crops planted," says Robert, who has just had his first free Sunday in 10 weeks. "This spring has been more hectic than any I've ever put in."

"I feel sure the farm can support the bankruptcy and what we make in town will support us," Jan said.

Chapter 12 bankruptcy gives farm families, "a fighting chance to reorganize their debts and stay on their land—a chance that they did not have before," says Sam Gerdano, a legal aide to Iowa Republican Sen. Charles E. Grassley, a sponsor of the Chapter 12 legislation.

"This is the most useful tool available to family farmers in a long time," says lawyer Nancy L. Thompson, who specializes in agricultural law in northeast Nebraska.

Considerably less enthusiastic are bankers and insurance companies, who lobbied against the legislation because it is weighted in favor of indebted farmers and, in almost all cases, will result in lowered, renegotiated debt balances and repayments.

"It increases the risks that lenders may not be repaid," says Curt Billhymer, a spokesman for the Farm Credit Banks in St. Louis. "Anything that does that makes lenders less willing to make the flow of capital to borrowers completely free."

"Farmers are using Chapter 12 as a tool, as a weapon to put pressure on to get lenders to be more accommodating," says Ronald C. Hanser, spokesman for the Omaha District of the Farm Credit System.

But farmers who have turned to Chapter 12 see no alternatives short of losing the farm.

"I'm struggling to beat heck trying to save this homestead," says Herman H. Lauck, who was $160,000 in debt before filing for bankruptcy. The 64-year-old Bloomfield, Neb., farmer lives on food stamps now. In a few weeks he will have to farm using borrowed machinery. His own is being sold to pay of a $34,000 bank debt.

"GOD BLESS THIS MESS"

"It just jerked my heart from me when they told me I had to sell my machinery," says Lauck, sitting under a sign in his kitchen that says, "God bless this mess."

Not far away, as distance is measured in the rolling northeastern Nebraska countryside, Gerald Herzinger, 56, is weighing the possibility of a Chapter 12 case to save his dairy and grain farm.

"We've been threatened by creditors," he says. "So far the lawyer has been able to hold them off. The bank came to a settlement when we threatened them with bankruptcy," says Herzinger, who has $341,000 in debts and has seen several neighbors turn to the law for protection. If Herzinger does file, it is likely that he will repay about $102,000 of his debt—assuming his farming operation can generate that much income over the next three to five years.

Herzinger's debt will drop because a major provision of the law—a provision that bankers do not like—allows a farmer's debt to be adjusted to reflect the current value of his collateral rather than what that collateral was worth at the time the loan was made. For example, a $200,000 loan secured by land that was worth $200,000 in 1979 might translate into a debt of less than $100,000 today because of the sharp drop in agricultural land values.

"This is a pro-debtor piece of legislation," says Barry M. Barash, a Galesburg, Ill., attorney who has filed 40 Chapter 12 cases this year. "I tell people that if you're a farmer, Chapter 12 is the best investment you'll make in 1987."

Other features of this special federal bankruptcy law—which will expire in 1993 unless renewed by Congress—are provisions that give farmers a chance to erase unsecured debts and that leave all major decisions about how the farmer will work out of his indebtedness in the hands of the farmer and the judge. Creditors have little to say about the process—another reason the banking industry does not care for the law.

"We opposed it," says Weldon Barton, a Washington spokesman for the Independent Bankers Assn. of America. "We supported voluntary incentives that would encourage voluntary workouts [of problems] because we thought it was a more workable situation for lenders and for farmers. Most lenders would rather [Chapter 12] was not out there."

However, David Aiken, an agricultural law specialist at the University of Nebraska, said that the law may, in fact, be acting as a legal incentive to bankers to negotiate settlements with indebted farmers.

"Now lenders know that if a farmer isn't able to get a satisfactory negotiated arrangement outside of bankruptcy, the farmer can file Chapter 12 and get significant debt write-down in most cases," Aiken says. "That's made private lenders more willing to accept write-downs outside of court. It's changed the rules of the game, and it has given farmers some clout in terms of these negotiations."

Although thousands of farmers are expected to file for bankruptcy under provisions of Chapter 12, it will be 1989 or 1990 before the success of the law can be assessed. Meanwhile, farmers who might otherwise have been forced into foreclosure or involuntary liquidations this spring are getting a chance to save their farms and their dreams.

"You don't want to give it up," Jan Stansberry says. "We think farming might be a good business again, and it is too expensive to start up again once you give it up."

Speaking of Chapter 12, Robert Stansberry says: "My first thought was I didn't want to use it. When you say 'bankruptcy' people look down on you. Or at least I think they do. But if I didn't do it I'd had probably had to go to complete liquidation."

"The word bankruptcy has a stigma attached to it," Jan says. "We didn't know how people would react, but nobody has said anything except for the local banker." He said: "It's the only chance you have to remain on the farm."

"It wasn't an easy thing for us to do," she adds. "But I'm sure we're going to survive it."

Mr. GRASSLEY. Mr. President, I appreciate the assistance and work that my colleagues in the House and Senate put forth in passing this chapter 12 legislation. I know that detractors still exist, and do not hesitate to pressure my colleagues about chapter 12.

For this reason, I wanted to share the good news about the positive impact chapter 12 has had, as well as thank my colleagues for their continued support.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent that I be permitted to proceed as in morning business.

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

PEACE PROPOSALS IN CENTRAL AMERICA

Mr. LEVIN. Mr. President, all Americans want to see the troubled region of Central America at peace. The American people, and each of us in this Chamber, hope fervently that the current activities and proposals for peace in Central America achieve their goal of a secure and just settlement.

To the extent that the new proposal supports and helps the discussions of the Central American Presidents and Arias' proposal underway in Guatemala, I support it.

But, Mr. President, if this new proposal is viewed by our allies in the region as setting forth timetables that are unrealistic and which could not be achieved, and if its failure is used by this administration to call for continued Contra aid, I cannot support it.

While I share the hope that this is a sincere attempt to reach a negotiated settlement, I also share some skepticism. No settlement in Central America will succeed in the long run if it does not have the support, and is in the interest, of the peoples of the region. We cannot impose a peace. We should, instead, help and cooperate with those nations of the region which seek peace.

I am worried, because just a few weeks ago President Reagan's special envoy to Central America, Philip

Habib, came to Capitol Hill to meet with Members of this body.

Mr. Habib was reported to have said that if the administration felt its views and interests were not reflected in regional agreements, it would continue to fund the Nicaraguan Contra rebels despite agreements reached by the leaders of the region. That was a disturbing comment because it could only alienate our friends and also give fuel to our enemies.

And, just 2 days ago, in response to questions about the new plan, Presidential spokesman Marlin Fitzwater said President Reagan wants to "assure the uninterrupted flow of money" to the Contras. And, it was reported the same day that an administration official said the administration envisions a congressional vote on Contra aid at the end of the negotiating period, regardless of how diplomatic efforts turn out.

I hope that a just peace can be forged in Central America. I cling to the hope that the countries of Central America prevail in their struggle to maintain their sovereign dignity, and achieve a lasting peace based on true self-determination. I share the hope—and the conviction—that such a peace is possible. I share the cautious hope of all Americans that the current proposals succeed in assisting the parties to find common ground.

But in light of the comments which have been made by Phil Habib and Marlin Fitzwater, and others currently with the administration, the word cautious and the word hope are, I am afraid, inextricably connected in this instance. Also, given the history of this administration in Central America, we must also add some skepticism to the hopes that we all hold.

REFLAGGING OF KUWAITI OIL TANKERS

Mr. LEVIN. Mr. President, despite the urging of the Senate that the President pursue other alternatives, and despite the grave warnings of friends, and despite the lack of support from our allies, the administration has gone ahead with the reflagging of Kuwaiti oil tankers. Our Navy has escorted two such vessles into the Persian Gulf, and one such vessel safely out again, the other having struck a mine widely believed to have been laid by Iran.

In response to the mining and a variety of other Iranian threats, we are now engaged in a fairly large-scale buildup of U.S. military forces in and around the Persian Gulf. This military buildup is the inevitable result of the administration's decision to call Kuwaiti shipping American shipping, and to protect it as such. Since the day the first reflagged Kuwaiti vessel entered to the Gulf under our protection, a series of events has raised the political and military tensions in the Gulf dramatically.

Let me briefly explain why I believe the president's reflagging and escort policy has us headed straight for disaster in what is arguably the world's most dangerous political hotspot, the Persian Gulf.

Both the reflagging and the resultant military build up are based on a false premise: that the overt display and deployment of military force will deter Iranian attacks on us even though they perceive us as siding with their avowed enemy. In fact, increasing U.S. military presence in the Gulf for the purpose of escorting reflagged Kuwaiti tankers may well precipitate Iranian attacks on our forces.

The bottom line is that the administration's reflagging policy assumes the Iranians will react rationally when faced with American military forces capable of inflicting severe damage in retaliation for an attack on U.S. forces.

What evidence do we have that this is in fact the case? Very little.

What evidence do we have to the contrary? Consider these facts:

Iran absolutely refuses to dicuss an end to their war with Iraq, a war in which they have suffered hundreds of thousands of casualties and regained the territory they initially lost, plus some. They have resorted to the use of thousands of young boys in human-wave attacks in the war. The Iranian leadership has at their disposal large numbers of religious zealots, including the fanatical Revolutionary Guards who now control dangerous naval assets. Yet, the administration's policy assumes that a leadership capable of these policies and armed with political power based on radical beliefs will be deterred by the presence of American military power?

I think that is a dangerously false assumption on which to wager the lives of our young men, our position in one of the world's most strategically important regions, and our prestige.

And some of our closest allies agree with me.

British officials are reported as saying that the threat posed by Iran is not principally military, but rather one of political subversion of the fragile governments of our friends in the region. They are said to believe that overt confrontations tend to strengthen, not weaken, the Islamic fundamentalism that buoys the Ayatollah Khomeini's government, and I agree with them. The British Foreign Minister, Sir Geoffrey Howe, reportedly told our Ambassador in London that putting additional Western naval power in the gulf now would heighten the risk of a military conflict with Iran.

I think we should avoid such a conflict with Iran because I see no way in which to win, no way in which our use of military power against Iran will help us achieve our goals and protect our interests in the gulf.

On the contrary, I see a rapidly spiralling escalation of attack and counterattack that has no predictable conclusion. Such a military exchange would endanger not only our brave servicemen but the political and physical security of our friends in the region. The only sure winner from such an escalation will be the Soviet Union, the very power whose influence we seek to limit in the Persian Gulf and elsewhere.

In assessing the merit of the reflagging policy, we should not forget that not one U.S. ship was attacked by Iran prior to the reflagging of Kuwaiti vessels, even though U.S. ships were routinely escorted by our fleet in and out of the gulf.

It is when we are perceived as protecting the military vessels of Iraq's closest supporter, Kuwait, that the hornet's nest has been stirred up by Iran. Can anyone now realistically say that Iranian attacks on us—somewhere and soon—are unlikely? Can any of us now say, as President Reagan said in defense of his reflagging policy, that "I do not know how (a conflict) could possibly start."?

I am afraid not, Mr. President. I am afraid not.

A VITAL SPEECH, INDEED

Mr. HEFLIN. Mr. President, I recently read an outstanding speech that was delivered by one of my constituents, Mr. Jerry Weaver of Gadsden, AL, who is chairman of the board of Mid-South Industries, Inc., a highly diversified, technology-oriented company with facilities located in Gadsden; Manchester, KY; and Taipei, Taiwan. Mr. Weaver was speaking before the New York Rotary Club on April 16, of this year, and the speech was published in the July 1 edition of the journal, Vital Speeches of the Day. His speech was entitled "Making American Industry Competitive Again."

There has been much discussion in the last few weeks regarding what will make American industry competitive again. I believe that Mr. Weaver's remarks provide much food for thought.

Jerry Weaver was born in Clay County, KY, graduated from Annville Institute, a mission school in Jackson County, KY, and attended Union College in Barbourville. In 1951, he moved to Dayton, OH, where he served his tool and die apprenticeship with International Tool Co. In 1957, he was transferred by that company to their Gadsden facility, the Alabama Tool Co., to train others in the tool and die trade. Five years later he left Alabama Tool to start his own business, Dixie Tool and Die. Mid-South Industries

has grown from this one man shop that Jerry Weaver founded in 1962.

Mid-South Industries and its 10 affiliated companies employs over 1,700 people and has sales in excess of $100 million. The customer base consists of many of the U.S. Fortune 500 companies, including IBM, Xerox, General Electric, Martin Marietta, Scovill, Clairol, and Sunbeam, as well as the U.S. Department of Defense. The companies are not only involved in domestic trade, but both import and export in the international market, as well.

Though Mr. Weaver has already achieved a great deal of success in the business world, he continues to seek new opportunities. His most recent creation is Weaver Diversified Industries, which is an organization that operates within the small shop concept.

Throughout his career, Jerry Weaver has been active in the associations which support the tool and die industry, and his great talents have been recognized by his colleagues. He is the past national president of the National Tooling and Machining Association [NTMA], and has served as both member and chairman of every major committee in the organization. He also played an instrumental role in organizing the Alabama Mountain Lakes Chapter of NTMA, which is the local chapter that serves the Gadsden/Huntsville area. He has also served as a United States delegate to the International Special Tooling Association, and has made trade missions to Brazil, Mexico, Germany, Switzerland, Taiwan, and the People's Republic of China.

In addition to his work in business at the national and international levels, Jerry Weaver has worked to encourage business activity in his community, as well. He is past president of the Gadsden-Etowah Chamber of Commerce, and has served as a member of the Rainbow City Planning Commission for the Alabama Technical College in Gadsden. He is also a member of the Gadsden Industrial Board, the Manufacturing Systems Engineering Graduate Program Committee for Auburn University, and the Alabama Certified Development Corp. A nonprofit State organization that assists in the financing of land, building, and equipment for small businesses.

Thus, as my colleagues can see, Jerry Weaver possesses great experience in business and trade. He has worked in almost every aspect of the business world—as the starter of a new business, the chairman of the board of a profiting business, an adviser, and a trade representative to increase trade. I believe that Mr. Weaver's remarks will be profitable for each of my colleagues, faced as we are with our Nation's trade deficit. The insight which Mr. Weaver provides will be tremendously helpful.

Mr. President, I ask unanimous consent that the attached speech be printed in the CONGRESSIONAL RECORD.

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

[From the Vital Speeches of the Day, July 1, 1987]

MAKING AMERICAN INDUSTRY COMPETITIVE AGAIN

(By Jerry Weaver)

Initially, I'll be most honest—"I don't know the mechanics of the many how's and wherefor's of this challenge." However, not being alone with this conundrum gives me little sense of agreement with many of the theories and proposals currently in vogue and as expounded by many politicians, governmental committees, analysts or other self appointed experts—few of whom are company owners or wage earners in our industrial society.

You are familiar with our need for industrial competition. Competition is the current buzzword for the media, the non-profit specialists, our Congress—and we even have a President's Commission on Industrial Competition.

Each faction of the world's economy, I'm sure, has their own accepted definition of competition—here's the one I like:

"Competition means we should be determined to balance the trade deficit without lowering the standards of living of the American people."

I must state at this point that "the Market Place" is right here, first—the Global Place must be cultivated with the facts of our local success!

At $140 billion in 1986, with our economists agreeably projecting a total trade debt of $1 trillion by the early 1990's, we have a humongous and super human challenge facing every single American at or above elementary school age.

Everyone who can understand the basic arithmetic of cost and expense versus gain or loss readily agrees that we must do better—the burning questions center around how?

I do not, for example, agree with Senator Lloyd Bentsen's viewpoint that additional protective tariffs and trade regulations will result in improved competition of American industry, nor that the "loss of 1,000,000 high paying jobs," (as he states) "were lost to Japan" because of the lack of more restrictive tariffs.

I do not agree that protectionism is the magical answer to our problems in our American market place and in my viewpoint, tariff manipulation is a political tool and should not enter into any concepts towards industrial competition factors.

How could one really believe that "globalization" of American industry would in any long lasting substantial manner meet the challenges of competition?

Again, contrarily—deindustrialization of American industry has robbed us of manufacturing expertise, of utilization of our production base, of method improvements, of modernization, and of capital investments, with perhaps of ultimate importance—the loss of employment and skill training of our people—all of which is most vital to meet the challenges to our American industry.

While economists engage in detached debate about whether the U.S. is losing its industrial base—the facts are clear that one after another are, or have, become "hollow corporations" purchasing parts, components and products "off-shore" and slapping on their own labels for domestic markets.

Personally, I challenge this do nothing approach, as it offers no incentive to improve our competition and "business as usual" will not solve our problem of imbalances in trade. Continued off-shore procurement will not rebuild our American work force for our future prosperity.

On the other hand, hopes are high that the prospering service industries will keep the U.S. economy healthy.

Again, pure hog-wash—without a healthy and prosperous manufacturing industry there will be little to service!

What the devil does all this mean?

There is a public scalding, wringing of hands and some back woodshed diplomacy, however, where is the concerted effort to put it all together towards a solution? I question our "policymakers"—Perhaps, in the end, our policymakers are really you and I! We represent the broad spectrum of our communities. Why should we not make the policy?

Between us, we have somehow failed to maintain our position as the world's leading industrial nation with a financial system once believed to be unassailably the best in the world.

Success begets responsibility and as policymakers we have failed to communicate with our governmental and industrial representatives of our many misgivings about their actions in the past period of outsourcing and deletion of our manufacturing base—in equipment, brick and mortar and in trained manpower.

Not too many years ago, the American people led the world with the most efficient and profitable industrial nation in history.

We now must come together and put that yankee know-how and determination to be the best back to work in all areas of our national life.

As one policymaker, I have firm convictions that the following actions are not only required, but are mandatory, not in the future, but immediately—or the future may find me back on the farm behind a mule. What would bother me most about that is that I'd sure hate to find out it was a Japanese mule!

Cost reduction is constantly the first item on the list of every management symposium I've ever attended. It is simple, it is easy to understand and it is easy to monitor—but it's not so easy to get it accomplished!

People become entrenched, during the "good times," and are reluctant to change methods or habits, or to give up anything they have taken for granted.

The giant ITT has sold 100 businesses, cut its workforce by 100,000 and its headquarters staff from 850 to 350. ITT Chairman Rand Araskog says "Corporate executives have to learn to do things for themselves. Pick up the telephone if it rings, Draft their own memos." Damn, I never knew I wasn't supposed to do those things!

Communications between industry, labor, government and the financial institutions of our country and the world must be greatly improved to establish basic understandings of the circumstances that affect America's successful position in the constantly changing global environment.

We have a responsibility to each other to be honest and straightforward about our problems, our analysis, our recommendations, and about our success or failure in execution of improvements.

Confusion or uncertainties will not allow us, as a nation to make long range decisions

that may have high risk impact on the daily lives of the American people.

Policymakers, again we are failing to press for a solution to this problem. We have not forced our local and national industrial, labor and governmental representatives to unite and formulate a plan for our collective future in world trade.

Would that we could get one clear, concise and mutually understandable two page publication of instructions for our personal income taxes—let's don't even suggest clarity for our businesses!

Personally, I don't need Ted Koppel or Tom Brokaw tinkering with the facts—I'd rather perform my own analysis of the situation—even if it turns our that I'm wrong!

Research and development investments are key to long term commercial product industrial independence from DOD budgetary restrictions.

Alarmed by the snakes that were devouring many of his kind, a young frog consulted the wise old owl. "What can I do to avoid being eaten by a snake?" asked the frog. The wise old owl pondered and then advised: "Fly away." The frog was delighted with this simple solution—until he tried to flee from an approaching snake. "Sorry" said the owl as the frog disappeared down the snakes gullet. "I only deal with concepts, not reality."

To a larger degree, this is one of the major problems industry must early overcome to change the competition of our future—many wise old owls have the concept of the factory of the future, but not the reality.

Most American companies are dragging their feet, however, adequate investment incentives for long range R&D in CIM could well be a major step towards American competition. Further, product development expenditures must be increased greatly to provide the new product impetus for competition world-wide.

Business is currently reluctant to fund R&D even at minimal levels, with the prospects that the products wind up being manufactured in Singapore or Korea.

R&D investment must be allowed to be handled for long term potential product innovation and current tax programs eliminated or more appropriately modified to encourage these endeavors.

I personally have a big hang up with the huge DOD R&D money being spent on duplication of effort, rather than more emphasis being given to commercial item development work.

We could be losing our trade base effectiveness due to excesses in DOD spending on conceptual blue sky items, the need of which may be very questionable.

I'm just like the young frog—I don't want to be eaten by the snakes either?

Long term capital is vital to our reindustrialization and technical advancement of our industrial America.

Washington soaks up the bulk of private savings to finance the federal debt, whereas a realistic budget program would relieve capital for private investment, as well as reduce interest rates.

Policymakers—we need some way to set aside government tax consideration for capital availability and for encouraging innovative small businesses.

Industrial long range financial decisions currently are too often made on the basis of tax considerations rather than on business sense for future competition.

Have you and I failed to invest sufficient of our personal gain in our manufacturing base?

For example, should my swimming pool be one half its size? Or not be there at all?

Enriched by their billions of dollars from huge trade surplus, Japanese financial institutions have invested billions in U.S. businesses—estimates total at 25-30 billion dollars last year.

Our own assets should be more fully exploited instead of the enchancement of international industries by the U.S.

Of particular interest to me, obviously, is the apparent avoidance of the potentials of the resources of the South! Its people still preach and practice the desire to be independent, to provide for themselves and to be dedicated for improvements in their positions in the world.

With modern research laboratories, advanced medical centers, highly accredited universities and colleges, an eager work force operating with a broad range of industrial skills and expertise—there exists the way and the will to produce quality goods within economic control.

It would be most interesting to experience the effect of a divergence of some U.S. foreign aid money for industrial development to the Southern part of America, other than food stamps!

The history of our growth from my first small tool ship in Gadsden, Alabama to the present diversified and mutually support oriented 11 companies is directly related to the industrial growth of the Gadsden area.

Gadsden's earlier industries were the cast iron pipe and cotton mills which abused the working people with deficiencies of wages, working hours, comfort, safety, health and personal dignity and the labor population became highly unionized.

There was little concern about the educational level or skill expertise of the workers and the investment in labor improvements was nil.

Gadsden has grown from the days of the pipe and mill industries to more progressive and modernized operations requiring better tools, more precise machines, automatic equipment and a higher skilled labor force.

The increased opportunities for the design, development and manufacture of precision tooling, gauges and special machine tools became more obvious as the changes and additions to Gadsden's industrial complex took place.

I started my first tool shop with a $5,000.00 personal loan from a local bank, not with several million dollars from Uncle Sam nor with guaranteed government contracts.

Raised in Kentucky, with six years in Dayton, Ohio learning the basis of the tool and die making profession, I have made Gadsden my home since 1957 and take much exception to Rand McNally's listing us at the bottom of any list that places Pittsburgh at the top!

I knew that an educated and trained work force would be required to support the anticipated area growth requirements and I set out to promote vocational and shop training for our people.

Local and state agencies have responded extremely well to our industrial training requirements in the Gadsden area with training areas equipped with modern equipments including computer controlled machinery, and with top notch instructor personnel.

Coming from a very tiny community in Kentucky, I feel very fortunate that people took the time and interest to invest in me, to teach and train me for a start in my adult life in the business world.

I've always felt strongly that one should put something back into society and my efforts are to provide training opportunities for our youth to prepare them for their future.

One success from our attention and investment in people is that from my first tool shop, 7 other tool and die shops have been incorporated in the Gadsden area by our former employees.

One most important element of our corporate organization is our training school, known as The Academy of Precision Arts, which provides our company organizations with the educational tools needed to teach and train our employees in a broad scope of skill levels.

New employees, trainees, senior technicians, lead personnel and all levels of our management are accommodated, both by classroom and shop practice, in our own little red school house.

We have invested nearly one million dollars of our own money in building renovations, machinery and equipment, computer hardware, system programs and audio visual teaching aids as an investment in our people—one of our investments for the future!

Our people like it—so do our customers!

With Gadsden's growth through changes in community attitudes with improved labor relations being fostered by labor, local government and new industry leaders, the increased relationships from our tool industry offered additional opportunities.

I learned very early to hire technically competent people who were not afraid to make decisions—and then let them!

We have grown from a single small tool and die shop to a closely held corporation with its 11 subsidiaries providing engineering product concept design, tool and machinery expertise, manufacturing know-how, equipment leasing, plus facility design and construction for a broad diversification of customer base for both the U.S. and foreign markets.

With $107,000,000 1987 booked sales forecast, our diversified companies will be providing goods and services for U.S. and foreign military programs, commercial items for I.B.M., Xerox, G.E., Sunbeam, Hamilton Beach and Nutone, tooling and special machines for Boeing, Ford Aerospace, Arvin, Xerox, I.B.M. and Martin-Marietta and 9 mm Walther pistols for Interarms International, as well as broad based prototype and production engineering programs for military and commercial requirements.

Looking ahead, we will dedicate a new $4.5 million modern state-of-the-art equipped manufacturing facility in Jackson County, KY in early July this year.

I am an optimist and enjoy the challenges of new opportunities—fortunately, I have been blessed with competent and understanding assistants and with magnificent employee response in our many corporate activities.

I still have faith in the American way and the American dream. I have faith in our people and I am convinced that we, as policymakers, when we all decide that enough is enough, will collectively put our minds and resources to it—and we'll get the job done!

I hate to quote a Japanese source, but—as Sony Corporation's Akio Morita says, "just do what you used to do so well—invest in American enterprise."

Thank you and I appreciate your interest.

GENERAL ABRAHAMSON'S PROMOTION

Mr. HEFLIN. Mr. President, recently, the distinguished Senator from Idaho, Senator SYMMS, made a statement in the Senate calling on the Armed Services Committee to report out the nomination of Lt. Gen. James A. Abrahamson for a promotion to general. I would like to commend the Senator from Idaho and to take a moment of the Senate's time to speak in the same regard.

Mr. President, time is running out for General Abrahamson's promotion. The meaning of that statement is simple. On December 18, 1986, the President nominated General Abrahamson for a fourth star. As I understand the situation, that nomination expires September 30 of this year. Yet, not only has the Senate Armed Services Committee not held hearings on the nomination, it has not even scheduled one.

There is no real reason for holding up or denying this nomination. General Abrahamson is an outstanding and distinguished military officer who has served his country well. His achievements and honors are well known to many of my colleagues. However, I would like to mention a few of his major accomplishments.

General Abrahamson is a 1955 graduate of the Massachusetts Institute of Technology in Cambridge. That same year, he was commissioned as a second lieutenant in the U.S. Air Force. Later, in 1961, he earned a master of science degree in aeronautical engineering through the Air Force Institute of Technology Program at the University of Oklahoma.

In August 1961, he was assigned as spacecraft project officer on the VLA Nuclear Detection Satellite Program at Los Angeles Air Force Station, and in March 1964, began F-100 upgrade training at Luke Air Force Base, AZ. From October 1964 to August 1965, while assigned to Cannon Air Force Base in New Mexico, the general served two temporary tours of duty in Southeast Asia where he flew 49 combat missions.

In July 1966, General Abrahamson graduated from the Air Command and Staff College as a distinguished graduate. He later attended the Aerospace Research Pilot School at Edwards Air Force Base. After graduation, in 1967, he was selected as an astronaut with the Air Force's Manned Orbiting Laboratory Program and served in that capacity until that program was canceled.

General Abrahamson was then selected to serve on the staff of the National Aeronautics and Space Council in the White House. In March 1971, he became director of the TV-guided, air-to-ground Maverick Missile Program. In March 1974, he was named inspector general for the Air Force Systems Command and was later assigned as the director for the F-16 Air Combat Fighter Program at Aeronautical Systems Division located at Wright-Patterson Air Force Base. I might add that the F-16 has been one of the Air Force's most successful programs. When the general directed the program, it came in under budget and ahead of schedule. This is almost unheard of today.

After a short tour of duty as the deputy chief of staff for systems at Air Force Systems Command Headquarters, he became the associate administrator for space transportation systems at NASA. In that position, he was responsible for the Space Shuttle Program and served in that capacity until 1984.

Among many other awards, the general has received the Distinguished Service Medal, Legion of Merit with oak leaf cluster, three meritorious service medals, Air Force Outstanding Unit Award ribbon, the Air Force Organizational Excellence Award ribbon, the NASA Commendation Medal, and the National Defense Medal.

As my colleagues know very well, General Abrahamson is currently the Director of the President's Strategic Defense Initiative Program. I must say that he is doing an outstanding job in this capacity. Mr. President, this is a program of awesome scope and one of which, many times here on the Senate floor, I have expressed my support. While I will not go into the merits of the SDI Program at this time, I am very concerned that because of General Abrahamson's present position as the Director of this program, his promotion is being delayed and maybe even denied. This officer should not be denied a promotion simply because he is serving his President to the best of his ability. This is the very reason we should confirm this nomination.

Mr. President, I, like the Senator from Idaho, take this opportunity to call on my distinguished colleagues who serve on the Senate Armed Services Committee to rise above politics and report out General Abrahamson's nomination to receive his fourth star, in order that this serviceman may be duly rewarded for more than 32 years of outstanding and distinguished service to seven Commanders in Chief and his country.

A TRIBUTE TO CONSUELLO "CONNIE" J. HARPER

Mr. HEFLIN. Mr. President, I am proud to rise today to pay tribute to Connie Harper of Montgomery, AL. Mrs. Harper is one of those rare individuals who, by fulfilling her own dreams, helps others to dream themselves, and to fulfill their dreams. Mrs. Harper is the founder and the director of the Central Alabama Opportunities Industrialization Center [OIC]. As the founder and director of the Central Alabama OIC, Mrs. Harper has greatly contributed to her community, our State, and our Nation. She has touched many lives, always striving to help others to help themselves.

During the early 1960's, when Mrs. Harper was teaching school in the Macon County Public School System, she became concerned that there were children attending school who could not read or write. So, she started an early childhood development program, held after school in an old church near her home in Shorter, AL. It was not long before Mrs. Harper began to have greater dreams. She wanted to begin a program which would help high school dropouts and the underprivileged learn work skills and find employment.

Luckily for my State, Mrs. Harper's enthusiasm and determination were recognized, and she was chosen to participate in the Ford Foundation's Leadership Fellow's Program. Beginning in September 1967, Mrs. Harper took a year's leave of absence and went to Philadelphia to study with the Reverend Leon Sullivan, who had started an Opportunities Industrial Center in an abandoned jailhouse. After examining Reverend Sullivan's OIC program, she returned to Alabama and decided to locate the hub of her center in Montgomery because that is where the jobs were, she said.

In the early days, Mrs. Harper had quite a struggle. Yet, she had her dream, her determination, and the strong support of her family. At that time, she had no office, but she frequented pool halls and alleyways, talking to drunks, prostitutes, and pimps trying to convince them that there were greater opportunities available. She says that her lucky day came during a thunderstorm when the sympathetic pool hall owner allowed her to use a cluttered storage room, which she later transformed into an office. Yet, she needed more money. Knowing nowhere else to turn, Mrs. Harper decided to visit former Gov. George C. Wallace. At that time, Wallace was between terms. Mrs. Harper asked the Governor for whatever help he could provide. He explained that he could not help the OIC because he was not in office. She persisted, and the Governor dug into his own pockets and gave her $40, the last money that was in his billfold.

Since that time, Mrs. Harper has taught more than 10,000 students basic work skills and has helped to find them jobs. Over the years, the Central Alabama OIC has provided skills training in many areas including, but not limited to, commercial sewing, commercial cooking, secretarial science, clerk typing, graphic technology, welding, carpentry, rough brick masonry, electricity, plumbing, cashier/

sales, as well as many others. In addition to the skills training, it has provided prevocational training in such subjects as communication skills, computational skills, consumer education, minority history, personal hygiene, and many others. A unique feature of the instructional program has been training in job survival skills. Counseling is another unique feature of the program. It is ongoing and includes the total person.

The program has been, through the years, one of the most successful in the Nation. In 1984, the center received the Distinguished Performance Award for the training and placement of youth in the area. Their placement rate is incredible; 98 percent of the people who participate in the program find jobs.

However, Mrs. Harper has said that, while they have crossed the river, the ocean lies ahead. Her present goal is to develop a community foundation that will provide technical and financial resources which will enable them to develop human talents of young people to their greatest potential. And the OIC always devises new ventures with which to help the citizens of Alabama. Among these are an early childhood development center, a nutritional enhancement program, and other economic ventures.

Mrs. Harper has received much recognition for her great efforts in the last few months. One of the most rewarding for her must be the Consuello "Connie" J. Harper Complex, a 10,000-square-foot job training center which was dedicated in July of last year. This is a long way from the office she had in a pool hall on Lawrence Street in 1968. Mrs. Harper was also named one of the Women of Achievement for 1986 by the Montgomery Advertiser and the Alabama Journal. In early July, of this year, she was cited by Newsweek magazine as one of Alabama's unsung heroes.

Yet, I believe that perhaps the greatest recognition which Connie Harper could ever receive is the thanks and the praise of the thousands of young people she has helped to help themselves. Mrs. Harper has done great deeds for the people of Alabama. Her tireless energy and work has helped both her community, and industry of the area. I commend Mrs. Harper for her dream. I admire her for her efforts. All of Alabama and America are in her debt, for she has helped others to participate in the American dream.

Mr. President, I ask unanimous consent that the attached newspaper and magazine articles appear in the CONGRESSIONAL RECORD. They describe the outstanding achievements that Mrs. Harper has made through her work over many years. I believe that each of my colleagues will find them inspiring.

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

[From Newsweek, July 6, 1987]

FORTY DOLLARS AND A CAUSE

In 1968 a sharecropper's daughter named Consuello Harper made a visit to Gov. George Wallace. She asked his help in her crusade to preach self-help to poor Alabama blacks. Wallace fished $40 from his pocket—a gift that enabled her to move her "office" out of a ghetto pool hall. Today Harper, 57, operates a $600,000 job-training center in Montgomery, thanks to her ingenuity at wheedling funds from rightwing politicians. "If I thought I had a noble cause," she says, "I'd go to the Ku Klux Klan."

[From the Montgomery Advertiser, July 1, 1987]

NATIONAL MAGAZINE DUBS CONNIE HARPER ALABAMA'S "HERO"

(By Laurie Wood)

Although at times Connie Harper may have felt she would place last in a popularity contest, she held onto her beliefs.

In fact, making her dream of a self-help program a reality in Montgomery resulted in Harper being named Alabama's "unsung hero" in the July 6 edition of Newsweek, which went on sale Monday.

Harper, the founder and director of the Central Alabama Opportunities Industrial Center Inc. (OIC), was cited for her work in finding and operating the job training center for the unskilled and unemployed, Neil Hershberg, Newsweek's editorial communications manager, said.

The center was started in 1968 as a program to help black dropouts learn work skills and finding employment.

A teacher in the Macon County public school system in the 1960s, Harper was appalled that there were children attending school who could not read or write.

"There were children who lived on plantations, whose families were sharecroppers, and they didn't attend school until after the cotton was picked," she said.

"I didn't like that . . . Here I was, a teacher, talking about the school system. I wasn't too popular with my philosophy."

She started an early childhood development program, held after school in an old church near her home in Shorter.

Her interest in youth and the elderly led her to be selected to participate in the Ford Foundation's leadership fellows program in 1968.

The foundation was searching for individuals who possessed potential leadership qualities, but had a lack of skills, Harper said. Her fellowship allowed her to design a program and develop it.

She took a year's leave from the school system and, among other places, went to Philadelphia and visited the Rev. Leon Sullivan, who had started an Opportunities Industrial Center in an abandoned jailhouse.

Harper's dream was to found a rural OIC. She said Sullivan asked her how she could start a rural OIC.

"He said, 'You're rural and you have no industry,'" Harper said. "We have people,' she replied.

Harper broke her teaching contract and left in the middle of the school year to pursue her goal. She decided to locate the hub of her center in Montgomery because that's where the jobs were, she said.

She frequented poolhalls and alleyways, talking to drunks and pimps. Nine years later, the center is doing "fantastic" she said.

[From the Birmingham News, July 1, 1987]

ANTI-WELFARE WOMAN SALUTED FOR MOTIVATING 10,000 TO PRIDE AND WORK

MONTGOMERY.—Newsweek, in its July 6 edition, recognizes as an unsung hero a "very anti-welfare" Alabama woman who has taught more than 10,000 people a trade, motivation and pride.

The magazine is saluting one person from each state and the District of Columbia who has made significant contributions. Its choice from Alabama is Consuello "Connie" Harper, a former Macon County school teacher and wife of Macon County Commissioner Socrates Harper.

Mrs. Harper, one of 10 children of an illiterate sharecropper, has no use for welfare—a view that has put her at odds with black leaders.

"I'm very anti-welfare, and I've been threatened by civil rights groups that say you don't say these things, that the government does owe us. I don't believe this," she said in an interview Tuesday.

"I've always felt very strongly that from an economic standpoint, there would never be any civil rights unless they were based on economic stability."

Mrs. Harper said she is "really surprised" at being singled out by Newsweek. "I've enjoyed it all. You could say it was my mission."

In 1968, she started the Central Alabama Opportunities Industrialization Center in the back room of a Montgomery pool hall to teach poor blacks and farm workers in 10 counties.

Rejecting the theories of Great Society welfare, she has used state and federal funds to teach more than 10,000 people a trade. Her program's successes have been marked by a job-placement rate of 95 percent and the construction of a $900,000 training center last year across the street from a housing project in West Montgomery.

"The first day I walked into the pool hall and saw everybody high, I knew I had to do something," Mrs. Harper said. "It hasn't been easy, but I don't regret it because all these people are now making contributions."

Among her biggest supporters she counts several Republicans, including Montgomery Mayor Emory Folmar, who arranged $100,000 in city funds for her new building, and state Rep. Bob McKee of Montgomery.

"If we had more like her we'd all be better off. She has gotten thousands off welfare and the streets and turned them into taxpayers," McKee said.

[From the Montgomery Advertiser, July 1, 1987]

STATE HERO HONORED

An Alabama woman who has made a career of teaching the poor how to get jobs and get off welfare is being honored by Newsweek magazine as one of America's unsung heroes.

In its July 6 edition, Newsweek will recognize one person from each State and the District of Columbia who have made significant contributions. The magazine's choice from Alabama is Consuello "Connie" Harper, a former Macon County school teacher and the wife of Macon County Commissioner Socrates Harper of Shorter.

In 1968, she started the Central Alabama Opportunities Industrialization Center in

the back froom of a Montgomery pool hall to teach poor blacks and farm workers in 10 counties.

[From the Birmingham Post-Herald, July 6, 1987]

SHE SOWS SEEDS OF HOPE

(By Debbie Kloha)

Connie Harper had been a Macon County schoolteacher for 12 years when she walked out of her classroom the last time.

"I knew those young people didn't need me as much as those kids who dropped out of school," Mrs. Harper said. She then began working to persuade young pool hustlers, prostitutes and drug addicts to get off welfare and join the work force.

Mrs. Harper began the Central Alabama Opportunities Industrialization Center in the back room of a Montgomery pool hall in 1968, and today she oversees a million-dollar job training center that was built with federal, state and local funds.

Mrs. Harper's efforts were recognized this week in a Newsweek magazine article praising the unsung heroes of America. The magazine selected an unsung hero from each state and the District of Columbia based on each one's efforts to improve his or her community or to overcome personal adversity.

"It's very exciting, very humbling to get this (award)," said Mrs. Harper, 57, in a telephone interview last week.

Mrs. Harper, whose father was a sharecropper, learned the work ethic at an early age. She tries to instill this work ethic—and a disdain for welfare abuses—in the young trainees who come to her center.

"Those government benefits are for the needy, not the greedy," Mrs. Harper says.

After a few months of preaching her message of self-help from a back storage room of one of the ghetto pool halls she so despised, Mrs. Harper expanded to a larger room in the Red Bell Cafe in Montgomery.

But she wanted more. That first year she went to former Gov. George Wallace for help.

Wallace was one of the first people in 1968 to donate money. "He pulled $40 out of his pocket and I grabbed it," she said.

She went to politicians all over the state, as well as national figures, stressing the need to build a strong job program in Alabama.

The 16- to 21-year-olds in the program learn how to fill out a job application, how to conduct themselves in an interview, and how to keep a job.

"We tell them the boss may not always be right, but he's still the boss," Mrs. Harper said.

So far this year the center has placed nearly 100 percent of its graduates. Their average starting wage, Mrs. Harper says, is a little more than $4 per hour.

Mrs. Harper's next goals are to help women who want to start their own businesses and to build housing for the elderly. She has applied to HUD for 30 housing units for the elderly, and expects a response by the end of September.

But for now, Mrs. Harper leaves no doubt about what her mission is.

"We want kids who want to be helped," she said. "We are motivating (them) by changing their attitudes.

"I tell them, 'No one owes you anything but an opportunity.'"

[From the Alabama Journal, June 30, 1987]

NEWSWEEK HONORS HARPER AS 1 OF NATION'S 51 UNSUNG HEROES

(By John Jackson)

A Shorter woman who has been teaching Montgomery's poor how to get and keep jobs for almost 20 years is being honored as one of 51 unsung American heroes in the July 6 edition of Newsweek magazine.

Consuello "Connie" Harper started the Central Alabama Opportunities Industrialization Center in 1968 in the back room of a pool hall in Montgomery to teach job skills to poor blacks and farm workers in 10 counties.

Now more than 10,000 people have been trained at the center, which has such an effective placement program that almost 100 percent of the people who attend classes at the center have gotten jobs.

Newsweek's "Celebration of Heroes" honors 51 Americans, one from each state and the District of Columbia. But the magazine also salutes "countless individuals across America who are similarly trying to improve their communities or help those less fortunate than themselves," according to a Newsweek press release.

Each of the honorees was chosen for "struggling against personal hardship or adversity," for "extraordinary courage to help others" and for performing "community service at some sacrifice to themselves," according to Newsweek.

"I'm really very surprised," Harper said in an interview today. "I've enjoyed it all. You could say it was my mission."

Harper, whose father was a sharecropper, grew up in a family of 10 children.

She attended Tuskegee Institute. Her husband, Socrates Harper, is also a Tuskegee alumnus.

Both became teachers, and her husband is now retired and a Macon County Commissioner.

She taught in Macon County schools for 12 years before starting Central Alabama OIC.

When she started the program, she taught job skills to the underprivileged in a pool hall, a beauty shop and churches.

Former Gov. George Wallace was one of the first people to donate money to the center.

"The first day I walked into the pool hall and saw everybody high, I knew I had to do something," Harper said. "It hasn't been easy, but I don't regret it because all these people are now making contributions."

The center's new building on Mobile Road opened last summer.

At the center, young people ages 16 to 21 are taught job survival skills, including how to fill out a job application, how to have an effective interview and how to keep a job after they've gotten one.

Harper was one of 10 Montgomery women chosen in March for the 1986 Women of Achievement Awards, sponsored by The Montgomery Advertiser and The Alabama Journal.

[From the Montgomery Advertiser, July 1, 1987]

NATIONAL HONOR

Consuello "Connie" Harper, the Shorter woman who has been teaching job-seeking skills to Montgomery area poor people for almost two decades, is receiving national recognition for her efforts.

Mrs. Harper, who was one of 10 Montgomery women who received in March a Montgomery Advertiser Women of Achievement Award, will be honored as one of 51 unsung American heroes in Newsweek magazine's July 6 edition.

More than 10,000 people have been trained at Mrs. Harper's Opportunities Industrialization Center. The operation which she began in the back of a Montgomery pool hall in 1968 teaches how to complete job applications, interview skills and job-retention techniques.

The center now has a new building on Mobile Road in Montgomery.

Newsweek chose an honoree from each state based on each one's effort to improve communities and help those less fortunate. Harper grew up in a family of 10 headed by a sharecropper, became a teacher, and worked in Macon County schools for 12 years before she started Central Alabama Opportunities Industrialization Center.

The job placement rate for OIC's 16 to 21-year-old clients has been near 100 percent.

Mrs. Harper richly deserves the national honor. Montgomery should be proud of her work to make useful, working citizens of a generation of young people who otherwise might never have become productive residents of the city.

WALLACE'S GIFT HELPED WOMAN START JOB PROGRAM

(By Nick Lackeas)

It was drizzling rain outside as Connie Harper waited in the small corridor to see the governor.

It was a Friday afternoon, former Gov. George C. Wallace's last working day. She had come to say goodbye.

An aide appeared in the doorway, wheeling Wallace into his office. He stopped.

"Good to see you, Connie," Wallace said, smiling. He took her hand.

Harper replied: "I just wanted to holler at you, darling."

They chatted and then she watched, her eyes moist, as Wallace was wheeled away.

Wallace had given her the first $40 in donations in 1968 to start a program to help train black dropouts how to get and hold jobs. A few years later her program became the Central Alabama Opportunities Industrialization Center Inc., of which she is founder and executive director.

Other donations followed, including $35,000 Wallace gave her in the early 1970's at the national OIC conference in Atlanta, prompting her to kiss him on the cheek—a kiss that northern blacks criticized her for when the picture ran in newspapers across the country.

Harper refused to apologize. Her governor was her friend.

A decade later in 1985 she built her school on Mobile Road from donations.

The building was the dream of Harper, who was born Consuello Jenkins in Baldwin County and grew up in Loxley. Her parents, John Wesley Jenkins and Amelia Taylor Jenkins, were sharecroppers who later owned their land.

Her father arrived in the county when the century was young. He was running away from a plantation in Sugar Lock, Miss.

"That was down in the delta. The white land owners had other blacks catch you and whip you if you tried to leave. They would gang-slang you—whip you with chains. There were 10 of us children. My father told us how they beat him and threw him on a train."

He was thrown off the freight train in Baldwin County.

"He was found in the woods by Mr. Malbis, a Greek immigrant," she said. Jason Malbis, a Greek Orthodox monk, had come to Mobile in 1906 and started the Malbis Plantation across the bay near Daphne.

"Mr. Malbis sneaked food to my father and built a little shelter in the brush for him until he got his strength back."

It was dangerous to aid a black runaway.

"I remember putting my hands on the big whelps on his back where they had whipped him with the chains. He said: 'You are never to hate people for this.' "

Her father died when she was 5, and her mother ran their farm.

In the early 1950s, Harper attended Tuskegee Institute, where she met her husband, Socrates Harper. They both became teachers. She taught third and sixth grades in Macon County for 12 years, quitting in 1968 to drive to Montgomery every day to help black dropouts.

"I started out on Monroe Street, talking to pimps, prostitutes and winos."

She talked to blacks on "the streets" until a pool hall manager let her use the back room for self-help classes. She later used other locations, such as Dexter Avenue King Memorial Baptist Church and Dorothy's Beauty Shop on Monroe Street.

That first year she went to Wallace for help.

"He was not governor then, but he had an office on Norman Bridge Road. The receptionist wouldn't let me see him, but he overheard me and said, 'I'll see her,' He gave me two $20 bills. He said it was the last $40 that he had with him. That was my start."

[From the Montgomery Advertiser and the Alabama Journal, Mar. 22, 1987]

TEN WHO HELPED SHAPE OUR COMMUNITY

"Beyond the norm."

That phrase, used in letters from Montgomery Advertiser-Alabama Journal Publisher Dick Amberg when announcing the newspapers' 10 Women of Achievement for 1986, describes the single similar element among that diverse group.

The honorees are Ellen I. Brooks, Mary Ann Neeley, Nellie Weil, Alice Reynolds, Joyce Hobbs, Margaret Carpenter, Arthur Mae Norris, Connie Harper, Faye Baggiano and Anita Folmar.

While they often represent the best in their particular business or interest, they were chosen because they went "beyond the norm."

They are educators, lawyers, volunteers, public servants and businesswomen. Many of them are mothers and wives. During interviews with Montgomery Advertiser staff reporters, several themes recurred as they discussed what makes them successful. In many cases, they also explained why they are willing to work 10 and 12 hour days each day to see that the Montgomery community is all it can be.

One of the winners says, "It would be a mistake to ever be satisfied."

A second is often strained by the demands on her, but doesn't believe in "closing doors."

A third agrees that being an achieving woman is a draining task, but said the personal rewards and the benefits for the community are worth it. "Everything you do in life prepares you for something else later," she said.

Perhaps the best indicator of why the Advertiser-Journal's Women of Achievement have been winners in all facets of their lives comes in a comment from one of the 10:

"When you help your community," she said, "you help yourself."

To find out more about this year's honorees, please see pages 6G and 7G.

[From the Montgomery Advertiser and Alabama Journal, Mar. 22, 1987]

CONNIE J. HARPER: INSTRUCTOR IN SELF-HELP

(By Amy Herring)

It was shortly before 9 a.m. on March 17 and Connie Harper was trying to help an unemployed, 18-year-old Lowndes County mother who couldn't depend on the luck of the Irish to find her a job.

Harper ricocheted through the Opportunities Industrialization Center and silenced an employee who was trying to explain that the woman had no transportation to Montgomery and no one to keep her baby while she went on the job interview.

"We'll just have to go and get her, and tell her she can keep her baby here," Harper said. "Call and tell them she is coming, but will be a little late. She has no visible means of support. She needs this job."

Consuello "Connie" J. Harper has changed little since 1968, when she began teaching and preaching self help to blacks from a smoke-filled pool room on the corner of Monroe Street.

"I was telling the drunks, the pimps and the winos they could be somebody—that they didn't have to be prostitutes, they didn't have to be on welfare," the 58-year-old Harper said.

In the middle of the 1969 school year, Harper's obsession with finding work for others led her to quit her Macon County teaching job.

"My husband thought I was crazy—we had two small children to feed," Harper said. "But I knew I either had to quit or get fired because the superintendent in Macon County didn't agree with my philosophy."

Harper said her lucky day came during a downpour when the sympathetic pool hall owner allowed her to use a cluttered storage room, which she later transformed into an office.

Harper then faced her second problem—money.

The year was 1969 and, in what was considered a useless if not dangerous move, Harper decided to visit former Gov. George C. Wallace. At the time, Wallace was between terms and gearing up for what would become one of the most racially divided gubernatorial races in the state's history.

Wallace saw Harper and said he understood her dilemma, but he explained that he couldn't help OIC because he wasn't in office.

Harper persisted, and the governor dug into his own pockets and gave her $40.

When Wallace returned to office in 1970, Harper made another visit.

"And from that day on I was able to get appropriations," Harper said.

Harper's dream came true last year when the Consuello "Connie" J. Harper Complex of the Central Alabama Opportunities Industrialization Center, Inc. opened its doors.

"This was my dream," Harper said as she gave a guided tour of the multipurpose center, pointing proudly to certain areas much like a grandmother showing pictures of her grandchildren.

The center, according to Harper, would not have been built without the support of local, state and federal officials.

The Alabama OIC, with or without the complex, is a success story that often goes unnoticed in a society where people would rather talk about the number of winos loitering at the pool hall than the number of kids for whom Harper and OIC have found a job.

Currently, the center's success rate stands at 98 percent, one of the highest in the nation and significantly higher than any other similar program in Alabama.

JESSE COOKE

Mr. DOLE. Mr. President, in 1938 Congress passed the Javits-Wagner-O'Day Act to provide employment opportunities for blind, multihandicapped blind and other severely handicapped individuals throughout the United States. This program still continues and provides many individuals who either cannot work competitively or who require a transitional work environment before moving into competitive employment an opportunity to test their skills and gain some measure of self-sufficiency.

Each year the national industries for the blind, a central nonprofit agency for workshops participating in the Javits-Wagner-O'Day Program, selects one outstanding blind worker as the Peter J. Salmon National Blind Worker of the Year.

This year I am happy to announce that Mr. Jesse Cooke of Wichita, KS has won the award. Mr. Cooke presently works at Wichita Industries and Services for the Blind, Inc. where he helps assemble over 45 varieties of pens, and binds and boxes paper towels. Mr. Cooke became blind during his teenage years because of hydrocephalus. Jesse had to battle back from the results of the hydrocephalus and the subsequent surgeries. Because of his personal courage and the support of his loved ones and colleagues at the Wichita facility today he is a highly productive and motivated young man who is working his way into competitive employment.

Jesse is now married and very active in his local church where he and his wife, Diane, help when they can. They especially enjoy Saturdays and Sundays when they have a chance to babysit children whose parents are volunteers in other church activities.

While recognizing Jesse I cannot forget Linda Merrill, president of Wichita Industries and Services for the Blind, Inc., and her staff and the other employees of the facility who worked hard to help Jesse become the young man he is today. Their continuous care and concern for Jesse and all the Jesses of the Wichita area have made a difference.

UNIVERSITY OF NEVADA SCHOOL OF MEDICINE

Mr. HECHT. Mr. President, the University of Nevada School of Medicine is a young, dynamic institution which offers diverse educational opportunities to Nevadans. The school conducts

premiere scientific investigations, contributing to the quality of health care delivery in Nevada. The Medical school works with State and private agencies to enhance the overall quality of health care delivery in Nevada and the overall quality of life of Nevada's citizens.

With a visionary look to the future, the School of Medicine had developed progressive programs in nutrition and geriatrics and has incorporated the teaching of ethical decision making into many aspects of its curriculum. On the scientific front, the school has gained a national reputation for its faculties work in smooth muscle physiology and pharmacology and in virology and immunology. The school offers the State's only program in speech pathology and audiology and has a well developed program in medical technology.

Nevada's School of Medicine is proud of its affiliations with hospitals statewide. These hospitals provide the clinical resources necessary in planning high-quality, diverse educational opportunities.

Its students are the school's greatest resource. They are capable, talented men and women who have demonstrated not only their academic talents but also their ability to relate to people as compassionate care givers. It is this releationship—the doctor/patient relationship—which the University of Nevada School of Medicine sees as tantamount in the preservation of medicine as the noblest and most exciting of all professions.

FEDERAL TRIANGLE DEVELOPMENT ACT

(NOTE: In the RECORD of August 3, 1987 on page S11174, the name of Mr. GRAMM was inadvertantly listed as cosponsor of the committee substitute for S. 1550, the Federal Triangle Development Act, in lieu of the name of Mr. GRAHAM. The permanent RECORD will be corrected accordingly.)

Mr. SANFORD. Mr. President, I think the order now is to proceed with the nominations.

Mr. LEVIN. Then I think we had better put in a quorum call.

Mr. SANFORD. I have a remark or two to make while we are getting the necessary parties here.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. SANFORD. Mr. President, I ask unanimous consent that I be permitted to proceed as in morning business.

THE PURSUIT OF PEACE

Mr. SANFORD. Mr. President, we have heard this week of a new Central American peace proposal put forth by the Reagan administration. It is encouraging to see the administration join the call for a negotiated settlement in Central America, and I am hopeful that their involvement will hasten the peace process already underway.

It is essential, however, that we not divert our attention and our support from the important peace initiative that the Central Americans themselves have launched and are actively pursuing. This peace process will advance tomorrow, as the five Central American Presidents hold a summit meeting in Guatemala City, Guatemala. I am firmly convinced that this initiative is our best hope for peace in the region. It deserves our complete and unwavering support.

The Arias initiative has already had its first success: it has brought the Nicaraguans to the diplomatic table. The United States spent 5 years and hundreds of millions of dollars in aid to the Contras, with the ostensible purpose of pressuring the Sandinistas to come to the negotiating table. Now they are there.

Earlier this year, President Oscar Arias of Costa Rica, came forward with a peace initiative, one that calls on his Central American neighbors to join together to seek a regional solution to their regional problems. Now, only a few months later, the Nicaraguans have come to the diplomatic table. Last week, Nicaraguan Foreign Minister Miguel d'Escoto joined his colleagues for preliminary talks, and tomorrow, President Ortega will join the other Central American Presidents in a summit meeting to discuss the Arias initiative.

Sitting down to talk is a long way from reaching an agreement, but it is an essential and much desired first step. That President Arias and the other Central American democracies were able to achieve this crucial first step is much to their credit. They have done in a matter of months what a purely military policy could not achieve in years.

This initial progress has further convinced me that the Arias plan can work, that it can succeed where other initiatives have failed. Why? First and foremost, because it is an indigenous Central American initiative. The Central Americans themselves have taken charge of their own destiny and are working to resolve their own conflicts.

Frankly, their obstacles are large. The roots of the conflicts are deep. These Central American leaders must overcome decades of armed conflicts and political struggles. They must resolve tense and difficult questions about the role of the military in society, about amnesty for former combatants, and about competing claims for land, scarce resources, and political representation.

We need to be respectful of the task facing these heads of state. We need to remember that the path to peace is long and rocky, that it requires determination and patience. We hope to see real progress from this week's summit, but we must realize that peace and democracy cannot be achieved overnight. A successful summit is one that establishes areas of agreement, makes real progress toward achieving a cease-fire, and paves the way for further productive talks.

The most important thing that we ask of the Central American Presidents is that they show a sincere commitment to a peaceful resolution of their internal and regional conflicts; that they make their best-faith efforts to achieve the objectives that they adopted in the Arias plan; and that they move forward, without undue delay, to the next phase of the peace process.

I wish the Central American Presidents the best of luck as they undertake their negotiations. I will be watching with great hope for good news from Guatemala.

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

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

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. Without objection, morning business is closed.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to proceed to the consideration of the nomination of David S. Ruder of Illinois to be a member of the Securities and Exchange Commission.

Time for debate is limited to 1 hour and is equally divided between and controlled by Senator PROXMIRE and Senator GARN.

SECURITIES AND EXCHANGE COMMISSION

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of David S. Ruder, of Illinois, to be a member of the Securities and Exchange Commission.

Mr. PROXMIRE. I yield myself 3 minutes.

Mr. President, David Ruder was born and grew up in Wisconsin. He is in Illinois temporarily, for the present.

But I oppose the confirmation of the nomination of David Ruder to be Chairman of the SEC, and here is why:

Mr. Ruder brings to the office no record of administration of any Government agency or any private business. He was the dean of a fine law school at Northwestern University. He has written with impressive understanding about the securities laws. He has taught securities law at the Northwestern University Law School. He is an academic and a very good one.

The SEC is the country's principle enforcement agency with respect to the Nation's securities markets. Insider trading and securities fraud plague our securities markets today more severely than any time in the past 50 years. The success of our capital markets relies squarely on the public perception of their integrity. The obvious public perception today is that fraud and deception driven by manipulative hostile takeovers and insider trading are rife. Officials of some of the country's most respective and prestigious securities firms have been led off to prison in handcuffs. We have seen those pictures on the front page of the New York Times. The evidence indicates that our capital markets are awash in securities crime.

A scholarly professor of securities law with little or no experience in the capital markets in any capacity would have trouble restoring public confidence in the market under any circumstances. But when that professor brings to the chairmanship in this year 1987 no record of any concern about securities fraud or the abuses involved in insider trading, it is impossible for this Senator to vote to confirm his nomination. What the SEC needs as Chairman is a tough, no nonsense enforcer. A law professor who had demonstrated support for vigorous enforcement would deserve consideration. But a professor who has written about the securities laws for years without expressing support for vigorous enforcement will not have this Senator's confirming vote. Indeed, Mr Ruder has criticized the SEC for being too zealous in their enforcement. This is not the kind of enforcement chief we need under the present circumstances, and I will vote to oppose the nominee.

I must say, in all fairness, that his nomination was reported by our committee with a 17-to-3 favorable vote. I was in a small minority; but, as I believe John Steward Mill once said, "One in the right is a majority." Some people say that one in the right who is wrong is, I guess, a nut. But in this case I am sure I am a majority. I will let it settle right there.

Mr. GARN. Mr. President, I support David Ruder for this very important position.

I remind the chairman that he may think he is in the majority now. But in the confirmation hearings for the new Chairman of the Federal Reserve Board, Alan Greenspan, the chairman—as he has always been—was very forthright, very direct, and very honest. In these hearings, he stated that he had voted against Mr. Greenspan to be Chairman of the Council of Economic Advisers but, by looking backward, he had made a mistake.

I have always appreciated in my friend from Wisconsin that when he makes a mistake, he is willing to admit it; and I would expect that in the future, after Mr. Ruder has performed very well, Chairman PROXMIRE will once again have to stand up and say he made a mistake.

I rise to enthusiastically support David S. Ruder, who has been nominated by the President to succeed John Shad as the Chairman of the Securities and Exchange Commission. I believe that a review of Mr. Ruder's academic and professional accomplishments recommend him to the position for which he has been nominated.

The issues confronting the SEC at this point in time are numerous and complex. The Senate Banking Committee, like the SEC, must also grapple with these issues. In the upcoming months Congress will address legislative proposals which will affect battles for corporate control, corporate governance, insider trading and a host of other less publicized issues. The SEC will similarly be faced with increasingly complex regulatory issues, and the decisions made by the Commission are vitally important to our Nation's economic well being. I hope and fully expect that Mr. Ruder will provide Congress with the input it shall need to enact carefully crafted securities legislation and will provide the SEC the leadership which it needs to ensure that the American capital markets are the safest, soundest and most liquid in the world.

We are fortunate to have an individual of Mr. Ruder's caliber make a commitment to public service. I look forward to his confirmation and to his future appearances before the Banking Committee.

Mr. President, I repeat what the chairman has said—that it was a rather overwhelming vote in the committee, certainly a bipartisan vote, 17 voting in favor of his confirmation and only 3 against. I expect that he will do an excellent job in this position, although John Shad's shoes are hard to fill. I think everybody would agree that John Shad had a remarkable record in the 6 years he was Chairman of the Securities and Exchange Commission. I expect that Mr. Ruder will do equally as well.

Mr. PROXMIRE. Mr. President, I yield 5 minutes to the Senator from North Carolina.

IS DAVID RUDER TOUGH ENOUGH TO BE CHAIRMAN OF THE SEC?

Mr. SANFORD. Mr. President, I rise in opposition to David Ruder's nomination to be Chairman of the Securities and Exchange Commission. I have entitled my statement "Is David Ruder Tough Enough to be Chairman of the SEC?" While Mr. Ruder does have respected academic credentials and an extensive record of publications on the securities laws, he is simply not the right person for the SEC in this era of rampant hostile takeovers and constantly unfolding scandals of insider trading.

Indeed, before January 1984, there had been only 12 insider trading cases brought since our securities laws were written. But since January 1984, over 50 insider trading prosecutions have been brought, and we are told that this is only the tip of the iceberg. At a time when insider trading has become so widespread on Wall Street, we need to bring to the helm of the SEC someone with a clear record of commitment to tough enforcement of our securities laws.

But what do we find when we examine David Ruder closely? We find a man who has written numerous articles criticizing the SEC for its "zealous" use of rule 10(B)(5), the principal legal tool used to attack securities fraud. We find a man who has criticized the SEC for its use of the "misappropriation theory," which provides a cause of action based on a misappropriation of the proprietary information of a corporation. This misappropriation theory has been the key to some of the prosecutions of impermissible insider trading. We find a man who, when asked whether he would support U.S. Attorney Rudolph Giuliani's recommendation that stiffer sentences and harsher fines be imposed for insider trading, states that the current 5 year maximum sentence is "a long sentence by white collar crime standards."

Certainly, at a time when the SEC desperately needs a strong enforcer, the White House has instead put forward a man whose commitment to enforcement can only be called wanting.

And what do we find when we examine Mr. Ruder's views of the takeover mania that has been sweeping the country? We find a man who thinks it is acceptable to place corporations in so much debt that they cannot fund research and development activities or capital improvements essential to keeping our industries competitive, leaving thousands of workers out of a job, and stealing funds from their pensions. We find a man who believes that if the price per share is up, all must be right with the world. We find a man who favors virtually no change to our takeover laws, who when asked about the huge short-swing profits made by

raiders like Boone Pickens and Carl Icahn replies that they deserve to make millions, even in unsuccessful bids, for their part in identifying corporations whose stock may be undervalued in the market. That is a high fee for identifying something that any junior accountant can see.

Indeed, our prime concern must be with Mr. Ruder's philosophy. He clearly lacks a broad view of our corporate world. He appears to believe that the only rights that need to be considered are those of the shareholder. That view is no longer legally valid or realistic, if it ever was. It is quite clear that corporations and the capital markets surrounding them serve a broader purpose than enriching the shareholders. Corporations have a responsibility to a wide constituency—employees, customers, the communities in which they are located, and the competitiveness of corporate America. They serve, and are, the financial backbone of the country.

Dean Ruder is a splendid gentleman. He has an excellent reputation in the academic world. He was considered to be a very fine law school dean. I liked him very much on first meeting him, and I have great respect for him. But he is not the man for the job. We need a tough and activist SEC Chairman.

I do not expect his nomination to be rejected. I certainly have not intended to mount an all out effort to defeat his appointment, but I do hope he will reexamine his stance on insider trading and takeovers. And I would be very happy, as the ranking member of the Banking Committee suggested, to admit that I am wrong. I hope I do turn out to be wrong. I hope he does reexamine his stance. I hope he does take an up-to-date view of the corporate world.

At a time when our capital markets are damaged by ever unfolding stories of insider trading, and our corporations as a result of unwarranted takeovers are increasingly transferring equity to debt, the SEC and corporate America deserve a tougher Chairman. We need a Chairman willing to protect this Nation's businesses from the ravages insider trading and hostile takeovers have wrought.

Thank you, Mr. President.

I yield.

Mr. PROXMIRE. Mr. President, I yield 5 minutes to the Senator from Alabama.

The PRESIDING OFFICER (Mr. HARKIN). The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, I rise today to ask my colleagues to support the nomination of Mr. David Ruder as Chairman of the Securities and Exchange Commission.

Mr. Ruder, I believe, and it is unquestioned, has excellent academic credentials, and I am impressed with his theories and a lot of his writings concerning the regulation of securities trading. He is a man of unquestioned integrity. He has a brilliant academic record. As the former dean and now a professor at Northwestern Law School in Chicago, he is well respected in his field. I believe that he will bring to the Securities and Exchange Commission some new blood and some new ideas.

But, as he said in the Banking hearings when we had hearings on his confirmation before the Banking Committee that I serve on with some of my colleagues who have just spoken here, he will vigorously pursue the insider trading scandals that have crowded Wall Street in the past several years. He also said he will work vigorously with the U.S. attorney who has done a tremendous job in ferreting out a lot of these abuses here.

I believe that Mr. Ruder, although he has big shoes to fill, can fill these shoes and that he can show that you can adapt some practicality to a lot of the theories that he has been teaching.

I believe that the SEC led by its Chairman has to be the dominant force in enforcing insider trading and other securities laws.

I trust and I believe by my support of Mr. Ruder that he will bring this new dimension an added dimension to the Securities and Exchange Commission because of so many problems that are going on in the securities field.

I urge my colleagues to join me in confirming Mr. Ruder.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GARN. Mr. President, I am happy to yield 7 minutes to the distinguished Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, I thank my friend from Utah and the ranking member of the committee for yielding to me.

Mr. President, as a member of the Securities Subcommittee of the Banking Committee, I rise today in opposition to the nomination of David Ruder to be Chairman of the Securities and Exchange Commission. I believe that Mr. Ruder's nomination to be our top securities regulator is quite clearly grounded in his laissez-faire ideology.

Prior to Mr. Ruder's nomination, there was considerable discussion about other candidates. It is my view this Mr. Ruder emerged as the leading candidate and ultimately got the nomination because he was viewed as the one who was less inclined to use the regulatory authority of the Securities and Exchange Commission.

Mr. President, I believe that a man who propounds such a laissez-faire ideology is simply not right for this particular job at this time.

There are two major issues before the SEC today: They are insider trading No. 1, and No. 2, corporate takeovers. On both of these critical issues Mr. Ruder is simply off the mark.

As we all know and as the distinguished chairman of the Banking Committee has so eloquently stated here this afternoon, Wall Street is currently beset by the most massive insider trading scandal in the Nation's history. The U.S. attorney in New York, Rudolph Giuliani, who is prosecuting the insider cases, and was thought to be a candidate for the Chairmanship of the SEC, believes that the scandal is much, much more pervasive than the indictments to date indicate. He advocates a drastic increase in penalties for insider trading violations as a deterrent to future insider crimes.

As Chairman of the SEC, Mr. Ruder will have direct responsibility for the SEC's enforcement action on insider trading. Yet, Mr. Ruder has told the Banking Committee that he believes that existing penalties are sufficient and that additional deterrents simply are not necessary, to use his words. Even more disturbingly, Mr. Ruder has written in ideological opposition to the legal theory on which the SEC has based many of its recent insider trading cases. I ask my colleagues at this time in history is this man the best choice to be our Nation's top securities law enforcer? I think not.

What about the question of corporate takeovers? The most important aspect for Mr. Ruder is that as far as he is concerned corporate takeovers result in shareholders being paid a premium price for their stock.

He maintained before the Banking Committee—and I think a fair reading of the transcript will indicate this—that all that matters is profit to the shareholders because a corporation's only duty is to its shareholders.

He does not consider the devastated communities, the layoffs, the debt, and the truncated research and development programs that have become commonplace as a result of corporations to either fight off takeovers or as a result of the actual takeover, attempt to be successful.

Mr. President, I would submit that Mr. Ruder's view of corporate takeover simply does not make policy sense, nor does it make legal sense. It has long been accepted and well settled in American law that corporations have a duty to others besides their shareholders. The Supreme Court held in the 1978 case of First National Bank of Boston versus Bellotti that "Corporations * * * are created by the State as a means of furthering the public welfare." That is their reason for being.

Indeed, in a celebrated case involving Wrigley Field in Mr. Ruder's hometown of Chicago—and I dare-say, as a distinguished dean of the North-

western Law School, he referred to this case in his courses—a court upheld a decision of the corporation that owned the Chicago Cubs baseball team not to install lights at Wrigley Field. And why was the Cubs decision upheld not to install lights at Wrigley Field, even though it was shown that the shareholders of the corporation would have benefited by the income that night games would bring to the Cubs corporation? Because the directors of the corporation thought that the neighborhood, in their view, a constituency of the Chicago Cubs Corp., would deteriorate and would be harmed if the lights were installed. The court said, in what is considered one of the leading corporate responsibility cases, that it was appropriate to consider the corporation's duty to its community.

Mr. President, I submit that Mr. Ruder would do well to heed the reasoning of such cases. National security policy, in this Senator's view, should not be driven simply by stock prices. Clearly, the rights of shareholders do matter and they matter greatly. But communities have rights also, and so do employees and so do pensioners. Indeed, the country as a whole has an interest in the health, the vitality, and the competitiveness of our corporations. Corporations in this country control the lion's share of the means of production. They determine how effectively this country is going to compete, both domestically and internationally. They determine how well our economy will function and, in the final analysis, in large measure, they determine the quality of life of our citizens.

Yet, in the last 2 years, corporations have added almost 400 billion dollars' worth of debt, largely as a result of takeovers. Over the same period, Business Week, a noted business magazine, estimates that takeovers have resulted in 500,000 jobs being lost. Indeed, Dr. Alan Greenspan, the new Chairman of the Federal Reserve Board, among other noted economists, has expressed concern about the number of well-managed companies that have been subject to takeovers and about the enormous debt that that is building in the economy.

To think that takeovers are beneficial simply because stockholders are benefited with a high price for their stock, I think, obviously ignores the other effects of takeovers—effects that courts say should be considered in the context of good corporate governance; effects that certainly should be considered in the context of prudent national policymaking. To dismiss the broader issues and hide behind the so-called deficient market theory on stock prices indicates an ideological bent, a worshiping at the altar of the free market concept, that is not in keeping with what the times demand, and certainly is not in keeping with the mandate of the Securities and Exchange Commission.

The Williams Act, the Federal securities law governing the tender offer process, has been subject to much abuse in recent years. The Senate Banking Committee currently is considering reform legislation. But Mr. Ruder testified in opposition to nearly every provision of the takeover bill that is cosponsored by 10 members of the Banking Committee.

Mr. President, we need to send a strong signal to the administration and to the Securities and Exchange Commission that we are serious about legislating a takeover bill and, after we legislate it, seeing that it is enforced.

Even more importantly, we need to send a signal that Congress is serious about the enforcement of our existing securities laws. Public confidence has been seriously shaken by both the insider trading scandals and the takeover craze that have swept the corporate world. What we need now is rigorous enforcement by the Securities and Exchange Commission and not laissez-faire, do-nothing policies.

Mr. President, it is the perception of many of my colleagues on the Banking Committee that Mr. Ruder was chosen for ideological reasons. He was nominated because he agrees with the hands-off approach of this administration to hostile takeovers.

Mr. President, there is no doubt that Mr. Ruder is a distinguished scholar, that he does have superior academic credentials, but he was nominated primarily because of his ideology that dictates that he be a laissez-faire head of the SEC. And that is precisely the reason that I feel compelled to vote against him.

Mr. President, I yield the floor and I thank the distinguished chairman of the committee and the ranking member.

Mr. D'AMATO. Mr. President. I rise to support enthusiastically David S. Ruder as a nominee to the position of Chairman of the SEC. He will come to the SEC at a time when insider trading cases are threatening public confidence in Wall Street and Congress is considering new legislation that would impede corporate takeovers. He will also be asked to provide leadership during the Commission's consideration of a myriad of complex regulatory matters including, among others, one share/one vote, the internationalization of the securities markets and the structure of our own securities and options markets.

While the Commission will face many issues during Mr. Ruder's tenure, the Commission's most important function is to maintain investor confidence and safe and sound securities markets. These twin goals can be best accomplished through vigorous enforcement of the antifraud provisions of the Federal securities laws rather than through the promulgation of new rules and regulations. The vigorous prosecution of the antifraud sections of the securities laws—especially insider trading—was the hallmark of the SEC under John Shad's stewardship. I hope Mr. Ruder will share his strong commitment to come down with hobnail boots on fraudulent activity because John Shad's boots will be hard to fill.

I stress the enforcement aspects of the SEC because, quite frankly, his detractors have been critical of him for seeming to be less than a regulatory Rambo. Incidentally, these same critics voiced the same concerns about John Shad prior to his confirmation. I think such criticisms may be unfair in light of his distinguished academic and professional careers. I believe a fair reading of his prolific legal writings would lead any reasonable reader to conclude that he will be tough on those who seek to undermine the securities markets of this country. Hopefully he will continue to promote the tough cop image of the SEC.

Mr. PROXMIRE. Mr. President, I yield 5 minutes to the Senator from Michigan.

Mr. RIEGLE. Mr. President, I rise as the chairman of the Securities Subcommittee of the Banking Committee, and so I have given this nomination considerable thought, as my colleagues who have spoken have, as well.

During the Senate Banking Committee hearings on David Ruder's nomination, three Senators—Senator PROXMIRE, Senator SANFORD, and Senator SASSER—all expressed serious misgivings about the confirmation of Mr. Ruder as the Chairman of the SEC and voted against his being confirmed. Their concerns fall into two categories.

First, Mr. Ruder has virtually no enforcement background at a time in the Commission's history when the Commission needs a very knowledgeable and tough cop on the beat.

Second, on the subject of corporate takeovers, with both the securities industry and the corporate community each telling us that legislation is needed in this area, Mr. Ruder has taken a hard line that nothing should be done expcept to close the 10-day window period. Even the opposing sides on this issue are agreed that more than that should be done.

And I must say that personally I am concerned that when he was asked his views on Glass-Steagall and whether or not he supported allowing banks additional securities powers, he had no views whatsoever on that subject.

So I share many of the reservations that have been expressed by Senators PROXMIRE, SANFORD, and SASSER as well as other Senators who have spoken with me about the confirmation of Mr. Ruder to be the Chairman

of the SEC at this very important time in its history.

Weighing these things and other things which I will shortly mention, I, nevertheless, reached the judgment to vote for Mr. Ruder in committee. I have sought to have this nomination brought before the full Senate today before the recess and I plan to vote for him today. I do so for a number of reasons.

Most importantly, the Commission badly needs a Chairman at this time to give the agency greater direction. There are simply too many important issues before the Commission to have the SEC without a sitting Chairman.

Furthermore, Mr. Ruder is an eminently qualified, highly regarded securities law professor. People may legitimately agree or disagree with his views on certain policy issues. I find myself in disagreement with some. But I think it is fair to say that his intelligence and his integrity are well recognized and widely respected.

As chairman of the Securities Subcommittee I believe that I will be able to work well with Mr. Ruder over the next year and a half on issues which we both recognize are extremely important and may include, first, preparation for regulatory initiatives to meet problems associated with internationalization of the securities markets; second, vigorous enforcement of the tender offer laws now on the books and any new ones that might be added; third, vigorous enforcement of insider trading regulation; fourth, increased protection for broker-dealer customers; fifth, continuation of a strong and effective disclosure system, including implementation of EDGAR, and there are others that I might list.

Finally, I have introduced, together with Senator D'AMATO, S. 1380, the Insider Protection Proscription Act of 1987. Tomorrow we are holding additional hearings on this subject during which the SEC will testify and submit their views officially.

The next step will be to work out and incorporate the differences between these proposals.

Mr. Ruder has written in response to a question that I submitted to him at his confirmation hearing, of his concern, and I quote, that "the reach of the law as it currently exists should not be reduced but be expanded in certain respects and that fairness considerations be used."

I share those sentiments of Mr. Ruder's, and I am confident that we can work together within the context of S. 1380 to pass meaningful legislation in this Congress on insider trading; a step that I think is badly needed.

So, for these reasons I plan to vote for Mr. Ruder, and I am glad we are acting on this nomination before the recess.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. GARN. I would be happy to yield such time as the Senator from Illinois desires.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DIXON. Mr. President, I rise in support of the nomination of David Ruder, to be Chairman of the Securities and Exchange Commission. He has been a distinguished professor at Northwestern University Law School since 1973 and was dean of the school between 1977 and 1985. Mr. Ruder has a strong securities background.

He has published over 40 articles on corporate and securities issues, and he has had significant securities litigation experience. He has been a member of the Securities Law Committees of the American and the Chicago Bar Associations, Legal Advisory Committee of the New York Stock Exchange, and the group of consultants to the American Law Institute's Federal securities law project.

In short, Mr. President, David Ruder is well qualified for the position of Chairman of the Securities and Exchange Commission. He has the experience. He has the expertise. And he has the qualities of judgment that are needed to succeed in that very difficult post.

He has an excellent reputation in Illinois and in legal circles generally.

Mr. President, I can say without reservation or hesitation that everyone in Illinois I have talked to about David Ruder enthusiastically supports his nomination.

I share the view expressed by some others that he will make a first-rate Chairman, and I am delighted to be able to support him today on the floor of the U.S. Senate, and I just want to say this briefly in conclusion.

I have heard some of my friends and colleagues I greatly respect expressing concerns about how forceful he will be as Chairman of the SEC.

I want to tell all my colleagues I am satisfied that they will be delighted with the advice of this man as Chairman of the SEC. He has personally told me that he expects to move on insider trader violations with great dispatch, and I support with all the enthusiasm at my command, Mr. President, the nomination of David Ruder to be Chairman of the Securities and Exchange Commission. I yield back such additional time as might have been accorded me, and I thank my colleagues.

Mr. PROXMIRE. Mr. President, I yield 5 minutes to the distinguished Senator from Colorado.

Mr. WIRTH. I thank the Senator for yielding me 5 minutes and appreciate the opportunity to say a few words in support of Dr. Ruder. I do not think anyone in the Chamber is questioning the academic credentials or the integrity of the nominee to be head of the SEC nor does anybody question the fact that this is a gentleman who is an expert in the law. He has worked through a vast number of the securities issues and is obviously a very distinguished scholar.

What we have here is some question about the role that Mr. Ruder apparently believes that the SEC ought to take. I am convinced from my own conversations privately and from the testimony that we received from Dr. Ruder during his confirmation hearings, that this is somebody who will, as he said he would, continue the vigorous enforcement program of the Securities and Exchange Commission.

From our perspective with oversight of the SEC is very good news.

We have had a long-term partnership between the Congress and the SEC in fashioning the direction in which the SEC goes.

In 1981, when the new SEC came in following the election of President Reagan they came and told us they could do more with less. They came in to deregulate and many of us thought that they were in much too much of a rush; they were giving away too much and the Congress came back and said: "Hey, wait a minute." We had the other Commissioners in here and had a discussion of their budgets in 1981 and 1982 and got them back into what I think is a very favorable and productive balance. That is the balance we have now between the changing nature of the marketplace and the traditional commitments to various ways of enforcement at the SEC. I think that balance is serving us well now, and I believe that Dr. Ruder will continue to carry out that mandate which I believe we have given him from the Congress.

Now, the question has arisen, is Dr. Ruder too protakeover.

I think it is very clear from his statement, from his testimony and from his record, that Dr. Ruder believes that his first responsibility is to protect the shareholder. That is, after all, the first and foremost responsibility of whoever is Chairman of the Securities and Exchange Commission. That is the basis and the most important responsibility that anybody at the SEC has.

The SEC was created with the mandate of instilling investor confidence. It started out with the purpose of assuring safety and soundness of our financial institutions. Most importantly, it was started out to assure that investors would believe that the market was honest, that it was a place in which they could safely put their money and they would be given a fair shake. So I believe that is the first and foremost responsibility.

Mr. PROXMIRE. Will the distinguished Senator yield? I hesitate to in-

terrupt the Senator. Maybe he is coming to a second or third responsibility. But would not the Senator agree this is not the only responsibility of the SEC? It has responsibility to the community, employees, customers, and so forth?

Mr. WIRTH. I appreciate the chairman bringing those up. They are responsibilities. But, in terms of the history of the SEC and the charge that we have historically given to the SEC is, first and foremost, shareholder protection.

We are now reviewing other areas where the SEC, like other Federal agencies, also has responsibilities. We are now trying to define, in the legislation which the distinguished chairman of the committee has crafted and of which I am a cosponsor, and to begin to identify what those other areas of responsibility are. It is not always clear what those responsibilities are.

Where there is agreement and where there is clearly defined law, I think Dr. Ruder meets that test and meets it very well.

The Chairman has suggested other areas of responsibility: the impact of what may happen in communities during a takeover battle and what should be the role of the SEC.

What is the SEC's responsibility toward policies of a targeted company? What is its responsibility in looking at the international markets, the changes in the structure of American industry, and how that might impact on our global competitiveness? Should the SEC look at debt structure and its impact upon our ability to compete internationally but also maintain our traditional capital markets?

Mr. President, all those areas—community impact, international marketplace, competitiveness, market structure—are all new areas for review. Mr. Ruder has said he looks forward to a discussion of that but has not made up his mind as to exactly what we ought to do. I think there are very few of us and very few other people who have dealt with this area who have a clear and explicit definition of exactly what they believe the SEC responsibility is today.

Let me make two other quick and final points. One of those relates to Dr. Ruder's reluctance, as I understood his testimony, to get us into precluding within the takeover law what ought to be done on the whole array of defense and attack possibilities. I happen to agree with him that it would be a bad idea for us to try to write each one of these into the law because it would serve to open new loopholes.

I also think we have to be very careful of writing a very specific definition of insider trading. I think it may be preferable to let case law serve as the definition.

A final note, if I might, Mr. President.

I was encouraged by Dr. Ruder's statement that he was very concerned with the Municipal Securities Act. I think he is exactly right in saying so and it indicates his concern about tough enforcement.

The Municipal Securities Act, was a major problem when the WPPS bonds went down some years ago. I believe the distinguished chairman of the committee, at that time the ranking minority member, wrote to the SEC alerting them to the kinds of problems that existed in the municipal securities market. When I was in the other body, Chairman DINGELL and I also wrote.

We have had a recent scandal that indicates a similar problem is emerging in the area of municipal securities.

I was encouraged that Dr. Ruder raised that issue, and I think that indicates that he is not, as some have suggested, a deregulator, but is somebody who aggressively forges ahead.

Mr. President, I hope he will be confirmed today. I look forward to working with him in meeting our responsibilities.

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. GORE. Mr. President, I must oppose the nomination of Mr. David Ruder as Chairman of the Securities and Exchange Commission [SEC]. Mr. Ruder's appointment comes at a crucial time in the history of America's capital markets—the SEC is currently in the midst of the most extensive investigation into fraud and abuse on Wall Street ever conducted. With insider trading scandals undermining public confidence in the securities market and with Congress considering major legislation in the area of hostile corporate takeovers, the SEC needs a Chairman committed to strong and vigorous enforcement of securities laws.

Throughout his academic career, Mr. Ruder has advocated a narrow definition of insider trading and a hands-off policy toward policing the corporate takeover process. He has criticized the SEC for its ambitious efforts to prosecute insider traders and has recommended abandonment of the so-called "misappropriation theory," one of the SEC's most effective legal weapons against insider trading.

Regarding hostile takeovers, Mr. Ruder espouses the view that shareholder wealth is the only legitimate concern in evaluating the takeover process. While shareholders certainly deserve protection from abusive practices, Mr. Ruder's narrow view ignores the devastating effects hostile takeovers can have on workers and communities and neglects the long-term costs of merger mania, such as staggering corporate debt and lagging research and development.

Thus, Mr. Ruder's philosophy regarding the two most important and urgent securities issues of the 1980's—insider trading and hostile corporate takeovers—is clearly out of step with the demands of today's capital markets. Perhaps more than at any other time in American economic history, we need a person at the helm of the SEC who will take an active role in combating abuses on Wall Street and in the corporate world. While Mr. Ruder's academic credentials are impressive, I must nevertheless join my distinguished colleagues, Senators PROXMIRE, SASSER, and SANFORD of the Banking Committee in voicing my opinion that David Ruder is the wrong man for the Chairmanship of the Securities and Exchange Commission.●

Mr. PROXMIRE. Mr. President, there are no other requests for time.

Mr. GARN. Mr. President, I yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

All time having been yielded back, the question is, Will the Senate advise and consent to the nomination of David S. Ruder, of Illinois, to be a Member of the Securities and Exchange Commission? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] is necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

The PRESIDING OFFICER (Mr. ADAMS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 81, nays 17, as follows:

[Rollcall Vote No. 228 Ex.]

YEAS—81

Armstrong	Durenberger	Matsunaga
Bentsen	Evans	McCain
Biden	Exon	McClure
Bond	Garn	McConnell
Boren	Glenn	Melcher
Boschwitz	Graham	Mitchell
Bradley	Gramm	Moynihan
Breaux	Grassley	Murkowski
Bumpers	Hatch	Nickles
Burdick	Hecht	Nunn
Chafee	Heflin	Packwood
Cochran	Heinz	Pell
Cohen	Helms	Pressler
Conrad	Hollings	Pryor
Cranston	Humphrey	Quayle
D'Amato	Inouye	Reid
Danforth	Johnston	Riegle
Daschle	Karnes	Roth
DeConcini	Kassebaum	Rudman
Dixon	Kasten	Sarbanes
Dodd	Lautenberg	Shelby
Dole	Leahy	Simon
Domenici	Lugar	Simpson

Specter	Symms	Warner
Stafford	Thurmond	Weicker
Stennis	Trible	Wilson
Stevens	Wallop	Wirth

NAYS—17

Adams	Fowler	Mikulski
Baucus	Harkin	Proxmire
Bingaman	Kennedy	Rockefeller
Byrd	Kerry	Sanford
Chiles	Levin	Sasser
Ford	Metzenbaum	

NOT VOTING—2

Gore	Hatfield

So the nomination was confirmed.

Mr. BYRD. Mr. President, I ask unanimous consent that the motion to reconsider be laid on the table.

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

Mr. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

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

LEGISLATIVE BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

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

The majority leader.

UNANIMOUS CONSENT REQUEST—S. 328

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 132, S. 328, a bill by Mr. SASSER and others to require the Federal Government to pay interest on overdue payments. And why should it not?

The PRESIDING OFFICER. Is there objection?

The Republican leader.

Mr. DOLE. Mr. President, reserving the right to object, and I hope we do not have to object, I would just as soon take up the bill. I think there are two Senators, maybe one on this side, who might be talking, maybe one on the other side, about one amendment. The distinguished Senator from Indiana [Mr. QUAYLE] I think is working with the distinguished Senator from Michigan [Mr. LEVIN] on an amendment, and he indicated to me he does not think there has been enough time to gin up support for that particular amendment. But I have suggested that if he wishes to object that he should do so.

Would it be the intention of the majority leader if there is an objection to move to the consideration of that matter?

Mr. BYRD. It would be my intention if there is an objection, and I hope there will not be—if Senators have problems with amendments this is the place to work them out—in response to the Republican leader I would ask unanimous consent to take up the State Department authorization bill.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Mr. President, reserving the right to object, and I do not intend to object, I would like to ask the majority leader, there are some remarks—and I cannot characterize them totally as brief; they will run between 5 and 10 minutes—I would like to make on a subject unrelated to the bill the majority leader intends to call up, but I would like to make those remarks, if possible, before the debate on that measure begins.

Could that be accommodated?

Mr. BYRD. Yes, I think that could be accommodated. I would like, if we could first, to get something up, and then as soon as we get it up, we will try to accommodate the distinguished Senator.

Mr. HEINZ. I withdraw my objection.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, we cannot locate the Senator from Indiana right now. I do not want to frustrate the efforts of the majority leader, but I feel constrained to object at least for the moment.

It is my understanding he is conferring with Senator LEVIN, trying to get together with Senator LEVIN on one amendment. I understand every other thing has been disposed of. There is no objection on either side.

So at least for the time being, I object.

The PRESIDING OFFICER. Objection is heard.

The majority leader.

UNANIMOUS CONSENT REQUEST—S. 1394

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 173, S. 1394. This is the State Department authorization bill.

The PRESIDING OFFICER. Is there objection to the request?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. BYRD. Mr. President, I withdraw my request for the moment while the distinguished Republican leader is making some inquiries.

In the meantime, I ask unanimous consent that the distinguished Senator from—where is the Senator from?

Mr. LEAHY. Vermont; the beautiful green hills of Vermont.

Mr. BYRD. Now, where have I heard that before?

The green hills of West Virginia.

Mr. HEINZ. Which are just adjacent to southwestern Pennsylvania; I think that it is probably the other way around.

Mr. LEAHY. Mr. President, if the Senator will let me say, we are getting on dangerous ground when we start talking about those green hills. I recall about this time a week ago, we got into a half an hour discussion about beautiful green hills.

I might tell the distinguished Senator from West Virginia, I have gotten all kinds of mail from people who tell me now their most difficult choice is whether to go to West Virginia, having heard him tell how beautiful it was there, or Vermont, having heard me tell how beautiful it was there.

Mr. HEINZ. The Senator is treading on very dangerous ground because between West Virginia and Vermont is beautiful Pennsylvania.

Mr. LEAHY. I suggest they go to all three, because the States are so beautiful.

I would ask the majority leader if he might yield to me for 7 or 8 minutes for a statement.

Mr. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Vermont may proceed for not to exceed 10 minutes and the distinguished Senator from Pennsylvania may proceed for not to exceed 10 minutes and that, in the meantime, if the distinguished Republican leader returns and is able to clear our going to the State Department authorization bill, that I may be recognized to get the Senate on track and then these gentlemen may continue and complete their remarks.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? Hearing no objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I thank the distinguished majority leader for his usual courtesy and help.

NOMINATION OF ROBERT BORK

Mr. LEAHY. Mr. President, all of us are getting inundated with mail on the nomination of Judge Robert H. Bork to be a Justice of the U.S. Supreme Court, and much will be said about it. But I wanted to make a couple of points before we leave on recess.

For when the Senate returns from its August recess, it is going to turn to one of the most important and most difficult of its constitutional responsibilities. The Senate's consideration of the nomination of Robert Bork is going to test our fidelity to the obligations that the Constitution imposes on us. The American people are going to be watching closely to see that we meet that test.

I am speaking for a limited purpose here today, Mr. President. I am not here to announce how I am going to vote on the nomination. I am not here to try to persuade other Senators on

how they should vote. Among other reasons, I do not know how I am going to vote. I have not yet decided.

My purpose is simply to present the views of one Vermont Senator on how the Senate ought to go about performing its constitutional duty with respect to this extraordinarily important nomination.

When the Constitution was written 200 summers ago, the framers of the Constitution intended there to be two players in judicial nominations: the President and the Senate. And they intended very clearly that the roles that they were going to have would be of equal responsibility. The 100 Members of this body, just like the President, have been elected by all the people of this country and all of the people have the right to expect that each of us will approach our role with equal care and equal concern for the importance of the decision at hand.

The President has made his decision. He has played his role in the constitutional drama of selecting a new Justice of the Supreme Court. Now it is time for the U.S. Senate. Our job is neither to rubber stamp the President's choice nor to make the nomination a litmus test of our partisan relationship to the President. Our job is to make our own independent judgment about whether Robert Bork is the right person for this crucial position.

And we must look at a number of factors. Everyone agrees that his professional competence, integrity, and character are important factors. The harder question seems to be whether ones ideology is the proper subject for the Senate's consideration. I believe it is.

It makes no difference to me, as one Senator, whether Judge Bork is Democrat, Republican, liberal, or conservative, how he has voted in past elections, or how he would vote on controversial issues if he were a legislator.

And if by "ideology" we mean the judicial philosophy that Judge Bork would bring with him to the Supreme Court—his approach to the Constitution and to the role of the courts in discerning and enforcing its demands—then we are talking about an issue that goes right to the heart of the Senate's role.

Let us remind ourselves why this question of judicial philosophy is so important. The authors of our Constitution and of the Bill of Rights recognized that certain fundamental liberties cannot safely be entrusted entirely to the good intentions of the legislative and executive branches. For that reason, the drafters and ratifiers of the Constitution established an independent judiciary. They wanted it to serve, as James Madison said, as "an impenetrable bulwark against every assumption of power in the legislative or executive."

Time and again throughout our history, when the other branches of Government were unwilling and unable to protect these fundamental rights, Americans turned to the courts, and ultimately to the Supreme Court, to bring the written words of the Constitution to life.

Mr. President, that essential role of the Supreme Court is the cornerstone of our constitutional system. It has helped to liberate black Americans from the shackles of official segregation. It protects not only the right to vote, but the right to have every vote counted equally. And in cases too numerous to mention, it enforces the constitutional commands that fence Government out of aspects of our private lives in which it has no legitimate business.

The preservation and vitality of this role of the Supreme Court as the ultimate arbiter of our constitutional rights and responsibilities is the standard by which the judicial philosophy of this nominee must be measured.

The President has described Judge Bork as "an intellectually powerful advocate of judicial restraint." Those words "judicial restraint, mean a lot of different things to a lot of different people. What they mean to Judge Bork—how they are embodied in his judicial philosophy—is the issue before the Senate.

All the circumstances leading up to this nomination make it very clear that the President gave great weight to judicial philosophy when he decided to nominate Judge Bork. The President did not just nominate the best lawyer or judge he could find. He made it very clear that he nominated a skilled and experienced lawyer and judge who also happens to be a prominent and forceful advocate of a particular judicial philosophy—a philosophy that President Reagan says he shares.

I have not heard a single convincing argument that one actor in the process of advice and consent may legitimately consider a nominee's judicial philosophy but the other cannot.

The President is perfectly within his rights to consider the philosophy of a person that he nominates. But we, every one of the 100 Members of the Senate, have just as much of a right to consider that same judicial philosophy when we determine whether we are going to consent to this nomination. We are equal partners in it. And if the President wants a particular judicial philosophy in the judges he nominates, the equal partners in this process, the U.S. Senate, can also say we want a particular judicial philosophy in those people we are willing to confirm.

Now, Mr. President, there is a lot to know about Judge Bork. He has written extensively in law review articles and opinions of the court of appeals. In fact, I asked my staff, "Would you please bring me the materials that Judge Bork has written so I can read them?" The 3,000 or so pages that they presented to me changed my recess plans quite a bit. I have already called my wife and said: take that shelf full of books in our farmhouse in Vermont—you know that history of World War I that I keep saying that I am going to read—and clear them out because we have got something that takes up a lot more room and something I am going to have to read.

It is a whole series of binders which are going to be put up in a couple of boxes that will travel with me to Vermont this weekend.

I look forward to the relative quiet of the recess so I can take advantage of the solitude of my tree farm in Vermont and give this critical written record of Judge Bork's judicial philosophy the careful attention it deserves.

Because what I read there will determine to a great deal how I am going to vote on this nomination. I have heard from hundreds and hundreds of people, not only in Vermont but throughout the country. They have written me letters. They have called me on the telephone. They have come up to me in civic and social events in Vermont to offer their views.

All are deeply concerned about the outcome of this confirmation process. Many express opinions that are extraordinarily thoughtful and thought-provoking, and I appreciate their advice. They have given me much to think about that will help me as my own views take shape in the weeks ahead.

The time we choose new Justices of the Supreme Court is a moment which joins the interests of all three branches of the Government established by the people. It is a moment when the guardianship of the Constitution has to be safely conveyed. It is a moment that explains a great deal about the way the American system of government works.

At this moment in history it seems to me that our system is working exactly the way the authors of the Constitution intended.

Of course, the framers could not imagine life in 1987. They could not imagine all the changes in our life, in our laws, in science, in society. The controversy over the nomination of Robert Bork is no exception.

We all have read about the massive war chests that are being raised by both the proponents and opponents of this nomination. America's mailboxes already are filling with the computer printed copies of the call to arms. The proponents inspire their troops with the battle cry that the success of the Reagan revolution depends on the outcome of this struggle. The opponents rally their forces around a banner pro-

claiming that the fate of decades of expanding constitutional rights and perhaps even those rights themselves hang in the balance.

Well, of course the stakes are high. But I would say to those on one side who say that everything that the President stood for will fall if Judge Bork is not confirmed, and those on the other side who say the Constitution will fall if he is: Wait a minute. Quiet down. Watch the hearings. Listen with the rest of us.

Do what so many of us are going to do during the August recess. Study the record and then rely on the Senate's ability to rise to the occasion.

Of course the stakes are high. This is the most critical Supreme Court nomination in many years. But the Senate's ability to rise to the occasion might be better served by moderating the apocalyptic rhetoric that thus far has played an excessive role in the public debate. As the din of clashing interests reaches an uncomfortable volume, it will get harder and harder to find the space and time for the quiet reflection and searching analysis that is needed if the Senate is to give a responsible answer to the ultimate question: Will it consent to this nomination?

Those clashing interests will be heard. They will be heard in full and fair hearings by the Senate Judiciary Committee. Their advocates will be heard on this Senate floor, where I believe the fate of this nomination ultimately will be decided. But ultimately it will, I hope, be decided on the basis of whether, on all the evidence available to us, the Senate believes that Robert Bork is the right choice for this most important post.

Alexander Hamilton wrote of the constitutional process of advice and consent that "it is not easy to conceive a plan better calculated than this to promote a judicious choice of men for filling the offices of the Union." As I play my part, as 1 of 100 Senators, in the execution of this plan, I will seek to make a judicious choice. Because the post of Justice of the Supreme Court is one of the most important of the "offices of the Union," my responsibility to the Constitution demands no less.

The PRESIDING OFFICER. The time of the Senator from Vermont has expired. The Chair recognizes the Senator from Pennsylvania.

STEEL INDUSTRY PENSION PLANS

Mr. HEINZ. Mr. President, I rise to address an issue that only nominally affects a particular industry, but in fact affects practically every industry. I refer to a crisis that we face today with pensions in the steel industry in this country.

As most people know, the industries have recent financial woes and those financial woes have led, in turn, to serious underfunding in some steel pension plans. As a result, that underfunding is now threatening the future of the Pension Benefit Guaranty Corporation, the PBGC, as we refer to it, an authority, an agency that insures all the ERISA sanctioned pension plans in the United States.

As one measure of the threat to the PBGC, the administration has asked us to raise revenues this year in order to save the Pension Benefit Guaranty Corporation from insolvency and perhaps extinction. Since 80 percent, fully 80 percent of that agency's current deficit, and I might add much of its potential future deficit, comes solely from steel pension plans, I believe the best solution is to tackle the steel pension problems head on. As soon as the Senate reconvenes after the recess that we expect next week, I will introduce legislation that will help the steel industry keep its promises to its own retirees and even more importantly, protect the pension benefit guarantees program of benefit guarantees to other industries.

Steel's pension problems are the direct result of the industry's recent financial troubles. Domestic steel producers have been forced to cut production in response to declining demand and a flood of cheap foreign steel. In the last 6 years, steelmaking capacity has been reduced by 27 percent and steel employment has been cut in half. Over 250,000 steel workers have left the industry since 1981, many of them on early retirement. This huge, unanticipated flow of workers into early retirement has dramatically eroded funding in many of the steel pension plans. Today, more than $6.3 billion in steel pension benefits guaranteed by the Pension Benefit Guaranty Corporation [PBGC] are not funded.

This crisis came to a head last year when two of our largest steel producers—LTV and Wheeling-Pitt—filed for bankruptcy and dumped $2.8 billion in unfunded pension liability on the PBGC—tripling—in 1 year—the deficit the PBGC had been accumulating over its previous 12 years. Let me observe that this could be just the beginning for the PBGC. The steel companies that turned to chapter 11 bankruptcy to cut their costs are blazing a trail that other steel companies may be forced to follow. A bankruptcy filing by just one other steel producer would add another $2.5 billion to PBGC's deficit.

Legislation the Congress is now considering may make this problem worse. The administration has asked us to respond to PBGC's problems by raising its employer-paid premiums and tightening minimum funding standards for pensions. While the latter change may help prevent steel's problems from developing in other industries, they could make matters worse in the steel plans. The former—namely, raising premiums and doubling required pension contributions for the steel companies—could easily force the more troubled companies into bankruptcy. Merely exempting the steel plans from these tougher rules will not improve the funding of these plans. In both cases, PBGC would remain at risk, and we could be back next year trying to double the PBGC premium.

We cannot afford to merely scratch our heads over this problem—we need to tackle it head on. The remaining steel companies have to be given a chance to reduce their costs without going through chapter 11. They need to be encouraged to keep the promises they have made to their workers and retirees. And we need to avoid saddling the PBGC with $6 or $7 billion of steel pension liabilities that will be financed by all the other nonsteel employers in the United States.

The legislation I will introduce next month would provide an opportunity for steel companies to refinance their pension liabilities, meet their obligations to retirees, and stay out of chapter 11. In developing this legislation there are five principles that I have followed, and which I believe any reasonable approach to this problem should follow.

First, as I have said, companies that are going to restructure should be able to do so without having to file for bankruptcy. Bankruptcy requires companies to dump the lion's share of their total liabilities and not just reduce their costs enough to become profitable. It is an all or nothing proposition. All the obligations to retirees and creditors are dumped by companies in bankruptcy and none by others. The least efficient and most financially troubled producers are helped first. The most efficient producers then find it getting harder to compete. Assistance to the companies should be related to their costs and not to the aggressiveness of their bankruptcy lawyers.

Second, any solution should give retirees better benefit protection than they now get in chapter 11. I find the huge cutbacks in retiree benefits absolutely the worst result of a reliance on bankruptcy. Right now, retirees are paying most of the cost of a shutdown when companies go into bankruptcy. As little as one-third of steel retirement benefits may actually be insured by the Federal Government. The rest is owed to the retirees as unprotected health or supplemental pension benefits and is totally at risk when companies go into bankruptcy. A final settlement may leave retirees with only 20 cents on every dollar owed them. To the extent the Federal Government plays a role in restructuring, it should

be to help meet these human costs. Retirees should not have to bear the burden themselves for benefits promised by the companies.

Third, any Federal role should cost the Federal Government less—preferably a lot less—than doing nothing. And I must emphasize that doing nothing is expensive. Already two steel companies have dumped over $3 billion in unfunded pension obligations on the financially troubled Pension Benefit Guaranty Corporation. Terminations by two more steel companies would more than double this amount. If more steel companies go into bankruptcy, total costs to the Federal Government could run into the tens of billions of dollars.

Fourth, companies should stand behind the commitments they have made. It is unfair to allow some companies to dump their retirement obligations on the Federal Government and retirees, while others honor their commitments and end up paying for their competitors' pension liabilities as well. Companies that return to profitability should make good on their promises to retirees and not expect someone else to do it for them.

In particular, and above all, any financial aid directly or indirectly supported or subsidized by the Federal Government used to help defray the human costs I have mentioned should be paid back when profits return in the future.

Fifth, companies should not be encouraged to make any adjustments they would not otherwise be inclined to make. Companies will need to weigh the costs and benefits of each of their operations. Federal assistance should help make it possible to restructure where needed. It should not encourage companies to take actions that would not be necessary in the absence of subsidies. The Federal Government's support may enable some companies to make changes they want to make but cannot afford. It should not become an incentive to shut down potentially profitable facilities and lay off workers.

I am now drafting legislation consistent with these principles to refinance the added pension costs that have resulted from steel capacity reduction. In general, the legislation would establish a steel retirement authority that would assume the responsibility for paying special supplemental and shutdown benefits in the steel industry and would be backed by assets, debt or equity from the steel companies. Any supplemental pension obligations created within the last 5 years or within the next 2 in connection with a reduction in capacity in the steel industry could be transferred to the authority. Participating companies would be required to continue paying their normal pension and health benefits to retirees.

Specifically, the steel pension bill would create an authority to receive liabilities for shutdown pensions from steel companies, negotiate agreements with steel companies to annually transfer assets, equity or debt instruments to the authority, create a fund and issue convertible bonds to private investors, and contract with the companies to issue shutdown benefit checks—for which the authority would annually transfer cash to the companies.

Participating companies would transfer liability to the authority equal to the present value of all future "qualified benefit payments" to retirees who began receiving "70/80" or "rule of 65" pensions after 1981 and before a date 2 years after enactment. Qualified benefit payments are: First, the early retirement subsidy portion of "70/80" or "rule of 65" pensions—for the life of the retiree—plus second, the $400 supplements paid to age 62.

The authority would assume the full liability for all future "qualified benefit payments" and would contract with the companies to issue checks to the beneficiaries. The total amount to be paid to beneficiaries would be transfered to the companies over 10 years. Companies would be required to use the money to fund their pension plans. However, companies that have fully funded plans and cannot make additional contributions would be permitted to use the funds for retirement health benefits.

Participating companies would be required to continue operating their pension and retiree health plans and to transfer annually an amount of assets, equity, or debt with sufficient value to cover the annual cash payment to the company. Remaining liabilities will be returned to the company in the event of a chapter 11 filing or the sale or transfer of assets in a shutdown facility.

The authority would annually raise funds to make the cash payments to the company—plus debt service and administrative costs—by issuing shares of a convertible bond fund to private investors. The fund will consist of stock warrants or other equity or asset from the companies and federally backed bonds issued at par but at a rate below the current Treasury rate. The bonds would be redeemed by converting them to company stock as the warrants are called. If all the equity proves valuable, the principal and interest on the bonds would be paid from the fund.

The cost of this plan would be reasonable—far less than the costs we could face from doing nothing. In the worst case—if the whole steel industry defaulted—the cost of this plan to the Federal Government would not exceed PBGC's liability from all steel plans. I estimate that if all steel companies participate, the liability for current retirees would not exceed $3.6 billion and the maximum cash payments would be $500 million a year in any year. There could be some additional cost from shutdowns in the next 2 years. I estimate that this additional liability would not exceed $1.4 billion, at an added annual cost of $200 million.

Mr. President, this is a plan that would protect workers and retirees, help make the PBGC a viable program, and discourage the potentially disastrous use of chapter 11 bankruptcy to restructure the industry. It is a plan that will make the PBGC legislation we will be considering this year workable. I urge my colleagues to seriously consider this proposal and join me in introducing this legislation in September.

SENATORIAL ELECTION CAMPAIGN ACT

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I call for regular order.

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

The legislative clerk read as follows:

A bill (S. 2) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes.

The Senate resumed consideration of the bill.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I hope I can get consent to take up the prompt payment legislation or the State Department authorization. I would urge Senators not to postpone acting on measures at this time in the hope that these can wait until after the August break.

When the Senate returns in September, the platter is going to be full and running over. There will be the senatorial campaign finance reform bill. There will be the DOD and State authorization bills. There will be reconciliation. There will be 13 appropriations bills; 8 of them are over here from the House already. The Senate Appropriations Committee is preparing to report those bills out early in September.

Mr. President, I would urge Senators that if they really want to get action on some of these other measures that are on the calendar, now is a good time to get it done.

Also, I say to Senators that, with respect to morning business speeches, we are taking up the best part of the afternoon in morning business speeches. I am going to come in in the morn-

ing at 8 o'clock. We will have a couple of hours for morning business. We do have to get on with the other business of the Senate, and we cannot afford to spend the better part of each day on morning business.

I also should state that the conferees on the debt limit extension have been making progress. It is hoped that the Senate and the House can act on that debt limit extension conference report today or tomorrow.

I have already indicated to Senators that we may have to erode the August recess a bit in order to complete action thereon. I hope the conferees will continue with renewed effort to get the work done on the conference report so that the Senate and the House can dispose of that business before we go home for the August break.

Mr. President, within a few minutes, I shall renew my unanimous-consent request on prompt payment. I understand there is an amendment that there may be some problems on, but the way to resolve these is to get the matters up before the Senate and let resolve them here, on the floor. If we continue to wait until we work out all our differences on amendments off the floor—and sometimes that is the best way to proceed. But I call attention to the fact that this bill has been on the calendar since May 20. That is over 2½ months. If we have not been able to work out an amendment in 2½ months off the floor, we ought to just go at it and have it out on the floor. So I shall shortly renew my request on that matter.

THE DANGEROUS CLIFF OF CAMPAIGN SPENDING

Mr. BYRD. Mr. President, campaign finance reform is needed in this country and needed now. There can be no genuine campaign finance reform without a limitation on spending. The Republican conference went on record sometime ago as being against any limitation on campaign spending. I do not think we are going to fool anybody if we say we passed a bill that constitutes campaign finance reform if it does not have a limitation on spending.

Last year, there was on the average of $3 million spent on each successful Senate campaign. How long does it take to raise $3 million? It takes 6 years to raise $3 million at $10,000 per week. Three million, we will say, in 6 years if a Senator is able to raise $10,000 a week. That is $10,000 a week for 52 weeks a year, times 6 years. Ten thousand dollars a week. That should reveal the immensity of the problem that confronts Senators who seeks to run for reelection. It should reveal the immensity of the appetite for money in the course of campaigns. And it is getting worse and worse and worse. Senators and House Members are both victims of the system, a system which is current and is requiring more and more money every year.

We must revise the system so as to eliminate this inordinate appetite for money, money, money and remove Senators and House Members from this money chase that we continue to have to engage in, those of us who want to continue to be active in public service. We must come to grips with the matter now. It is not going to get any better; it is not going to go away.

What we have here is the aristocracy of the moneybag, the aristocracy of the moneybag—$10,000 a week—think of it—for 312 weeks—6 years, 52 weeks a year—312 weeks, $10,000 a week. That is $3,120,000.

Think of the time that Senators, the freed-up time that Senators would have in which to attend committees, engage in debate on the floor, be with their families, attend to their office work, work for their constituents with agencies downtown. Think of the additional time that Senators would have for productive work if they could be freed from the chains that the present system places around us. If we could throw off those shackles and chains, we would have more time to study, time to work, more to show for our work.

As it is, many Senators have to begin immediately upon election or reelection to raise money—not just for the campaign that is 6 years away, but money to pay off the campaign debts of the past campaign. Senators come here in January of a new Congress and are sworn into office. They have just been elected or reelected, and they immediately have to begin raising money to pay off the debts that were run up in the course of a victorious campaign.

They have to raise money to pay off those debts and then they are into the money chase all over again looking to the next election 6 years away.

This is getting worse and worse. There is a great scandal out there waiting to happen and we are getting closer and closer—and closer—to that happening, closer to the edge of the cliff.

I am reminded of a poem by Joseph Malins titled "A Fence or an Ambulance" which is apropos of my subject:

'Twas a dangerous cliff, as they freely confessed,
Though to walk near its crest was so pleasant;
But over its terrible edge there had slipped
A duke and full many a peasant.
So the people said something would have to be done,
But their projects did not at all tally;
Some said, "Put a fence around the edge of the cliff,"
Some, "An ambulance down in the valley."
But the cry for the ambulance carried the day,
For it spread through the neighboring city;
A fence may be useful or not, it is true,
But each heart became brimful of pity
For those who slipped over that dangerous cliff;
And the dwellers in highway and alley
Gave pounds or gave pence, not to put up a fence,
But an ambulance down in the valley.
"For the cliff is all right, if you're careful," they said,
"And, if folks even slip and are dropping,
It isn't the slipping that hurts them so much,
As the shock down below when they're stopping."
So day after day, as these mishaps occurred,
Quick forth would these rescuers sally
To pick up the victims who fell off the cliff,
With their ambulance down in the valley.
Then an old sage remarked: "It's a marvel to me
That people give far more attention
To repairing results than to stopping the cause,
When they'd much better aim at prevention.
Let us stop at its source all this mischief," cried he,
"Come, neighbors and friends, let us rally;
If the cliff we will fence we might almost dispense
With the ambulance down in the valley."
"Oh, he's a fanatic," the others rejoined,
"Dispense with the ambulance? Never!
He'd dispense with all charities, too, if he could;
No! No! We'll support them forever.
Aren't we picking up folks just as fast as they fall?
And shall this man dictate to us? Shall he?
Why should people of sense stop to put up a fence,
While the ambulance works down in the valley?"
But a sensible few, who are practical too,
Will not bear with such nonsense much longer;
They believe that prevention is better than cure,
And their party will soon be the stronger.
Encourage them then, with your purse, voice, and pen,
And while other philanthropists dally,
They will scorn all pretense and put up a stout fence
On the cliff that hangs over the valley.
Better guide well the young than reclaim them when old,
For the voice of true wisdom is calling,
"To rescue the fallen is good, but 'tis best
To prevent other people from falling."
Better close up the source of temptation and crime
Than deliver from dungeon or galley;
Better put a strong fence round the top of the cliff
Than an ambulance down in the valley."

So, Mr. President, let us put a fence around the edge of that cliff. Let's change the system. We are being pushed more and more, as though by some invisible force, some unseen hand, toward the edge of the cliff. Are we going to go over it? If so, who is going to suffer? The Senate and the House of Representatives—this institution. Who else? The people from whom the consent to govern originates.

The people of America are being shortchanged by the present system; the people of this country are being shortchanged. The perception is that

those of us who have to live under this system, who are the victims of this system, who have to go out and cry "Give me more, more, more of your money"—are beholden to our campaign benefactors. People are going to have less and less and less of faith in this institution.

We are talking about our constitutional system of representative government here. How many people out there in the country truly believe that this is a representative government? How many of them believe that they are represented fairly and evenhandedly? How many of them believe that they have an even chance with the special interests?

The perception is that we who go out and have to raise these sums of money are beholden to the special interests. It is time to put a stop to it.

Mr. President, I call on those who continue to stand against action on this measure to vote for cloture, and let us vote this measure.

I hope that the American people, during this recess, will ask Senators when they come back home: "Where do you stand? Where do you stand on the money chase? Why won't you vote for cloture, so that the Senate can act on that bill?"

Mr. President, I have been in the Senate 29 years. I will not be here 29 more. If I had not come to the Senate when I came, I would not be able to come to the Senate today. The odds would be too much against me. The average guy like ROBERT BYRD will not even dream of coming to the U.S. Senate in the future, if something is not done about the present campaign finance system. He will not even dream of it because of the prospect of having to raise and spend millions of dollars to get here.

If all those hills of West Virginia could be flattened out, West Virginia's 24,000 square miles would reach to Oklahoma, or beyond, perhaps. But it is a small State from the standpoint of population—less than 2 million people.

I had to raise about $2 million 4 years ago when I ran for reelection. That is $1 for every man, woman, boy, and girl in West Virginia. I cannot raise that kind of money in West Virginia. Mine is a State that is economically very hard hit right now. I cannot raise $2 million in the State.

The average, as I said a moment ago, last year was $3 million. What is it going to be next year when I run? Many other Senators will have to raise even more.

Four years ago, I had to go the width and breadth of this great land, "from sea to shining sea," "from the mountains to the prairies, to the oceans white with foam," with my hand out: "Give me, give me, give me." How demeaning it is.

Why should we not instead be going out to our constituents and talking about the issues? That is the way representative democracy should work. But, instead of that, we have to spend our time going hither, thither, and yon, from the Canadian border to the Gulf of Mexico and from the Atlantic to the Pacific, with our hats in our hands and our hands out saying: "Give me, give me, give me."

Those who contribute to us do so because they believe in our party. They believe in the Democratic Party. They want to see it continue in control of the Senate. But they are not my constituents. They are not the people who vote to send me here.

Senators are required to take off from this floor and live inside and outside of suitcases, running in and out of airports, catching flights to all the States of the Union, coming back at all hours of the evenings and mornings, being away from their families, going out to raise $15,000 here, $30,000 there, $50,000 somewhere else; or going in the evenings here in town, raising $10,000 tonight, $15,000 tomorrow night, $25,000 the next morning at a breakfast, in order to try to remain in public service. Some of us feel that we want to contribute more to public service and still have something to contribute.

We are trying to change the system but while we are trying to change that system we cannot ignore our own reelection. I cannot ignore my reelection. I do not expect to be like Tennyson's brook and go on and on forever. No.

The Psalms only promised us 70 years. Some of us are fortunate to reach that span.

"Man that is born of a woman is of few days and full of trouble. He cometh forth like a flower and is cut down."

So here we are. Some of us feel we have got a little fire in the boiler yet, so we cannot ignore our own reelection.

But we need to change the system. Some of our friends who continue to refuse to budge one centimeter on this legislation are the people who are going to look back one day and say, "Why did I not listen?" Let me say that in the future, there are not many Senators going to be here 30 years, because the very fact that we have to increasingly go out and raise money is intimidating, intimidating. That is why that butcher boy, that welder, or that produce salesman down there on the streets in West Virginia or in Baltimore in the shipyards is going to say. "That is not for me. You tell me you have to raise $2 million. Man, how will I ever do that? How will I ever be able to do that?" So he pushes out of mind not only the dream but also the thought that he would ever stand a chance of coming to the U.S. Senate because he has to raise millions of dollars, and he can't do it. It is demeaning and it is creating a cloud over this institution—the Senate and the House.

There sits in the Presiding Officer's chair today the distinguished Senator from Washington [Mr. ADAMS]. I have heard him tell about his election campaign for the Senate and how last fall he had to spend so much time on the telephone trying to raise money, trying to raise money, not out discussing the issues, not out finding out what the people had on their minds but having to raise money hour after hour on the telephone in order to come here, in order to serve. What a burden just to be able to get to the U.S. Senate. What an obstacle just to be able to serve in this institution. What an obstacle it is that will deprive this body of able men and women who cannot afford to be elected, who cannot afford the expensive campaigns that are required in these days to be elected to the U.S. Senate. What IQ's there may be out there working in a butcher's apron or peering through the visor of a welder's shield, but who cannot come here to serve in this body in the future.

Future Senators can only come if they have inordinate wealth or if they have the means to go out and raise millions of dollars—money hand over fist. It is enough to intimidate the most courageous soul.

Mr. President, let us get rid of this ambulance at the foot of the cliff. Oh, yes, "Are we not picking up folks just as fast as they fall? Shall this man dictate to us, shall he? Why should people of sense stop to put up a fence while the ambulance works in the valley?"

That ambulance, that rock is coming toward us. It is going to come crashing down upon us, and I plead with my colleagues, let us put a fence around the edge of that cliff—the cliff of the money chase.

I love this institution. I would have to love it because I have lived with it and in it and as a part of it for these 29 years. For almost 21 years I have been right here on this floor just about every hour of every day of every session. I have a rollcall voting record over these 29 years of 98.27 percent, over 11,000 rollcall votes I have cast in this institution during my service here.

I have given it the best part of my life and I have done it gladly. The Senate has been the best part of my life.

I do not expect to run again and again and again, but I am going to run next year, the Lord willing, but I am thinking of the institution. It is going on and on, and those who come after us are going to have to contend with this money chase unless we stop it.

As I told a young Member of this body yesterday, "You are going to be here a long time and you are going to

have to go through this demeaning obstacle course year after year, not just every sixth year, but year after year. It is going to become more and more binding, and you are going to be ground down more and more."

"I am trying to stop that stone that is coming down so that it does not crush you and crush this Senate."

Mr. President, it is going to crush the Senate, and it is going to crush the House, likewise, because the people are not going to tolerate this forever. Now is the time they ought to be asking questions.

During this break when Senators go back home, let those who appear in the civic organizations be asked, "Why don't you vote for cloture? Is there something wrong with the bill? What are you afraid of? Offer an amendment. Why is it, Senator, why is it that you do not want to take that load off your shoulders of having to go out and raise money and be involved in the money chase?"

There may be Senators who can answer that question and who are not concerned about it.

But suppose the question comes like this: "Senator, you may not mind the money chase, but what about me? You are up there to represent me. Why don't you spend your full time representing me? That is what we elected you for. I am a coal miner. I have to work every day. I am a welder. I am a meatcutter. I am a farmer. I do not put aside my plow in the springtime. I do not put aside my scythe in the harvest. I stay on the job. I have to. Why don't you? Why are you not spending your time on the floor or in the committee or in the office? You are representing me, or do you represent me? Or do you represent those names on the list at the office of the Federal Election Commission?"

The Senator says, "Well, it is legal. I have not violated any law."

That is true. Nobody is questioning that. It is perfectly legal. This is no criticism of PAC's or people who work with PAC's or these individuals who contribute large sums. This is the system. That is what we have to live with and if we ever are to clean it up, we have to clean it up while we are living with it.

But I hope that the people ask the question:

> Why do you want to continue the aristocracy of the moneybag? Think about me a little. I'm a poor farmer. I'm a school teacher. I'm an elderly person. I have worked out my days. I am a veteran. I gave my best days to my country. I was wounded. I voted for you. I want to continue to vote for you, but I'm beginning to wonder why is it that you won't vote on this bill? Are you my Senator or do you belong to somebody else?

Mr. President, we have had five cloture votes. We have been able to get only two Senators from the Republican side of the aisle to vote for cloture. We are going to have more cloture votes in the days ahead.

I do not question the sincerity of any Senator. I know that Senators make their own judgments based on matters as they see them.

But the Republican conference decided and proclaimed that it would not vote for any legislation that had a limitation on campaign spending. Now, I think that was a mistake. I know that there are Members on the other side of the aisle who do not feel that way about it, and who truly want to vote to limit campaign spending.

I hope that, in the future, we will see more Senators vote for cloture and that we can act on this bill.

Mr. President, I yield the floor.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I listened with interest to the remarks of the distinguished majority leader, both yesterday and today, about this measure which has been circulating in the Senate for some 2 months. The majority leader has been in the Senate a long time as well, and there is no doubt that politics have changed considerably over the last 30 years.

The majority leader spoke wistfully about the good old days, when a candidate could go down to the courthouse and have a meeting where a lot of people would show up. You could go out and work a plant gate or have a town meeting, and people would be interested and attend, ask questions and shake hands.

But a lot has changed in the last 30 years, Mr. President. We have seen the advent of the television era. Perhaps more importantly, people don't have the time they used to, in order to go to old-fashioned political meetings and events.

We have such an event in Kentucky, by the way, that occurs on the first Saturday in August every year. It's called the "Fancy Farm Picnic," and is widely described as a throwback to an earlier era. It used to be a terribly significant event, perhaps the most politically important day of the election cycle. Years ago, it took place just before the primary for the Democrats and the Republicans. And, of course, on the Democratic side, the primary usually determined the election. People would come from miles around to test, analyze, and be entertained by the oratorical skills of the participants in Fancy Farm.

But in the last 30 years since the distinguished majority leader joined the Senate, much has changed; some for the better, some for the worse. But we are in the television era, and that makes for some vast differences in the way campaigns are run. It also changes the way money is spent in campaigns—and, by the way, as the distinguished majority leader knows, there has always been a lot of money in politics. The difference between money in politics today and money in politics years ago is that we now know much more about how much is being spent, where it comes from, and what it pays for, because candidates are complying with the strict disclosure laws on the books. There is a strict accounting, at least in terms of cash contributions, of what is raised, what is spent, and who it comes from, so that if the press or an opponent wants to make an issue out of it, they can.

But in those good old days back when the speakers on the courthouse steps had people show up for their speeches, when you went to the plant gate and people had questions to ask, there still was a lot of money spent on politics, but one never knew how much.

I am told—this was before I was involved in politics—that in those mountains of Kentucky, Tennessee and West Virginia, there was a lot of money floating around on election day. And a lot of liquor. And a lot of other things, all very close to the ballot boxes. Mr. President, those good old days weren't all good. There wasn't a more informed electorate; it was a less informed electorate, voting on familiarity, personality, personal favors, or much worse.

What the television age has done for politics is give people a chance to make an independent judgment about candidates, right there in their own homes. They don't have to depend on the precinct leader or the union boss or the corporate president to tell them how to cast their votes. They make their own informed, independent judgment.

The cash contributions being raised and spent in politics today all are fully reported. Only "soft money" is not reported. Soft money is the only old-fashioned remnant of those not-so-good old days, when votes were bought with a wink, a promise, and a flask of liquor.

Cash contributions, reported, limited and monitored by law, pay for campaign commercials—with the voters directly in their homes.

While the good old days may be fun to hark back to, it is the opinion of the Senator from Kentucky that the politics practiced in those days were not necessarily more enlightening, did not lead to the voter casting a more informed vote, nor did they necessarily encourage higher voter turnout.

What has marched forward in time is the communications revolution. And politicians, like everyone else in society, want to use the most effective means of communicating their ideas to the voter. That's why money is raised and spent: It is being spent on commu-

nication with the people, the average citizen back home. And if you do not like what your opponent is saying to the voters, you can communicate back.

We candidates frequently beat on each other a little bit, just like hamburger chains and rent-a-car companies. That is part of the rough and tumble of American politics. That is the same thing that went on by the courthouse steps years ago, and in Kentucky at the Fancy Farm Picnics years ago. It's politics; it's the American way: everyone trying their best to be the best, to be No. 1.

Our distinguished leader has suggested that too many people are spending too much time raising money early. But the FEC reports just do not back that up, Mr. President. Take the Senate class of 1990, of which this Senator is a member. Of 33 incumbents who may run in 1990, 17 of the thirty-three have raised less than $100,000 as of the first of the year (the June 30 report is not yet available): not exactly an aggressive effort to go out and get money early, I would say. Twenty-four of the 33 have raised less than $200,000; this is not a particularly aggressive effort. Only 9 of the 33 who might be running in 1990 have raised more than $200,000. And a good many of those, I know from my personal discussions with them, have that amount only because they carried it over from their previous election, because they had no competition and were not required to spend their money.

Our distinguished leader has talked about the need to go, as he put it, "from sea to shining sea" to raise money for his last election. I would suggest that was only because he had an opponent. He was not accustomed to that. He has been a very skillful politician over the years and an excellent leader. The people of West Virginia have sent him back to the Senate time and time again, without much of a contest. I congratulate him for that. I look forward to that someday; I hope I will have that kind of reelection one day.

But, in 1982, at least in the beginning, he may have felt that he had an opponent who was aggressive and was coming after him. It did not turn out that way; the majority leader won by his usual whopping margin, and I commend him for that. But he did what candidates have to do in tough races: when they think they are going to face stiff competition, they get to work. They revisit their constituencies, and ask for their strong support—in both votes and small contributions.

We do not own these seats. I run into Senators frequently who seem to be offended by the work it takes to keep a seat. They are offended that we have to work hard to stay here if we want to. We also have to go home a lot. We have to have town meetings. We have to work plant gates. We have to communicate with our constituents, on top of all of the legislative work that we have to attend to here. This is not an easy life.

When we choose this life, we know that we are going to be working up here during the week and working in our States on the weekends. You have to have a pretty high energy level to come in here and work until all hours of the night and get up for the breakfast meetings the next morning and keep on going.

It is not easy and nobody told us it would be, but we do not own these seats. In America, political office is not an aristocratic privilege, it is something we have to earn every day of the year.

When we have an opponent, even if we wish we didn't—we may wish that everybody out there appreciated our efforts so much that they would say: "I am just not going to run against my Senator this year, because he is so very wonderful—but often people believe they can do a better job, and that is their right. It is also the public's right to have strong competition for political office. Some people want a seat in the greatest deliberative body in the world, and they go out and compete for it.

When that happens, we have to work hard to keep it. That means using the most modern means of communication with our people. That means finding the best way to let the people know what we stand for.

Our people get most of their information from television. We may wish that they would come to the courthouse square and listen to us hold forth, but frankly they don't have a lot of time for that. They're busy people; their free time is when they get home from working hard and turn on the television, which is their right and their prerogative.

So, to send our message effectively in these days, we must use mass communication, and that requires, obviously, raising and spending some money.

As I have said frequently, and will repeat today, we do not as a Nation spend very much on politics. It is not scandalous that a lot of people are contributing to register their views, and a lot is being spent to educate and stimulate the voters. In fact, we spent less in Senate races in 1986 than the American public spent on bottled water. We spent less on Senate and House races combined than was spent advertising dog food. Remember, we are talking about the use of modern means of communication in 1986—not the fifties.

To do that we must, be aware of and familiar with the importance of television.

We invited television into this body and the distinguished majority leader advocated it. Why? Because we all knew that television was the single most effective means of communication in the modern era; because it would give people all across America a chance to watch us do the business of America, while they observe it all in their homes, on their television sets.

The reason we did that is because we know people are interested in television; they watch it; they make judgments as a result of it. That is why we ought to use television, and why we should continue to use it. You cannot put that genie back in the bottle.

I said yesterday, and repeat again today, I fully understand the frustration the leader has in trying to schedule the Senate. He is an expert on the rules of this body. Everyone pales in comparison with him when it comes to understanding this body, the rhythm of this body, and the rules by which we live.

Surely he must share my view that most of our problems here are not because Senators are going off to raise money. The Senate has scheduling problems because Senators may raise legitimate objections, because a single Senator can keep things from coming up; it has got to be maddening to the majority leader, but that is the way the greatest deliberative body in this country has operated for a long time.

That is what is slowing us down, because it is pretty clear that the class of 1990 is not out raising much money.

As the Senator from Kentucky just pointed out, 24 of the 33 have less than $200,000, not exactly an indication of any aggressive efforts to raise early money.

As this debate has unfolded, a reference was made to a couple of Members of my party who have supported the cloture. I would commend certain Members of the other party who have opposed cloture on this unfortunate measure.

There was an editorial in the Mobile Register about Alabama's fine Senators, Senators HEFLIN and SHELBY, praising their decision not to support cloture on this measure.

I would like, Mr. President, to ask unanimous consent that that editorial be printed in the RECORD.

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

[From the Mobile Register, June 18, 1987]

HEFLIN, SHELBY PRAISED ON VOTE

Alabama Sens. Howell Heflin and Richard Shelby are to be highly commended for voting against their fellow Senate Democrats on an ill-conceived Democratic plan to overhaul Senate campaign finance rules.

Their votes came Tuesday when the Democratic leadership tried to end a Republican filibuster over the plan, but failed.

The legislation is sponsored by Majority Leader Robert Byrd of West Virginia and Sen. David Boren, D-Okla., and would provide partial public financing of Senate gen-

eral election campaigns for candidates who agree to voluntary limits on campaign spending and contributions from political action committees.

Heflin said he opposes the public financing aspect of the Byrd-Boren proposal but would support a constitutional amendment to allow Congress to impose mandatory limits on campaign spending.

"Urgent reform of federal elections is crucial and I have voted for every campaign finance effort that has been proposed since I was elected," Heflin said. "But I do not believe that more government spending is an appropriate solution to campaign spending excesses."

We agree.

Shelby said last week that he would support a constitutional amendment to limit campaign spending but opposes taxpayer-financing of Senate elections—another good position.

It is obvious that liberal Democrats, with their traditional blocs of solid support such as organized labor, want to minimize the growing impact of campaign financial support from business-oriented political action committees. These Democrats, with the backing of such liberal lobbying organizations as Common Cause, want to maintain unfair advantages in politicking.

We are pleased that our two senators are refusing to go along with their majority leadership on this issue.

Byrd has nonetheless said he intends to keep the Senate engaged on this issue indefinitely, despite the fact that Tuesday's 49-46 vote was 11 short of the 60 needed to shut off debate—an increase of three votes for the opposition over an earlier count.

Surely the Senate has more important matters on its agenda.

Mr. McCONNELL. Some discussion yesterday was had about the distinguished Senator from Oklahoma, Senator BOREN's article in the Washington Post entitled, inappropriately, I might add, "It Is Time To Cut PAC Power." The Senator from Kentucky had a "Taking Exception" response to that editorial a week later.

I would like to ask unanimous consent that those appear in the RECORD.

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

[From the Washington Post, June 30, 1987]

IT'S TIME TO CUT PAC POWER

(By David L. Boren)

After three weeks of passionate debate on the complex issue of campaign finance reform, the smoke has finally started to clear. We have come to understand where the battle lines are drawn. The real issue is whether candidates for the highest offices of public trust should compete on the basis of ideas, issues, and qualifications or on the basis of which candidate can raise the most money.

In the beginning rounds of debate, opposition to acting on S.2, the comprehensive campaign finance reform bill before the Senate, seemed to center around the notion that public financing was an unacceptable way to enforce a voluntary system of spending limits. It has now become more evident that a number of opponents are in fact philosophically opposed to any limit on the amount of money candidates can spend in getting elected.

Many senators engaged in the current debate may not remember that in 1974, when Congress set up the public financing system for presidential campaigns, it also set mandatory spending limits for House and Senate candidates. Even 13 years ago, when the average cost of a winning Senate campaign was in the moderate range of a half-million dollars. Congress acted to put the reins on what it saw as the growing problem of candidates' spending more time raising campaign dollars than debating the issues.

But in the 1976 landmark case of Buckley versus Valeo, the Supreme Court found that: (1) Congress cannot set mandatory spending limits, and (2) if Congress sets voluntary limits, it must provide some inducement, as the presidential system does with partial public financing, to encourage compliance with the limits.

Many of the sponsors of S.2, including myself, have had reservations about public financing of campaigns. Because of the court's decision, however, we included partial public financing only as a means to obtain voluntary spending limits. It is a reasonable price to pay to restore a system of grass-roots democracy. It would help us return to a time when a candidate solicited support from home-state contributors instead of from Washington-based PACs, spent time debating issues rather than on developing a fund-raising strategy, and stood on his record and qualifications rather than on mounds of campaign cash.

Senate Majority Leader Robert Byrd and I have sent a strong signal to opponents of S.2 that if public funding is the source of their opposition, we will meet them more than halfway. We offered a compromise amendment that would have reduced the maximum amount of public funds to not more than 24 percent of the total spending allowed for each election cycle. Now a new package has been developed that provides effective voluntary spending limits with no direct public financing. It merits strong bipartisan support.

This proposal would offer significant benefits to those party nominees who accept voluntary spending limits. These benefits would include lower mailing rates and the "lowest unit rate" for broadcast advertising. Candidates who refused such limits would not get these benefits. In addition, candidates who refused limits would be required to place a disclaimer on all their advertising and materials indicating that they decline to accept spending limits.

Protection against negative attacks financed by "independent expenditures" would be available to participants in the form of matching funds to counter such attacks. This should serve as a strong deterrent to independent groups that may consider trying to exert influence on elections through expensive media campaigns.

Participating candidates whose opponents exceeded the spending limits would be eligible for offsetting funds from the voluntary tax checkoff. There would be no public financing of the funds raised and spent by the candidates within the limits. The only time public financing would be triggered is when a nonparticipating opponent spends more than the limit in an attempt to "buy" the election. It would be used solely as a standby mechanism to maintain sufficient leverage for compliance with spending limits. Potentially no public funds would be expended.

Further, the cost of a preferred mail rate could be covered by limiting the number of newsletters sent by members of Congress and by no longer providing lower mailing rates to all political parties.

In the bicenntennial year of this country's independence, the average cost of winning a seat in the U.S. Senate was about $600,000. In this bicentennial year of our Constitution, 11 years later, that figure has grown fivefold to over $3 million. If current trends continue at the same rate, 12 years from now, when this year's graduating high school students are eligible to run for the Senate, the average cost could easily be $15 million. We must not allow this devastating projection to come true. Nor can we allow partisan bickering to keep Congress from acting in the national interest to protect the integrity of our election process.

As the debate continues on this reform proposal, I challenge its opponents to make their case that it is good for Congress to spend more and more time raising millions of campaign dollars; that it is good for challengers to be increasingly closed out of the system; that it is good for business and labor groups and their representatives to be increasingly victimized by escalating fund-raising requests; and finally, that it is good to allow even the appearance that the most important offices of public trust in our country are being placed on the auction block.

We must not settle for less than reform. The Senate has a rare opportunity to further the goal of political competition based on issues, ideas and qualifications, not on money, money and more money.

[From the Washington Post, July 8, 1987]

DON'T MAKE TAXPAYERS FINANCE CAMPAIGNS

(By Mitch McConnell)

The Post's headline on Sen. David Boren's op-ed piece on campaign reform [June 30] reads, "It's Time To Cut PAC Power." But in the piece itself PACs are mentioned only once, in passing.

Instead, the article focuses on spending limits and taxpayer financing of campaigns. It envisions an elaborate scheme to limit what candidates can spend communicating their ideas to the public and how much individuals can contribute to support those ideas. It says that Americans spend too much on political communication and on choosing the best candidates. Finally, it urges Congress to freeze overall political activity, and supplant individual contributions with government subsidies. Astonishingly, these measures are advanced in the name of "restoring grass-roots democracy."

Most people agree that special interests—particularly political action committees (PACs)—have too much clout. Yet the bizarre response is to cut individuals out of the process, institute government financing, and merely slap the wrists of special interests. If we don't clear away these clouds and address real problems directly, the Senate's three-week-old deadlock on campaign finance reform will only harden.

Yet Sen. Boren's latest proposal launches an all-out, unconstitutional attack on campaign spending and contributions by using the power of the federal government to punish candidates whose spending and support exceed government-set limits. In the landmark case of *Buckley* v. *Valeo*, the Supreme Court held that the "First Amendment denies government the power to determine that spending to promote one's political views is . . . excessive. In the free society ordained by our Constitution, it is not the government but the people . . . who must

retain control over the quantity and range of debate . . . in a political campaign."

Nonetheless, *Buckley* allowed the government to provide taxpayer financing of campaigns, and to condition acceptance of such funds on adherence to spending limits. This public funding "incentive" is used to control spending in presidential races, even though taxpayer support of the program seems to be waning.

In the presidential system, however, there is no penalty on nonparticipating candidates; they just have to work harder than their government-funded opponents. The Boren proposal, on the other hand, would punish candidates who asserted their right to unlimited support and spending by requiring them to "disclose" their constitutionally protected activity in content-regulated campaign ads. Further, if the candidates exceeded the spending limit, his opponent would receive a huge check from the government. Thus, popular candidates who refused government control over their campaigns would be punished by having their popular support and vigorous spending trigger entitlements to their opponents.

This proposal seriously misconstrues the Supreme Court decision in *Buckley* v. *Valeo* and ignores the free-speech values protected in that decision. Congress can spend taxpayer money to encourage spending limits, if the public is willing to pay for it. But it is flatly unconstitutional for the government to punish candidates and citizens for exercising First Amendment rights.

Fortunately, there are ways to address the public's concerns about campaign financing without violating the Constitution or dipping into the public till. If Congress wants to eradicate special-interest influence in politics, it can pass a bill that reduces or eliminates PAC contributions to candidates and political parties, and clamps down on the "bundling" and "soft money" activities of special interests.

Cleansing the system of special interest money also would make public figures rely on people back home for support, especially small individual contributors. This change would sow new seeds of grass-roots democracy. By comparison, preempting local contributions with federal entitlements would only insulate Washington lawmakers from their constituents. As David Broder recently noted about the presidential system, "[p]ublic financing . . . has meant a virtual shutdown of local headquarters financed by small contributions. Grass-roots democracy has died."

Without special-interest money, candidates would have less to spend on campaigns. To make up the difference, Congress could cut campaign costs by providing a meaningful broadcast rate discount. From 1978 to 1986, both PAC contributions and campaign spending for television ads increased by $100 million. A worthy campaign finance compromise would cut back these two primary causes of spending increases, and leave individual contributors and taxpayers alone.

People contribute when there is strong competition between candidates and when they get interested in the issues. The vigorous spending this allows pays for heightened political activity and better voter education. The obvious result is that for voter turnout increases dramatically. In 1986 voter turnout was highest in states where the most was spent per voter, while nearly every low-spending state suffered extremely low turnout. Reviewing similar findings in 1979, the John F. Kennedy School of Government at Harvard concluded that "most campaigns spend too little money, not too much". This was after campaign spending had increased 70 percent in two years; recent increases have been far more modest.

Clearly, it's time to cut PAC power. But in doing so, let's put the people back in control, and leave the government out of it.

Mr. McCONNELL. Finally, there was an excellent article by Robert Samuelson which appeared both in Newsweek and in the Washington Post entitled "The Campaign Reform Fraud."

I want to read certain portions of that, Mr. President. Then I will ask that all of it appear in the RECORD.

In his article, under the headline "The Campaign Reform Fraud," Mr. Samuelson said:

For starters, money doesn't determine who wins elections. Winning candidates are often outspent.

I might say, Mr. President, that was certainly the case in the 1986 Senate elections, much to the chagrin of this Senator. Many Democratic Senators were elected who did not spend the most money.

In last year's Senate election, says political scientist Michael Malbin, six of the seven Democrats who ousted incumbent Republicans were outspent by an average of about 75 percent. There are too many other influences to make money decisive: the economy, party loyalties, personalities, issues, national mood. The 1986 election results, Brooks Jackson of The Wall Street Journal wrote later, suggested "that much . . . money was spent with little practical effect."

Paradoxically, campaign reform could make it tougher for challengers to unseat incumbents. If money doesn't settle elections, serious challengers need adequate minimums to gain name recognition and project campaign themes. It's these threshold amounts that campaign reform threatens. The spending limits in the bill before the Senate are below what five of the winning Senate Democratic challengers spent. In North Carolina, Terry Sanford spent $4.17 million to beat former senator James T. Broyhill. The bill would have allowed Sanford $2.95 million.

No one is smart enough to set "correct" spending limits based on population or anything else. States and congressional districts differ radically in political characteristics. California races require lots of media spending. That's less true in Chicago. Spending in hotly contested races is typically higher than average. Because Congress—that is, incumbents—would control spending limits, the bias would be against challengers.

Later on in the article, Mr. President, Samuelson talks about free speech:

About half the rise in campaign spending since 1978 reflects inflation. Much of the rest stems from the emergence of younger politicians who use expensive campaign consultants, television and direct mail. In 1984 Democratic House Speaker Thomas P. O'Neill Jr. of Massachusetts spent $213,000 winning re-election. In 1986 Democrat Joseph P. Kennedy II spent $1.8 million to win the same seat. But the expense of modern communciations makes it no less vital for free speech.

That's why the Supreme Court held in 1976 that mandatory campaign-spending limits on candidates violate the First Amendment. Public financing of election spending aims to make "voluntary" limits more acceptable. But even if voluntary limits on candidates were enacted, the problem of "independent spending" remains: if I want to buy TV time to support Joe Blow, the Supreme Court says that's my right. Candidate spending limits would prompt special interests to raise independent spending. The Senate bill tries to deter this by subsidizing responses: my $10,000 praising Joe Blow would entitle his opponent to $10,000 of public money to answer me.

Suppose this were judged constitutional (unlikely), what's the point? In our diverse society, one role of politics is to allow the venting of different opinions and pent-up frustrations. Groups need to feel they can express themselves and participate without colliding with obtuse rules intended to shut them out. Our politics is open and free-wheeling. Its occasion excesses are preferable to arbitrary restraints. Wertheimer's brand of reform is misconceived. The Senate would dignify the Founding Fathers by rejecting it.

Mr. President, I ask unanimous consent the entire article appear in the RECORD.

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

THE CAMPAIGN REFORM FRAUD—MONEY IS A NECESSARY EVIL IN POLITICS, SPENDING LIMITS WOULD CREATE GREATER EVILS

(By Robert J. Samuelson)

The Founding Fathers are growling in their graves. The Senate is now debating campaign-finance "reform": a respectable-sounding idea that's a fraud. Campaign reform would cure problems that don't exist with solutions that would restrict free speech, smother elections in bureaucratic rules and hurt candidates' chances of beating incumbents. It's an odd way to celebrate the Constitution's 200th brithday.

Blame that on Fred Wertheimer of Common Cause. His crusade for reform—campaign-spending restrictions and public financing—is built on half-truths. He says that campaign contributions of "special interests" have corrupted politics. They haven't. The Founding Fathers knew that special interests were inevitable. Their government of checks and balances requires compromise; competing groups check each other. The system isn't perfect, but it curbs the undue influence of campaign contributors.

Wertheimer is a genius at obscuring this. He harps on the huge rise in congressional campaign spending—up from $195 million in 1978 to $450 million in 1986—and its simplest implication: because congressmen need more money, they're more beholden to donors. The obvious answer is to limit dependence on the donors. The logic fits popular prejudices about special interests, and most editorialists and journalists accept Common Cause's claims uncritically. They shouldn't.

For starters, money doesn't determine who wins elections. Winning candidates are often outspent. In last year's Senate election, says political scientist Michael Malbin, six of the seven Democrats who ousted incumbent Republicans were outspent by an average of about 75 percent. There are too many other influences to make money deci-

sive: the economy, party loyalties, personalities, issues, national mood. The 1986 election results, Brooks Jackson of The Wall Street Journal wrote later, suggested "that much . . . money was spent with little practical effect."

Paradoxically, campaign reform could make it tougher for challengers to unseat incumbents. If money doesn't settle elections, serious challengers need adequate minimums to gain name recognition and project campaign themes. It's these threshold amounts that campaign reform threatens. The spending limits in the bill before the Senate are below what five of the winning Senate Democratic challengers spent. In North Carolina, Terry Sanford spent $4.17 million to beat former senator James T. Broyhill. The bill would have allowed Sanford $2.95 million.

No one is smart enough to set "correct" spending limits based on population or anything else. States and congressional districts differ radically in political characteristics. California races require lots of media spending. That's less true in Chicago. Spending in hotly contested races is typically higher than average. Because Congress—that is, incumbents—would control spending limits, the bias would be against challengers.

Likewise, Wertheimer's assertion that campaign contributions corrupt the legislative process is similarly weak. You hear lots of talk about the dangers of political-action committees (PAC's). What you don't hear is:

PAC's remain a minority of all contributions. In 1986 they were 21 percent for the Senate (up from 17 percent in 1984) and 34 percent for the House (level with 1984).

The diversity of the 4,157 PAC's dilutes their power. There are business PAC's, labor PAC's, pro-abortion PAC's, anti-abortion PAC's, importer PAC's and protectionist PAC's. Contributions are fairly evenly split between Democrats ($74.6 million in 1986) and Republicans ($57.5 million).

PAC's give heavily to senior, powerful congressmen, who are politically secure and not easily intimidated. According to Common Cause, Democratic Rep. Augustus Hawkins of California is the most dependent on PAC contributions (92 percent). First elected in 1962, he won last year with 85 percent of the vote.

Of course special interests mob Congress. That's democracy. One person's special interest is another's crusade or livelihood. To be influential, people organize. As government's powers have grown, so has lobbying by affected groups: old people, farmers, doctors, teachers. The list runs on. But PAC's are only a minor influence on voting. Political scientist Frank Sorauf of the University of Minnesota reports that in 1984 the average PAC contribution to House incumbents was less than one-third of 1 percent of the average congressman's total receipts. Congressmen vote according to their political views, constituents' interests, party wishes and—yes—their consciences. Special interests were supposed to block tax reform. They didn't.

Free speech: About half the rise in campaign spending since 1978 reflects inflation. Much of the rest stems from the emergence of younger politicians who use expensive campaign consultants, television and direct mail. In 1984 Democratic House Speaker Thomas P. O'Neill Jr. of Massachusetts spent $213,000 winning re-election. In 1986 Democrat Joseph P. Kennedy II spent $1.8 million to win the same seat. But the expense of modern communications makes it no less vital for free speech.

That's why the Supreme Court held in 1976 that mandatory campaign-spending limits on candidates violate the First Amendment. Public financing of election spending aims to make "voluntary" limits more acceptable. But even if voluntary limits on candidates were enacted, the problem of "independent spending" remains: if I want to buy TV time to support Joe Blow, the Supreme Court says that's my right. Candidate spending limits would prompt special interests to raise independent spending. The Senate bill tries to deter this by subsidizing responses: my $10,000 praising Joe Blow would entitle his opponent to $10,000 of public money to answer me.

Suppose this were judged constitutional (unlikely), what's the point? In our diverse society, one role of politics is to allow the venting of different opinions and pent-up frustrations. Groups need to feel they can express themselves and participate without colliding with obtuse rules intended to shut them out. Our politics is open and freewheeling. Its occasional excesses are preferable to arbitrary restraints. Wertheimer's brand of reform is misconceived. The Senate would dignify the Founding Fathers by rejecting it.

Mr. McCONNELL. Mr. President, this "evil" money that we have been talking about here in politics, which has always been there, is for the first time in history totally out in the open; at least the cash contributions are. Those indirect contributions, the so-called "soft money," are still under the table, unreported, and unlimited. They buy influence on the black market, and it is time to bring a stop to this sandalous multimillion-dollar political operation.

S. 2 in its various forms does not address that issue.

But, again, making our observations just from individual cash contributions, what does all this money spent in politics get us? It gets us a real contest, real competition, heightened interest, more voters deciding they want to get involved. There is a clear correlation between the money spent in campaigns and voter turnout.

For example, the South Dakota race, which has been mentioned frequently on the floor because it involved the highest spending per capita of all Senate races in 1986, also happened to have the highest voter turnout. It was a hotly contested race, people were extremely interested in it, and there was a lot of spending. Both candidates were excellent, and they were able to raise a lot of money. As a result of that, a lot of people came out to vote. My home State of Kentucky, where about 45 cents was spent per voter, had the lowest turnout in the Nation, a mere 25 percent, compared to nearly 60 percent in South Dakota.

Was the South Dakota Senate campaign a scandal, Mr. President? Hardly; it was a triumph, a triumph in our democratic system.

You can track it, Mr. President, right on down: The less money spent, typically defined as a "no-contest race," the lower the turnout. The races in which there was good competition, two well-supported candidates, a good rough and tumble, plenty of money spent and raised, with a lot of communications, turnout was up. I do not think promoting turnout is bad for American politics; I think it should be the foundation for any system of campaign financing. It is clear that those who effectively used the modern means of communication, television and radio, were able to stimulate the electorate and generate high turnout in 1986.

It seems to me, Mr. President, that is the sort of thing we ought to be encouraging.

Having made that point, Mr. President, I think there is no question that there are some things wrong with the existing law; there are some real problems. But not the fact that some candidates are doing a very good job of raising a whole lot of money from a whole lot of little people. No one can make a big contribution to a Federal race any more, not for the last 12 years.

The only people who can make a big contribution to a race are those who have a lot of money and who contribute to their own races, through the so-called millionaire's loophole. None of the proposals emanating from the other side of the aisle would do anything about that, nor any of the proposals emanating from this side, because it cannot be solved by statute. It requires a constitutional amendment.

We ought to pass that constitutional amendment, Mr. President, and give to the House and the Senate—the Congress—an opportunity to level the playing field between millionaires and the kind of folks the distinguished majority leader was talking about, the factory workers, the meatcutters—whoever aspires to high office in America. Those people should have just as much opportunity to go out and raise money from others as anyone else.

The people who have the unfair advantage are those who have a lot of personal wealth, because one of the unfortunate aspects of Buckley versus Valeo, an essentially sound decision, was that it allowed people of great personal wealth to put all of it into a race, and that is an opportunity that regular folks do not have.

I have a constitutional amendment, Senate Joint Resolution 166, and I ask unanimous consent that it appear at this point in the RECORD.

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

S.J. RES. 166

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as

part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress:

"ARTICLE —

"SECTION 1. The Congress may enact laws regulating the amounts of expenditures a candidate may make from his personal funds or the personal funds of his immediate family or may incur with personal loans, and Congress may enact laws regulating the amounts of independent expenditures by any person, other than by a political committee of a political party, which can be made to expressly advocate the election or defeat of a clearly identified candidate for Federal office.

"SECTION 2. The several States may enact laws regulating the amounts of expenditures a candidate may make from his personal funds or the personal funds of his immediate family or may incur with personal loans, and such States may enact laws regulating the amounts of independent expenditures by any person, other than by a political committee of a political party, which can be made to expressly advocate the election or defeat of a clearly identified candidate for State and local offices.".

Mr. McCONNELL. This would give to the Congress an opportunity to level the playing field, eliminate the millionaire's loophole, put everybody on the same footing, so that the meatcutter and the coal miner and the taxicab driver, and anybody else in American society who can go out and get a lot of support from a lot of people, could still raise the money, use the television, get into the race and build the contest.

The fellow who inherited it or who is shrewd enough to go out and get it, could not use his personal money to buy political office. He would have to get the same broad-based support that the rest of us who are not millionaires must do. That is a problem we can cure immediately.

There was about $11 million spent in 1978 by candidates of great wealth on their own behalf. By 1986, this had gone up to $40 million.

The other thing we can do something about, Mr. President, is the special interest contribution. When people across America think of "campaign reform," they think of doing something about PAC contributions. They are not talking about spending limits; they are not thinking about negative ads; they are thinking about the perception, real or imagined, that special interests have too much influence on politics.

The Senator from Kentucky does not feel that that is necessarily true. PAC contributions are limited just like individual contributions. But if that is the perception out in the land, and if that is indeed what is driving the public's interest in campaign finance reform, then why do we not say goodbye to political action committees?

The Senator from Kentucky and the Senator from Oregon have introduced a bill to eliminate them altogether. PAC contributions to candidates would simply be eliminated. We would be happy to expand that to parties. We could say good-bye to the PAC's.

The PAC's, were, of course considered a progressive experiment 12 years ago. Some of them are working properly, it seems to this Senator, encouraging people to contribute, getting a broad base of support, electing a board to set standards for the PAC and then contribute to the candidates of their choice. But there are some who feel that the PAC system is not working; so let us bid adieu to the political action committees by simply eliminating them.

There is a third thing we can do that would be real campaign reform. One of the things that has driven up the cost of campaigns is the cost of television, yes, the most effective means of communication. There is clear evidence that in some markets, some that this Senator is aware of in particular, there is an effort to raise the rates as we move toward the prime time for campaigning. Television stations are required to sell us time at the lowest unit rate available to any other advertiser during that period. By simply raising the lowest unit rate charged during the relevant period, the stations can make lots of money on the candidates in the last 45 days before the primary and the last 60 days before the general election.

We could, by statute, Mr. President, do something like this: We could require stations to sell candidates time at the lowest unit rate available at any point during the previous year. That would be a meaningful discount. They would still make money off of it, but they would not be ripping us and the public off going down the homestretch.

Thus, there are three things we could do, Mr. President, that would be real reform. We could close the millionaires' loophole and level the playing field, so that the coal miner, butcher, and taxicab driver could get support from his fellow citizens and get into the game. We could eliminate special interests by zeroing out PAC contributions altogether. And we could require television stations to give us truly reasonable broadcast rates. All of those things would make the system better, without telling a candidate for the U.S. Senate how much support he could get—because, after all, that is what a spending limit is all about. It is saying to the popular candidate, "This is all the support you can have. You may not have any more, and if you get any more, under the various schemes that have been suggested on the other side, public money is triggered for your own opponent."

Now, let me say in closing that we have not talked much about taxpayer financing lately, because the various proposals have involved less and less taxpayer money. That is probably because the American people do not want an entitlement program for politicians. I will bet you that it is the very last thing anybody in America wants tax dollars spent on: our reelection campaigns. I have not seen any survey results lately, Mr. President, but I will bet that if we asked the American people, considering the fact that we have tripled the national debt in the last 10 years, whether they want us to start a new entitlement program for politicians the answer would be a resounding no, a loud no, an emphatic and certain no—keep the hand of Congress out of my pockets.

We ought not to even be thinking about spending the taxpayers' money on political campaigns, whether it is for mail subsidies or for a punitive payment that comes into a campaign only when a candidate of principle says, "I will not reach into the public till, I will work for my Senate seat," and passes the spending limit: his opponent then gets a large check from the Treasury. That is not the kind of thing the American people want this Congress to be doing.

I also humbly suggest, Mr. President, that the American public probably wonders why we have spent 14 days on an issue of such low priority to the American people. We have a number of serious issues before us. The majority leader has to deal with all of these and try to schedule them. I am very sympathetic with that problem. But it is the opinion of this Senator that we do not need to take up any more time on this issue on the floor. We could sit down off the floor of the Senate at any point—we could have done it any time over the last 2 months—and write a bipartisan campaign finance reform bill. We could write a meaningful bipartisan campaign finance reform bill and have it pass this place by a vote of 90 to 10. But that is not what has been offered us by the other side.

What has been presented, with all due respect, Mr. President, is a proposal that is extremely bad for the Republicans and very good for the Democrats. It is also anathema to our democratic system. If we are trying to rewrite the rules in a way that maximizes our advantages and punishes the other fellow's advantages, that kind of measure is not going to go through this body.

We need to sit down and write a bill to deal with some of the real problems the Senator from Kentucky has been describing, in a way that doesn't work to anybody's advantage or disadvantage, in a way that truly improves the system, rather than construct a bill that does nothing about soft money, and instead puts a limit on the small individual contributor.

It is a fact that we all know, it has been alluded to a number of times in this debate, that one of the great ironies in modern politics is it has been Republicans who have benefited from the post-Watergate reforms in terms of the base of small contributors out in America. We have done a fine job of winning middle America. These are people who contribute to us because they're busy: They are running a business or taking care of patients. They do not have time to work on a telephone bank; they do not have time to go door to door, but they have a right to participate in the process just like anybody else—the coal miner, the taxicab driver, or the butcher.

For the American businessman, who is carrying a heavy load, a way to participate in the American political process is through small contributions. They have to be small contributions because the old, big contribution is not allowed any more. It is not possible any more to make a big contribution to anybody's race but your own. We have talked about that in this debate. Busy Americans have the same right to contribute to the process as anybody else, and it is those people who have been the base of contributions to our party.

So the intention, however good it may be, of the other side has the practical effect of working a heavy hardship on the Republican Party. Thus my concluding point: Let us write a bill that is real campaign reform, that does not tilt the process in either direction. Let us write a bill that deals with the real problems—the millionaire's loophole, the influence of special interests, the cost of television, the disclosure and limitation of soft money. Let us write a real campaign finance reform bill.

If we do that, Mr. President, we can do it on a bipartisan basis, and make a contribution to the political process in America.

Mr. President, I yield the floor.

PROMPT PAYMENT ACT AMENDMENTS

Mr. BYRD. Mr. President, I am not taking advantage of the fact that the distinguished Republican leader is off the floor. The acting Republican leader, Mr. HECHT, is prepared and knows in advance that I am going to make this request. The distinguished Republican leader indicated that there would be someone who would stand in his stead later in the day if I sought consent to take up the prompt payment bill.

Mr. President, I have discussed this matter briefly a number of times in the last day or so and I hope that Senators will allow the Senate to get on with the measure. There is an amendment, I understand, that is being worked on by some Senators. But I call attention to the fact that this bill has been on the calendar since May 20. That means that it has been on the calendar 2½ months—more than 2½ months. That is ample time in which to resolve differences on an amendment off the floor if such differences can be resolved. If they cannot be resolved in that time, why not let us get the bill up and let us all go at it?

So, Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 132, S. 328, to require the Federal Government to pay interest on overdue payments. And why should it not?

Mr. HECHT. Mr. President, we have an objection. We are in the process of clearing consent to turn to that on Thursday, September 10, following morning business; but as of today, I have to object.

Mr. BYRD. Mr. President, I thank the distinguished acting Republican leader. May I say with regard to the proposal that this bill be made the pending business—when?

Mr. HECHT. Thursday, September 10, following morning business.

Mr. BYRD. Mr. President, when the Senate returns in September, on Wednesday, September 9, the Senate is going to have other business to transact. We have our platter full and running over. Some of the measures that are on this calendar are not going to be acted on this year if they are not acted on soon. I say to the chairmen that it may be well to keep that in mind as they continue to hold hearings and report out bills: some of the bills simply are not going to be called up this year. We are not going to be able to get to them. The calendar is going to be glutted with appropriations bills down the road, plus the DOD authorization bill, reconciliation, campaign finance reform, and various and sundry other measures—Grove City for one.

So if Senators are really interested in prompt payment legislation, it seems to me this would be a good time to get it done.

I thank the distinguished acting leader.

SENATORIAL ELECTION CAMPAIGN ACT

The Senate continued with consideration of the bill.

Mr. BYRD. Mr. President, I simply remark briefly with regard to the comments by the distinguished junior Senator from Kentucky [Mr. MCCONNELL], who spoke of the value of television advertising in informing the people of this country during election campaigns; he also referred to putting the Senate on TV. As the prime mover in putting the Senate on TV, I believe that the action the Senate took has gone a long way toward truly informing the American poeple on the issues. They can tune in and watch to their hearts' content. They can turn it on, they can turn it off; they can listen or they can decline to listen. If they listen, they can hear in considerable depth the arguments in respect of the various pieces of legislation that come up before the Senate and the issues of the day. It is beneficial.

It is beneficial to our constitutional form of government that we have an informed electorate. Talleyrand said that there was more wisdom in public opinion than in Napoleon, Voltaire, and all the ministers of state present and to come. An informed electorate is vital to the strength of our constitutional system and to representative democracy. But 30-second spots and slick advertising do not inform the public. They mislead the public, so often.

If we did not have these gobs of money floating around that people try to find ways to spend, there would not be so much negative advertising. The people were turned off, just the opposite of what the distinguished Senator from Kentucky would have us believe. The people were turned off by the negativism in campaign advertising last year. There were media stories about the way the people were being sickened, turned off by the negative, below-the-belt advertising.

That is not good for the American system. That is not healthy for representative democracy. That does not inform anybody. That merely misleads people. The issues are not even discussed. The voting records of Senators are distorted.

I say that we should put an end to selling candidates like soap. That is what we are doing with all this money, all this negative advertising. The people are not being informed. We are selling candidates like soap. We should put an end to that and get back to a real discussion of the issues, back to working for our constituents, back to solving the problems of this country.

I thank the distinguished Senator. I congratulate him on being here on the floor to debate this issue. I know he is very sincere about the matter. He gives his time to debating this particular bill, and I am delighted to see that there is some attention being given to the bill. I think the more attention this bill gets, the more likely it will be that cloture will be invoked in due time and that the Senate will be able to act on the bill.

Mr. President, I again thank the acting Republican leader. Even though he objected to the request, he was not objecting on his own part, I am sure. He was objecting because another Senator on the other side of the aisle objects.

I yield the floor.

ORDER OF PROCEDURE

Mr. HECHT. Mr. President, I ask unanimous consent to proceed out of order for not to exceed 5 minutes.

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

TREATMENT OF SENATOR HELMS ON NEWS PROGRAM

Mr. HECHT. Mr. President, it was with surprise and disappointment this morning that I observed, as an uninvited guest, U.S. Senator JESSE HELMS, was treated in what I consider to be a rude and disrespectful manner on a morning news program.

On this particular program, Senator HELMS was interviewed at length on his legislative effort to combat the abuse of diplomatic immunity. I found it to be a very insightful and professional job on the part of the interviewer, typical of the high caliber of the program's news coverage.

After the interview was over, however, another commentator chose to ridicule the Senator's assertion that the U.S. Government has the duty—and the capability—to defend our diplomats abroad against any retaliation to the Helms bill. I found these remarks to be shallow, unprofessional, and beneath the dignity to which the program has always ascribed. At the very least, if the comments had to be made, they should have been made while Senator HELMS was there to respond.

Obviously, I strongly support Senator HELMS' legislation. Whether it is a diplomat, his son, or a reigning monarch, no one of any nationality should be free to rape, steal, and wreak havoc on society while hiding beneath the shroud of diplomatic immunity. Beyond the merits of the issue, however—or my close relationship with Senator HELMS—is the issue of respect and professionalism between the media and elected representatives of the people of the United States, which I strongly feel must be protected. A free society, Mr. President, must be an informed one.

JESSE HELMS is an honorable, dedicated public servant, and I am proud to call him both my friend and my colleague. He showed this network the courtesy of appearing on their program, and I believe he deserves nothing less than having that courtesy returned.

ORDER OF PROCEDURE

Mr. PRYOR. Mr. President, I ask unanimous consent that I may speak as in morning business, for not to exceed 12 minutes.

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

THE TIME FOR ACTION ON TAXPAYERS' RIGHTS HAS COME

Mr. PRYOR. Mr. President, today I want to discuss S. 604, the taxpayers' bill of rights, and the issue of taxpayers' rights in America. Once Congress returns from its August recess, I will work to include this legislation as part of the Omnibus Budget Reconciliation Act.

I will be happy to discuss the taxpayers' bill of rights with any of my colleagues in the Senate who are interested in this proposition, and I encourage my colleagues to cosponsor this very important legislation. Many recent positive signs leave me very hopeful that our reconciliation bill, in which we fight our annual war against the deficit, can also include a victory for taxpayers' rights.

I have become aware in the past week of other taxpayers' rights packages that may be in the works in response to our initiative. While I welcome these new efforts, I want to caution my colleagues that the American people will not stand for watered-down legislation that merely pays lipservice to taxpayers' rights. The taxpayers' bill of rights is strong and meaningful. It is clear. It is legislation which has been cosponsored by 34 Senators, 129 Members of the House, and enjoys overwhelming public support.

Mr. President, continuing stories of taxpayer abuse have been making their way to Congress for several years now, and for many years they have been dismissed as isolated incidents. The time has now come for Congress to recognize that taxpayer abuse is a serious and widespread problem and that something is terribly wrong with the IRS bureaucracy, which consists of 102,000 individuals. What was possibly the exception two decades ago about isolated incidents in the relationship of the IRS to the American taxpayer has now, I fear, become the rule.

Senator LEVIN's hearings in 1980 conclusively proved that the problem of taxpayer abuse existed and was widespread, but Congress failed to act. Several taxpayers' rights bills have been proposed over the years, and yet Congress has failed to act. And now, in this historic 100th Congress the 200th anniversary of our Constitution, we have had to reprove what should have been recognized years ago.

On February 26, 1987, Senators REID and GRASSLEY joined with me in introducing S. 604, the taxpayers' bill of rights. Since then I have chaired three hearings on this bill in the Senate Finance Subcommittee on Oversight of the IRS. In the first hearing on April 10, 1987, Thomas Treadway testified that the IRS ruined his business and harassed his friend Shirley Lojeski over an assessment that later proved to be incorrect. Joseph Smith, a former IRS revenue officer, testified during this hearing that during his IRS employment of many years revenue officers were promoted on the basis of the number of seizures and collections that they made. Mr. Smith also testified that the goal in collection was "to put as little space between the taxpayer's back and the wall as possible."

In a hearing on April 21, Lawrence Gibbs, Commissioner of Internal Revenue, testified on behalf of the IRS. Commissioner Gibbs admitted that day that problems do exist at the IRS, but he said that these problems could be handled internally and did not require legislation. He announced a new policy at the IRS whereby taxpayers would be treated as customers. Commissioner Gibbs also assured us that promotions are not based in IRS today on statistical indicators such as the number of seizures made by revenue officers. In fact Commissioner Gibbs cited an IRS policy that specifically forbids such a practice.

Mr. President, I ask unanimous consent that a copy of the relevant portion of Commissioner Gibbs' testimony on that day be printed in the RECORD.

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

> I would like to note here that enforcement personnel are not evaluated on a quota system. In fact, we have a policy statement, P-1-20, which states that tax enforcement results tabulations shall *not* be used to evaluate such personnel or to impose any production quotas or goals. I have attached a copy of that policy statement to my testimony.

Mr. President, as I said before, I have a great deal of respect for this fine man, Commissioner Gibbs of the Internal Revenue Service. The goals that he has for the IRS and the policies that he wants to implement are all well intended. But the fact is that he, Commissioner Gibbs, will only be at the IRS for a very short time.

If my figures are correct, Mr. President, I think that the average IRS Commissioner only stays at the IRS for some 2½-year period.

I have learned that there are actually also, Mr. President, two IRS's. There is a political IRS consisting of the national office here in Washington that is the one that puts out the policy, the regulation, the goals and also many of those billboards that we see today that say if you have a problem with IRS simply dial 1-800 and then the number. But there is also a real IRS, Mr. President, consisting of entrenched bureaucracy in local district and regional office that the average taxpayer comes in contact with. Commissioners come and go, but the bureaucracy stays forever. This is precisely the reason why legislation is needed to protect taxpayers' rights.

In the final hearing on June 22, five current revenue officers, all very courageous and brave people, all contradicted Commissioner Gibbs before our committee. All of them testified that revenue officers are under tremendous pressure from their managers to seize assets and close cases. In addition, all of them testified that promotions and pay raises are directly connected to the number of seizures made and the number of cases closed. Two IRS internal memorandums, one of which I introduced into evidence as exhibit 2 during the hearing recently prove that in some offices this is not merely an implied policy. In one memorandum from the IRS to a revenue officer group, the group manager set out the group's seizure performance for the past month. He then stated:

These figures indicate one of two possibilities:

Most seizures are in the hands of only a few; or

Only a few are willing to effect seizure. My itenerary (sic) reflected my availability to assist you on seizures and sales. Keep in mind that you can not make errors when the boss is the assisting revenue officer!

The final paragraph of this memorandum stated:

Our goal should continue to be to make every seizure in every inventory every month. With WPSS driving inventory levels down, now is the time for seizure action.

Another witness, Mr. President, on June 22, who was from the San Francisco IRS office stated that in their particular office in San Francisco, CA, on the bulletin board it stated in these words, "Seizure fever. Catch it."

Finally, Mr. President, I have another IRS internal memorandum that I would like to make a part of the RECORD at this point. I am going to read just a short part of this particular statement. It is an IRS memo dated February 17 as recently as 1987.

To: All Group Managers, Field Branch II.
From: Chief, Field Branch II.
Subject: Monthly Report—January 1987.

I am sure each of you has analyzed and evaluated the January monthly report for your group. Personally, for a five week period, it is a sorry report. Not one manager has come forward to explain the poor performance statistical indicators. Example: one (1) CID Referral, four groups had zero (0); seven (7) seizures for the Branch, one group with zero (0) and two groups with one (1) each; and the number of low closures.

I continue in this memo, Mr. President, in reading a portion of it. The next to the last paragraph.

It appears the fewer cases that the revenue officers have assigned to them, the less work they do. WPSS has not helped at all in the performance or quality areas. I still see Forms 5942 from SPS with the same old findings. I realize that in January we experienced two snow storms, but the first one did not take place until January 22nd. Furthermore, field time was disasterous, some revenue officers did not even turn in travel vouchers for January because they did not have any travel.

Where are you as managers? What are you doing, and is it effective? As managers, you must become actively involved by doing your follow-ups, performing timely reviews (formal and informal), reviewing Forms 795 (daily reports), making field and office visits, reviewing field time, etc. The revenue officers that are performing above a satisfactory level will be rewarded, and the ones that are not will be documented with corrective action taken.

Finally, Mr. President, the final sentence, this is once again from the field branch 2, chief IRS to his collection agents:

Your mid-year evaluations will be prepared in approximately one and one-half months. You will be evaluated on your accomplishments or lack or accomplishments. Need I say more?

Mr. President, I ask unanimous consent that this particular IRS memorandum be printed in the RECORD.

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

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Your mid-year evaluations will be prepared in approximately one and one-half months. You will be evaluated on your accomplishments or lack of accomplishments. Need I say more?

WILBUR E. MCKEAN.

Mr. PRYOR. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The time is expiring as we speak.

Mr. PRYOR. Mr. President, I ask unanimous consent that I may proceed for 5 additional minutes.

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

The Senator is recognized for 5 minutes.

Mr. PRYOR. Mr. President, at the June 22 hearing we also addressed problems that small businessmen have in connection with employment tax assessments and collections. I find it very interesting to note that based on statistics in the 1984, 1985, and 1986 IRS annual reports, between 25 percent and 30 percent of all employment tax assessments are later withdrawn by the IRS because they are excessive, because they are made after the expiration of the statute of limitations, because they are illegally or erroneously made, or because of a clerical error.

Two small businessmen testified before our committee that the IRS has a policy of not entering into installment payment agreements with small businesses, especially in employment tax cases. These two taxpayers testified that if the IRS had entered into a reasonable payment agreement with them, they could have paid their assessments and saved their businesses. The IRS refused to work with either of these small businessmen and demanded immediate payment and one today is under chapter 11 and one is closed because the IRS auctioned off all of his property.

In the case of Alan Tucker from Denver, CO, he discovered his own error. He reported it to the IRS. The IRS, on that day, seized his bank account within a few hours of his first meeting with a revenue officer. Following President Reagan's call for the private sector to help the poor, Alan Tucker was involved in restoring slum housing in Denver, CO. IRS actions put Alan Tucker and 31 other employees out of business.

In the case of Danny Maestri, the IRS gave him only 10 days to pay his entire delinquency. He, too, was one who had found his own error. He reported that error to the IRS. Mr. Maestri was ultimately forced to put his 60-year-old family restaurant into chapter 11 bankruptcy to avoid having it taken and seized entirely by the Internal Revenue Service. Maestri's restaurant has suffered and his credit rating has been damaged, but he has managed to save his business.

I might add that the IRS does not have this money yet, because they refused to enter into a negotiated settlement.

The taxpayers' bill of rights, Mr. President, applies very specifically to the facts set out and the issues illustrated in these two particular cases. I encourage my colleagues to read the transcripts from these three previous hearings.

Further proof that taxpayer abuse is a widespread and serious problem has come from taxpayers all across the country. My office has been flooded with mail and phone calls from tax-

payers wanting to tell their stories of abuse, and I am sure many of my colleagues have had a similar response. This issue has touched a nerve in the country and the people are saying, I think, very loud and clear that it is time that Congress performed its duty and passed legislation containing meaningful protections.

Yes, Mr. President, there are those in this country who are tax protesters and who simply do not want to pay any taxes. The taxpayers' bill of rights is not intended to protect those people or help them cheat the IRS. I feel very strongly that taxes are the price that we pay for a free society and that all taxes owed should be collected. The taxpayers' bill of rights simply grants basic protections to taxpayers who are willing to pay what they owe, and nothing in the bill is intended to handcuff the IRS in its collections efforts.

In summary, the American taxpayer wants meaningful taxpayers' rights legislation. In a recent letter, an Arkansas attorney told of a friend who called the IRS to ask a question about taxes. He stated:

> During the conversation he, upon receiving information from the IRS, made the statement "why, that doesn't seem fair." The IRS official responded "we don't deal in fair."

The American taxpayer wants to pay his fair share, but he wants to be dealt with fairly by the IRS. It has been proven beyond doubt that IRS abuse of taxpayers is a widespread and serious problem. It is time for us to stop merely talking about the issue and passing it on to the next Congress. It is time for this Congress, it is time for all of us to do our duty to protect the American taxpayer. And it is time for action on the taxpayers' bill of rights.

We will seek that action on the reconciliation bill come September or October or November, whenever that opportunity presents itself.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, thank you very much.

I am here today to talk about the taxpayers' bill of rights. I compliment and applaud the Senator from Arkansas for his work on this legislation. Without his leadership and guidance, as a member of the Finance Committee, this bill would not be where it is today.

Two hundred years ago in Philadelphia, in the hot, sultry summer, our Founding Fathers set forth to develop a constitution. They worked through that sultry, hot summer and into the fall to write a constitution. A short time later, of course, came the Bill of Rights.

It is unusual that, some 200 years later, with the many freedoms that have been established in this country, we would have to come forward with legislation entitled "The Taxpayers' Bill of Rights." The people who provide for the very essence of this Government—that is by paying the bills—you would think would enjoy the basic protections found in the Bill of Rights and that there would not need to be special legislation for taxpayers. But the fact of the matter is, Mr. President, that legislation is needed to give taxpayers fundamental rights.

The Senator from Arkansas spoke a great truth when he said that the American people are behind the taxpayers' bill of rights. There are those in both bodies who have understood the effect of the abusive behavior of IRS agents. It is only a small number of IRS agents, but that small number has created a bad taste in the mouths of the American public. Something has to be done to control that small number of abusive IRS agents, because the effect that these agents have had on law-abiding citizens is not good.

People have understood in this body and the other body for over a decade that something must be done. Their efforts, however, to legislate a solution to these abuses have generally been dismissed as mere demagoguery.

While in the House of Representatives, Mr. President, this Senator introduced legislation to correct what I believe to be some of the abuses. I thought at the time that it was legislation that would be effective in my home State, that would apply only to my home State.

I had the good fortune to appear on a national television program called "Night Watch" with Charlie Rose. After having appeared on that program, which airs at some time like 3 o'clock in the morning, not knowing that many people would be watching that program, I received a tremendous response. The next day my office received spates of telegrams, numerous telephone calls, and subsequently lots and lots of letters. I came to realize very quickly that it was not a problem unique to Nevada.

After coming to this body, I joined with Senator PRYOR and Senator GRASSLEY and introduced this legislation. This is a bill that, I believe, is well crafted. It has the support now of 34 Senators. It has the support of 130 House Members. This bill is on the move. It is on the legislative fast track in both Houses of Congress.

I also underline what the Senator from Arkansas said regarding the fact that we want money collected. We do not want anyone that owes money to this Government to get out of paying that money. What we want is for that money to be collected fairly and squarely. And the evidence simply is it has not.

After years of seeking relief from the highhanded tactics of the IRS, the U.S. Congress is moving to put the word "service" back into the IRS.

Lest any of my colleagues still doubt the need for this kind of legislation, I invite you to read the transcripts from the three hearings held in Senator PRYOR's subcommittee. The evidence presented to that subcommittee is overwhelming. Senator PRYOR has mentioned a number of things that were brought out in that subcommittee—"Seizure fever—Catch it." Can you imagine a boss having that on his window so that all the employees there could see it, indicating that it is good to seize people's property. The evidence is clear, not in one case, but in many cases.

There are many examples of small business people who simply were run out of business by the IRS. One example that comes to my mind is a business in operation 14 years. They owed taxes. They employed over 100 people. The owner said, "We will pay 60 percent of it today and we want to work out the balance with you." "No thanks replied the IRS." The result: the business was closed; 100 people out of work; and the Government collected no taxes.

If you are not interested in looking at the transcript of the hearings from that subcommittee, then I invite you to pick up a handful of your mail. You will find stories from your own constituents describing the incredible stories of abuse and discourteous behavior of the IRS that come in the mail every day. Unfortunately these stories are routine and they are real. No lobbying group composes these letters. They come from real people. Every letter I have received is handwritten. And every letter I received is composed by a person.

Letters from small business people come in as well. They all are real. They are all from people who are telling a story from the heart.

Every letter supports S. 604, the omnibus taxpayers' bill of rights.

This measure will be approved by the Senate and the House this year.

I urge my colleagues to join Senators PRYOR, GRASSLEY, myself, and 32 other Senators to cosponsor this historic measure and bring to the American public a new part of the bill of rights that should always be in existence but that will come with passage of this legislation: the taxpayers' bill of rights.

I yield the balance of my time.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I ask unanimous consent that I may proceed for a period of time not to exceed 5 minutes as if in morning business.

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

FOUR POSSIBLE RULES CHANGES

Mr. PRYOR. Mr. President, I thank you for recognizing me.

During the course of the legislative day I will introduce on behalf of myself and on behalf of Senator DANFORTH, of Missouri, four possible rules changes that will be going to the Rules Committee.

Mr. President, one of these rules changes that Senator DANFORTH and I would present will relate to the sense-of-the-Senate resolutions, requiring 20 cosponsors, 20 cosponsors of each sense-of-the-Senate resolution.

Second, one of our proposals will be to change the motion to proceed to limit debate on the motion to proceed to 1 hour, equally divided, that time being allocated by the majority and minority leaders, up-or-down vote, and a simple majority, the Senate deciding whether or not to proceed to the legislation.

The third change, Mr. President, relates to the 15-minute rollcall vote which is now a standing order of the Senate. We will elevate it to a rule. We will also charge the Rules Committee with establishing a system in this body whereby we will be signaled at the time when the 15-minute period expires.

The fourth change, Mr. President, is the most complex. It relates to how we as Members of the Senate amend legislation. It will be an attempt to keep the majority and minority leaders, the managers of specific legislation, from standing on this floor, literally begging and pleading with Senators to bring their amendments to the floor for offering and debate. We will propose a change that we hope will be effective and we hope will be efficient, and certainly which we hope to be adopted. It will be a system whereby we have to amend a bill by section or title.

Tomorrow, given the proper opportunity, I will have the opportunity, together with Senator DANFORTH, to explain these four proposals in which we attempt to change the rules by which we operate in the Senate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator yields back his time.

Mr. BYRD. 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. REID. 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 Senator from Nevada is recognized.

Mr. REID. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The Chair states the pending business is S. 2.

Mr. REID. Mr. President, I ask unanimous consent that I may proceed as if in morning business.

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

Mr. BYRD. Mr. President, I am not going to object, but I wish we would stay on the business of the Senate. We are getting into a situation here where the whole day is being spent on morning business.

Mr. REID. Mr. President, I shall be happy to speak on the matter before the Senate, S. 2.

Mr. BYRD. Is the Senator going to speak on S. 2, Mr. President?

Mr. REID. Yes, Mr. President. I shall do that rather than morning business.

Mr. BYRD. Mr. President, I am thankful.

I yield the floor.

FEC REGULATION AMENDMENTS

Mr. REID. Mr. President, too often we, as those who exercise oversight, see only that which is wrong with the entities we review. We raise those matters which we think need correction and enact legislation to resolve the problems. We are often ready to criticize, but too rarely do we recognize efforts by an agency to resolve its own problems.

Since the introduction of S. 2 and other legislation, including a bill that I introduced, S. 780, I have spoken on this floor repeatedly about the need for campaign reform. I have testified on a number of occasions regarding the repeated and consistent delays encountered by those who seek redress before the FEC for violations of Federal election laws. I am delighted today to be able to tell my colleagues in this body that the Federal Election Commission has taken some steps to resolve its problems of delay. I also submit, Mr. President, that I believe the reason for the action of the FEC—and I respect them for doing so—is some of the conversation that has taken place on this floor, some of the criticism that has taken place on this floor, some of the talk that has taken place on this floor regarding campaign reform.

The Federal Election Commission has seen that they can do something on their own to resolve some of the problems that have caused the confusion, the extended delays in proceedings before FEC, and the problems with campaigns generally.

The Federal Election Commission today, I am happy to report, is in a position now where they are going to speed up their own process. The actions are represented in the reform that I talked about by the FEC itself, in new procedures adopted by the Commission policy on granting extensions of time in enforcement matters.

Those people that have had problems and have filed complaints or been parties to complaints or had actions that are of interest to them before the Federal Election Commission, have found that most often, nothing ever happens. It is one delay, it is another delay, it is delay after delay. They simply recognize now, the Federal Election Commission, that they must do something about it. They have adopted new procedures that relate to enforcement. They were adopted on June 4 and discussed in this month's FEC Record, a publication put out by the Federal Election Commission.

In essence, the new regulations place some restrictions on the granting of extensions at various stages of the enforcement process, and even some of those are limited to "exceptional circumstances." Discretion to grant such extensions is granted to FEC counsel, with guidance as to time and criteria provided by the regulations.

Mr. President, what the FEC has done is certainly not enough and the talk that has taken place on this floor with regard to campaign reform is still a valid judgment. But I commend the FEC for doing something. While maybe not enough, it is a step in the right direction and constitutes a recognition by the FEC that a problem in delay exists and something must be done to resolve it. I am very much a believer in the maxim that recognition of the existence of a difficulty is half the battle in finding a solution.

Now that the FEC has acknowledged the problem of delay, I hope that the Commission will focus even more attention on what has been taking place on this floor, that the delays which have taken place in proceedings before the Election Commission cannot be resolved only by a change in their internal rules. More needs to be done. S. 2 would certainly be a vast improvement, as we talked about on the Senate floor.

I also would like the Members of this body to look at legislation I have introduced which is a companion to S. 2, which will streamline the procedures of the Federal Election Commission.

I am certainly applauding today the legislation that has been introduced by Senator BOREN and the majority leader, which I think rightfully has focused attention on what has taken place in the elections in the past several years in this country. I think the American public has responded. It is

seen in the editorials in all the major newspapers, saying that there must be some election reform. The editorials have appeared not only in major newspapers but also in the hometown newspapers that come from the various congressional districts throughout the country. So I commend Senator BOREN and the majority leader for the work they have done on this issue.

I ask my colleagues on the other side of the aisle to join in this effort to reform the campaign laws of this country, to make campaigns more meaningful, so that the people of this country will be involved more in elections than they have been, so that voter registration will pick up, so that people need not be wealthy to be involved in a political campaign.

I yield back the remainder of my time.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I hope shortly to be able to take up another measure on which some problem is being resolved. For the time being, 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. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

OLDER AMERICANS ACT AUTHORIZATION

Mr. BYRD. Mr. President, the distinguished Republican leader and I have been discussing this request.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 285, provided that, with the exception of the committee amendments from the Indian Affairs Committee and the committee substitute from the Labor Committee, only the following amendments be in order: An amendment by Mr. MATSUNAGA, an amendment by Mr. HATCH and Mr. INOUYE, three amendments on behalf of Mr. MELCHER.

I also ask unanimous consent that there be no motion to recommit, either with or without instructions, and that there be a time limitation of not to exceed 15 minutes.

The PRESIDING OFFICER. Is there objection to the request of the majority leader? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the agreement be in the usual form with respect to the division and control of the time.

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

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 887) to extend the authorization of appropriations for and to strengthen the provisions of the Older Americans Act of 1965, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Older Americans Act Amendments of 1987".

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Sec. 1. Short title; table of contents.

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PART D—COMMUNITY SERVICE EMPLOYMENT

Sec. 161. Administrative costs of employment projects.
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PART E—NATIVE AMERICAN PROGRAMS

Sec. 171. Native American programs.

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Sec. 201. White House Conference authorized.
Sec. 202. Authorization of the Conference.
Sec. 203. Conference administration.
Sec. 204. Conference committees.
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Sec. 206. Definitions.
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TITLE III—ALZHEIMER'S DISEASE RESEARCH

Sec. 301. Requirement for clinical trials.
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TITLE IV—GENERAL PROVISIONS

Sec. 401. Effective date; application of amendments.

TITLE I—AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

PART A—OBJECTIVES AND ADMINISTRATION

OBJECTIVES

SEC. 101. Section 101 of the Older Americans Act of 1965 (42 U.S.C. 3001) (hereafter in this title referred to as "the Act") is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "United States and" and inserting "United States,", and

(B) by inserting ", and of Indian tribes" after "subdivisions",

(2) in paragraph (3)—

(A) by striking "Suitable" and inserting "Obtaining and maintaining suitable", and

(B) by inserting "and functional limitations" after "special needs",

(3) in paragraph (7) by striking "Pursuit of" and inserting "Participating in and contributing to", and

(4) in paragraph (10)—

(A) by striking "lives and" and inserting "lives,", and

(B) by inserting ", and protection against abuse, neglect, and exploitation" before the period at the end.

ESTABLISHMENT OF ADMINISTRATION ON AGING

SEC. 102. Section 201(a) of the Act (42 U.S.C. 3011(a)) is amended in the third and fourth sentences by striking "the Office of".

DATA COLLECTION; REPORTS

SEC. 103. (a) COLLECTION REQUIRED.—Section 202(a) of the Act (42 U.S.C. 3012(a)) is amended—

(1) by striking "and" in paragraph (17) at the end,

(2) by striking out the period at the end of paragraph (18) and inserting a semicolon, and

(3) by adding at the end the following:

"(19) collect for each fiscal year for fiscal years beginning after September 30, 1988, directly or by contract, statistical data regarding programs and activities carried out with funds provided under this Act, including—

"(A) with respect to each type of service provided with such funds—

"(i) the aggregate amount of such funds expended to provide such service;

"(ii) the number of individuals who received such service; and

"(iii) the number of units of such service provided;

"(B) the number of senior centers which received such funds; and

"(C) the extent to which each area agency on aging designated under section 305(a) satisfied the requirements of paragraphs (2) and (5)(A) of section 306(a).".

(b) REPORTS.—The last sentence of section 207(a) of the Act is amended to read as follows: "Such annual reports shall include—

"(1) statistical data reflecting services and activities provided to individuals during the preceding fiscal year;

"(2) statistical data collected under section 202(a)(19);

"(3) statistical data on legal services collected pursuant to section 202(a)(19) and an analysis of the information received under section 307(a)(15)(E) by the Commissioner; and

"(4) statistical data and an analysis of information regarding the effectiveness of the State agency and area agencies on aging in targeting services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals, low-income individuals, and frail individuals (including individuals with any physical or mental functional impairment).".

(c) REPORT ON OMBUDSMAN PROGRAM TO CONGRESS.—Section 207 of the Act is amended by adding at the end the following:

"(c)(1) Not later than January 15 of each year, the Commissioner shall compile a report—

"(A) summarizing and analyzing the data collected under section 307(a)(12)(C) for the then most recently concluded fiscal year;

"(B) identifying significant problems and issues revealed by such data (with special emphasis on problems relating to quality of care and residents' rights);

"(C) discussing current issues concerning the long-term care ombudsman programs of the States; and

"(D) making recommendations regarding legislation and administrative actions to resolve such problems.

"(2) The Commissioner shall submit the report required by paragraph (1) to—

"(A) the Select Committee on Aging of the House of Representatives;

"(B) the Special Committee on Aging of the Senate;

"(C) the Committee on Education and Labor of the House of Representatives; and

"(D) the Committee on Labor and Human Resources of the Senate.

"(3) The Commissioner shall provide the report required by paragraph (1), and make the State reports required by section 307(a)(12)(I)(i) available, to—

"(A) the Administrator of the Health Care Finance Administration;

"(B) the Office of the Inspector General of the Department of Health and Human Services;

"(C) the Office of Civil Rights of the Department of Health and Human Services;

"(D) the Administrator of the Veterans' Administration; and

"(E) the public agencies and private organizations designated under section 307(a)(12)(A).".

VETERANS' PROGRAMS

SEC. 104. (a) CONSULTATION.—Section 203(b) of the Act (42 U.S.C. 3013(b)) is amended—

(1) by striking "and" in paragraph (13) at the end,

(2) by striking the period at the end of paragraph (14) and inserting ", and", and

(3) by adding at the end the following:

"(15) parts II and III of title 38, United States Code.".

(b) TECHNICAL ASSISTANCE AND COOPERATION UNDER TITLE III.—Section 301(b)(2) of the Act is amended by inserting ", the Veterans' Administration," after "Office of Community Services".

(c) AREA PLANS.—Section 306(a)(6)(F) of the Act is amended by inserting "providers of veterans' health care (if appropriate)," after "elected officials,".

(d) TECHNICAL ASSISTANCE AND COOPERATION UNDER TITLE IV.—Section 402(b) of the Act is amended by inserting "the Veterans' Administration," after "National Institutes of Health,".

MENTAL HEALTH

SEC. 105. (a) FUNCTIONS OF COMMISSIONER.—Section 202(a)(5) of the Act (42 U.S.C. 3012(a)(5)) is amended by inserting "(including mental health)" after "health".

(b) FEDERAL AGENCY CONSULTATION.—Section 203(b)(10) of the Act is amended by inserting ", including block grants under title XIX of such Act" before the comma.

(c) ADMINISTRATION OF TITLE III.—Section 301(b)(2) of the Act, as amended by section 104(b), is amended by inserting ", the Alcohol, Drug Abuse, and Mental Health Administration," after "Veterans' Administration,".

(d) ADMINISTRATION OF TITLE IV.—Section 402(b) of the Act, as amended by section 104(d), is amended by inserting "Alcohol, Drug Abuse, and Mental Health Administration," after "Veterans' Administration,".

(e) EDUCATION AND TRAINING.—(1) Section 411(a)(1) of the Act is amended by inserting "(including mental health)" after "health".

(2) The first sentence of section 412(a) of the Act is amended by inserting "(including mental health)" after "health".

(f) SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE.—The second sentence of section 423(a)(3) of the Act is amended by inserting "mental health services;" after "in-home services;".

OLDER INDIVIDUALS WITH DISABILITIES

SEC. 106. (a) CONSULTATION FUNCTION.—Section 202(a) of the Act (42 U.S.C. 3012(a)), as amended by section 103(a), is amended—

(1) by striking "and" at the end of paragraph (18);

(2) by striking out the period at the end of paragraph (19) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new paragraph:

"(20) consult with national organizations representing the interests of individuals with severe disabilities (A) to develop and disseminate information on population characteristics and needs, and training of personnel; and (B) to provide technical assistance designed to assist State and area agencies to provide services in collaboration with other State agencies to older individuals with disabilities and severely impairing conditions.".

(b) PLANNING.—Section 202(b)(1) of the Act is amended—

(1) by striking "and" and inserting a comma; and

(2) by inserting after "Act" at the end thereof a comma and the following: "with the Alcohol, Drug Abuse, and Mental Health Administration and the Administration on Developmental Disabilities".

(c) AGENCY CONSULTATION.—(1) Section 203(b) of the Act, as amended by section 104(a), is amended—

(A) by striking out "and" at the end of paragraph (14);

(B) by striking out the period at the end of paragraph (15) and inserting in lieu thereof a comma; and

(C) by adding after paragraph (15) the following new paragraphs:

"(16) the Rehabilitation Act of 1973, and

"(17) the Developmental Disabilities and Bill of Rights Act.".

(2) Section 203 of the Act is amended by adding at the end thereof the following:

"(c) In carrying out section 341, the Commissioner shall consult with the Federal Advisory Panel on Alzheimer's Disease established under section 921 of the Alzheimer's Disease and Related Dementias Services Research Act of 1986.".

(d) EVALUATION.—The second sentence of section 206(c) of the Act is amended by inserting before the period the following: "and older individuals with disabilities".

OLDER NATIVE AMERICANS

SEC. 107. (a) IMPROVED ADMINISTRATION FOR NATIVE AMERICAN PROGRAMS.—Section 201 of the Act (42 U.S.C. 3011) is amended by adding at the end the following:

"(c)(1) There is established in the Administration on Aging an Office for Native American Programs.

"(2) The Office shall be headed by an Associate Commissioner on Native American Aging appointed by the Commissioner.

"(3) The Associate Commissioner on Native American Aging shall—

"(A)(i) evaluate the adequacy of outreach under title III and title VI for older Native Americans and recommend to the Commissioner necessary action to improve service delivery, outreach, coordination between title III and title VI services, and particular problems faced by older Indians and Hawaiian Natives; and

"(ii) include a description of the results of such evaluation and recommendations in the annual report required by section 207(a) to be submitted by the Commissioner;

"(B) serve as the effective and visible advocate in behalf of older Native Americans within the Department of Health and Human Services and with other departments and agencies of the Federal Government regarding all Federal policies affecting older Native Americans;

"(C) coordinate activities between other Federal departments and agencies to assure a continuum of improved services through memoranda of agreements or through other appropriate means of coordination;

"(D) administer and evaluate the grants provided under this Act to Indian tribes, public agencies and nonprofit private organizations serving Hawaiian Natives;

"(E) recommend to the Commissioner policies and priorities with respect to the development and operation of programs and activities conducted under the Act relating to older Native Americans;

"(F) collect and disseminate information related to problems experienced by older Native Americans;

"(G) develop research plans, and conduct and arrange for research, in the field of American Native aging with a special emphasis on the gathering of statistics on the status of older Native Americans; and

"(H) develop and provide technical assistance and training programs to grantees under title VI.".

(b) FEDERAL COUNCIL ON AGING.—The third sentence of section 204(a)(1) of the Act (42 U.S.C. 3015(a)(1)) is amended by inserting "Indian tribes" after "minorities".

(c) CONTRACTING AUTHORITY.—Section 212 of the Act (42 U.S.C. 3020c) is amended by inserting after "State agency" the following: "(or in the case of a grantee under title VI, subject to the recommendation of the Associate Commissioner on Native American Aging and the approval of the Commissioner)".

FEDERAL COUNCIL ON AGING

SEC. 108. (a) MEMBERSHIP.—The fourth sentence of section 204(a)(1) of the Act (42 U.S.C. 3015(a)(1)) is amended by striking out "two" and inserting in lieu thereof "three".

(b) REAUTHORIZATION.—Section 204(g) of the Act (42 U.S.C. 3015) is amended to read as follows:

"(g) There are authorized to be appropriated to carry out the provisions of this section $210,000 for the fiscal year 1988, $221,000 for the fiscal year 1989, $232,000 for the fiscal year 1990, $243,000 for the fiscal year 1991, and $255,000 for the fiscal year 1992.".

REGULATIONS

SEC. 109. Section 205(c) of the Act (42 U.S.C. 3016(c)) is amended by striking "1984" and inserting "1987".

PUBLICATION OF GOALS

SEC. 110. Section 205 of the Act (42 U.S.C. 3016) is amended—

(1) by redesignating subsection (d) as subsection (e), and

(2) by inserting after subsection (c) the following:

"(d) Not later than September 1 of each fiscal year, the Commissioner shall publish in the Federal Register, for the purpose of facilitating informed public comment, proposed specific goals to be achieved by implementing this Act in the first fiscal year beginning after the date of such publication.".

PART B—GRANTS FOR SUPPORTIVE SERVICES, NUTRITION, AND OTHER ACTIVITIES

PURPOSE

SEC. 121. Section 301(a) of the Act (42 U.S.C. 3021(a)) is amended by inserting "with Indian tribes, tribal organizations, and Hawaiian Native organizations," after "agencies," the second place it appears.

ADMINISTRATION OF STATE GRANTS PROGRAM

SEC. 122. Section 301(b)(2) of the Act is amended—

(1) by inserting "(a)" after the paragraph designation; and

(2) by adding at the end thereof the following new subparagraph:

"(b) In carrying out the provisions of this title, the Commissioner may request technical assistance and cooperation of other agencies and units of the Department of Health and Human Services, including the National Institute on Aging, the Health Care Financing Administration, and the Social Security Administration.".

REAUTHORIZATION FOR STATE AND COMMUNITY PROGRAMS ON AGING

SEC. 123. (a) SUPPORTIVE SERVICES AND SENIOR CENTERS.—Section 303(a) of the Act is amended to read as follows:

"(a) There are authorized to be appropriated $379,575,000 for the fiscal year 1988, $398,554,000 for the fiscal year 1989, $418,481,000 for the fiscal year 1990, $439,406,000 for the fiscal year 1991, and $461,376,000 for the fiscal year 1992 for the purpose of making grants under part B of this title (relating to supportive services and senior centers).".

(b) NUTRITION SERVICES.—Section 303(b) of the Act is amended to read as follows:

"(b)(1) There are authorized to be appropriated $414,750,000 for the fiscal year 1988, $435,488,000 for the fiscal year 1989, $457,262,000 for the fiscal year 1990, $480,125,000 for the fiscal year 1991, and $504,131,000 for the fiscal year 1992 for the purpose of making grants under subpart 1 of part C of this title (relating to congregate nutrition services).

"(2) There are authorized to be appropriated $79,380,000 for the fiscal year 1988, $83,349,000 for the fiscal year 1989, $87,516,000 for the fiscal year 1990, $91,892,000 for the fiscal year 1991, and $96,487,000 for the fiscal year 1992 for the purpose of making grants under subpart 2 of part C of this title (relating to home delivered nutrition services).".

(c) SURPLUS COMMODITIES PROGRAM.—(1) Section 311(a)(4) of the Act is amended—

(A) by striking "fiscal year 1986 and during each fiscal year thereafter" and inserting "fiscal years 1986 through 1992", and

(B) by striking the second and third sentences.

(2) The matter preceding the parenthetical in section 311(c)(1)(A)(i) of the Act is amended to read as follows:

"(c)(1)(A)(i) There are authorized to be appropriated $151,000,000 for the fiscal year 1988, $166,000,000 for the fiscal year 1989, $183,000,000 for the fiscal year 1990, $201,000,000 for the fiscal year 1991, and $221,100,000 for the fiscal year 1992 to carry out the provisions of this section.".

ADMINISTRATIVE EXPENSES OF AREA AGENCIES ON AGING

SEC. 124. Section 304(d)(1)(A) of the Act (42 U.S.C. 3024(d)(1)(A)) is amended by striking "8.5" and inserting "10".

AREA AGENCIES ON AGING AS SEPARATE UNITS

SEC. 125. Section 305(c) of the Act (42 U.S.C. 3025(c)) is amended—

(1) in paragraph (2) by inserting "to function only" after "designated",

(2) in paragraph (3) by inserting "only" after "act", and

(3) in paragraph (4)—

(A) by inserting ", or any separate organizational unit within such agency," after "area" the first place it appears, and

(B) by striking "engage" and inserting "and will engage only".

AREA PLANS

SEC. 126. Section 306(a)(6)(A) of the Act (42 U.S.C. 3026(a)(6)(A)) is amended by inserting ", and public hearings on," after "evaluations of".

DAYCARE AND RESPITE SERVICES PROVIDED BY VOLUNTEERS

SEC. 127. Section 306(a)(6)(E) of the Act (42 U.S.C. 3026(a)(6)(E)) is amended—

(1) by inserting "or adults, and respite for families," after "for children", and

(2) by inserting ", adults, and families" after "to children".

COORDINATION OF CERTAIN PROGRAMS RELATING TO OLDER VICTIMS OF ALZHEIMER'S DISEASE

SEC. 128. Section 306(a)(6) of the Act (42 U.S.C. 3026(a)(6)) is amended—

(1) in subparagraph (J) by striking "and" at the end;

(2) in subparagraph (K) by striking out the period at the end and insert a semicolon and "and"; and

(3) by adding at the end the following:

"(L) coordinate the categories of services specified in paragraph (2) for which the area agency on aging is required to expend funds under part B, with activities of community-based organizations established for the benefit of victims of Alzheimer's disease and the families of such victims.".

OMBUDSMAN OFFICE AND PROGRAM

SEC. 129. (a) TECHNICAL ASSISTANCE.—Section 301 of the Act (42 U.S.C. 3021) is amended by adding at the end the following:

"(c) The Commissioner shall provide technical assistance and training (by contract, grant, or otherwise) to State long-term care ombudsman programs established under section 307(a)(12), and to individuals designated under such section to be representatives of a long-term care ombudsman, in order to enable such ombudsmen and such representatives to carry out the ombudsman program effectively.".

(b) STUDY OF OMBUDSMAN PROGRAM.—(1) The Commissioner shall conduct a study concerning involvement in the ombudsman program established under section 307(a)(12) and its impact upon issues and problems affecting—

(A) residents of board and care facilities and other similar adult care homes who are older individuals (as defined in section 302(10)), including recommendations for expanding and improving ombudsman services in such facilities; and

(B) the effectiveness of recruiting, supervising and retaining volunteer ombudsmen.

(2) The Commissioner shall prepare and submit a report to the Congress on the findings and recommendations of the study described in paragraph (1) not later than December 31, 1989.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 303(a) of the Act (42 U.S.C. 3023), as amended by section 123, is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following:

"(2) There are authorized to be appropriated an additional $20,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, 1991, and 1992 for such part B to be available for section 307(a)(12).".

(d) STATE PLANS.—Section 307(a)(12) of the Act (42 U.S.C. 3027(a)(12)) is amended to read as follows:

"(12) The plan shall provide assurances, with respect to a long-term care ombudsman program, that—

"(A) the State agency will establish and operate, either directly or by contract or other arrangement with any public agency or other appropriate private nonprofit organization, other than an agency or organization which is responsible for licensing or certifying long-term care services in the State or which is an association (or an affiliate of such an association) of long-term care facilities (including any other residential facility for older individuals), an Office

of the State Long-Term Care Ombudsman (in this paragraph referred to as the 'Office') and shall carry out through the Office a long-term care ombudsman program which provides an individual who will, on a full-time basis—

"(i) investigate and resolve complaints made by or on behalf of older individuals who are residents of long-term care facilities relating to action, inaction, or decisions of providers, or their representatives, of long-term care services, of public agencies, or of social service agencies, which may adversely affect the health, safety, welfare, or rights of such residents;

"(ii) provide for training staff and volunteers and promote the development of citizen organizations to participate in the ombudsman program; and

"(iii) carry out such other activities as the Commissioner deems appropriate;

"(B) the State agency will establish procedures for appropriate access by the ombudsman to long-term care facilities and patients' records, including procedures to protect the confidentiality of such records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of such complainant or resident, or upon court order;

"(C) the State agency will establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the agency of the State responsible for licensing or certifying long-term care facilities in the State and to the Commissioner on a regular basis;

"(D) the State agency will establish procedures to assure that any files maintained by the ombudsman program shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless—

"(i) such complainant or resident, or his legal representative, consents in writing to such disclosure; or

"(ii) such disclosure is required by court order;

"(E) the State agency will establish a statewide toll-free hotline to facilitate communication of complaints to the ombudsman by residents of long-term care facilities, by any person on behalf of such residents and recipients, and by any other person;

"(F) in planning and operating the ombudsman program, the State agency will consider the views of area agencies on aging, older individuals, and provider agencies;

"(G) the State agency will—

"(i) ensure that no individual involved in the designation of the long-term care ombudsman (whether by appointment or otherwise) or the designation of the head of any subdivision of the Office is subject to a conflict of interest;

"(ii) ensure that no officer, employee, or other representative of the Office is subject to a conflict of interest; and

"(iii) ensure that mechanisms are in place to identify and remedy any such or other similar conflicts;

"(H) the State agency will—

"(i) ensure that adequate legal counsel is available to the Office for advice and consultation and that legal representation is provided to any representative of the Office against whom suit or other legal action is brought in connection with the performance of such representative's official duties; and

"(ii) ensure that the Office has the ability to pursue administrative, legal, and other appropriate remedies on behalf of residents of long-term care facilities;

"(I) the State agency will require the Office to—

"(i) prepare an annual report containing data and findings regarding the types of problems experienced and complaints received by or on behalf of individuals residing in long-term care facilities, and to provide policy, regulatory, and legislative recommendations to solve such problems and resolve such complaints and improve the quality of care and life in long-term care facilities;

"(ii) analyze and monitor the development and implementation of Federal, State, and local laws, regulations, and policies with respect to long-term care facilities and services in that State, and recommend any changes in such laws, regulations, and policies deemed by the Office to be appropriate;

"(iii) provide information to public agencies, legislators, and others, as deemed necessary by the Office, regarding the problems and concerns, including recommendations related to such problems and concerns, of older individuals residing in long-term care facilities;

"(iv) provide for the training of the Office staff, including volunteers and other representatives of the Office, in—

"(I) Federal, State, and local laws, regulations, and policies with respect to long-term care facilities in the State;

"(II) investigative techniques; and

"(III) such other matters as the State deems appropriate;

"(v) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illness established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.) and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99-319); and

"(vi) include any area or local ombudsman entity designated by the State Long-Term Care Ombudsman as a subdivision of the Office. Any representative of an entity designated in accordance with the preceding sentence (whether an employee or an unpaid volunteer) shall be treated as a representative of the Office for purposes of this paragraph;

"(J) the State will ensure that no representative of the Office will be liable under State law for the good faith performance of official duties;

"(K) the State will—

"(i) ensure that willful interference with representatives of the Office in the performance of their official duties (as defined by the Commissioner) shall be unlawful;

"(ii) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident or employee for having filed a complaint with, or providing information to, the Office; and

"(iii) provide for appropriate sanctions with respect to such interference, retaliation, and reprisals; and

"(iv) ensure that representatives of the Office shall have—

"(I) access to long-term care facilities and their residents; and

"(II) with the permission of a resident or resident's legal guardian, have access to review the resident's medical and social records or, if a resident is unable to consent to such review and has no legal guardian, appropriate access to the resident's medical and social records;

"(L) the State agency will prohibit any officer, employee, or other representative of the Office to investigate any complaint filed with the Office unless the individual has received such training as may be required under subparagraph (H)(iv) and has been approved by the long-term care ombudsman as qualified to investigate such complaints; and

"(M) the State agency will carry out the provisions of section 308(d);".

(e) ADMINISTRATION.—Section 308 of the Act (42 U.S.C. 2028) is amended by inserting at the end thereof the following new subsection:

"(d)(1) Each State agency shall, in any fiscal year in which amounts appropriated for part B of this title is equal to or less than the amount appropriated for such part in fiscal year 1987, carry out the requirement of sections 307(a)(12) and 307(a)(21) as in effect prior to the date of enactment of the Older Americans Act Amendments of 1987.

"(2) In any fiscal year in which the appropriations for part B of this title are greater than the appropriations for such part for fiscal year 1987, the State agency shall carry out the provisions of section 307(a)(12), as amended by the Older Americans Act Amendments of 1987. In any such fiscal year, the provisions of section 307(a)(21) shall not apply.

"(3) Amounts appropriated and available under part B of this title for ombudsman services under section 307(a)(12) may not be used to supplant State or local funds available for that purpose.".

FLEXIBILITY OF SERVICES; LEGAL ASSISTANCE

SEC. 130. (a) AREA PLANS.—(1) Section 306(a)(2) of the Act (42 U.S.C. 3026(a)(2)) is amended to read as follows:

"(2)(A) provide assurances that adequate services associated with access to services (transportation, outreach, information, and referral) are provided in the planning and service delivery area; and

"(B) provide assurances that an adequate proportion (as described in section 307(a)(22)) of the amount allotted for part B to the planning and service area will be expended for the delivery of legal assistance for older individuals;".

(2) Section 306(b)(1) of the Act is amended to read as follows:

"(b)(1) Each State, in approving area agency plans under this section, shall waive the requirement described in clause (2)(B) of subsection (a) if the area agency has demonstrated that the legal assistance services being furnished to older individuals are sufficient to meet the need for such services after taking into account services provided by the Legal Services Corporation, the private bar or groups within the private bar furnishing services to older individuals on a pro bono and established reduced fee basis in that planning and service delivery area.".

(3) Section 306(b)(2) of the Act is amended by adding at the end the following:

"(C) Whenever the State agency proposes to grant a waiver to an area agency under this subsection, the State agency shall publish the intention to grant such a waiver together with the justification for the waiver at least 30 days prior to the effective date of the decision to grant the waiver. An individual or a service provider from the area with respect to which the proposed waiver applies is entitled to request a hearing before the State agency on the request to grant such

waiver. If, within the 30-day period described in the first sentence of this subparagraph, an individual or service provider requests a hearing under this subparagraph, the State agency shall afford such individual or provider an opportunity for a hearing.".

(b) STATE PLAN.—Section 307(a)(15) of the Act (42 U.S.C. 3027(a)(15)) is amended—

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

(2) by inserting "and" after the semicolon in subparagraph (D), and

(3) by adding at the end the following:

"(E) the plan contains assurances that if the State agency waives the requirement described in section 307(a)(22), the State agency will provide to the Commissioner—

"(i) a report regarding such waiver that details the demonstration made by the area agency on aging to obtain such waiver;

"(ii) a copy of the record of the public hearing conducted pursuant to section 306(b)(2)(A); and

"(iii) a copy of the record of any public hearing conducted pursuant to section 306(b)(2)(C).".

(c) MINIMUM EXPENDITURE OF FUNDS.—Section 307(a) of the Act (42 U.S.C. 3027(a)) is amended by adding at the end the following:

"(22) The plan shall specify a minimum percentage of the funds received by each area agency for part B that will be expended, in the absence of the waiver granted under section 306(b)(1), by such area agency to provide legal assistance.".

DOCUMENTATION REGARDING MINORITY PARTICIPATION

SEC. 131. (a) AREA PLANS.—Section 306(a)(5) of the Act (42 U.S.C. 3026(a)(5)) is amended—

(1) by inserting "(i)" after "(5)(A)", and

(2) in subparagraph (A)(i), as so redesignated—

(A) by striking out "and" at the end, and

(B) by inserting after clause (i) the following:

"(ii) provide assurances that the area agency will include in each agreement made with a provider of any service under this title, a requirement that such provider will—

"(I) specify how the provider intends to satisfy the service needs of low-income minority individuals in the area served by the provider; and

"(II) will attempt to provide services to low-income minority individuals in at least the same proportion as the population of low-income minority older individuals bears to the population of older individuals of the area served by such provider; and

"(iii) with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

"(I) identify the number of low-income minority older individuals in the planning and service area; and

"(II) describe the methods used to satisfy the service needs of such minority older individuals; and".

(b) STATE PLAN.—Section 307(a) of the Act (42 U.S.C. 3027(a)), as amended by section 130(c), is amended by adding at the end the following:

"(23) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

"(A) identify the number of low-income minority older individuals in the State; and

"(B) describe the methods used to satisfy the service needs of such minority older individuals.".

TARGETING OF SERVICES

SEC. 132. (a) ORGANIZATION.—(1) Section 305(a)(1)(E) of the Act (42 U.S.C. 3025(a)(1)(E)) is amended—

(A) by striking "the distribution of older individuals who have low incomes residing in such areas", and

(B) by inserting after "legal services," the following: "the distribution of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such areas, the distribution of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such areas,".

(2) Section 305(a)(2) of the Act is amended—

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

(B) by striking the period in subparagraph (E) and inserting a semicolon and "and", and

(C) by inserting after subparagraph (E) the following:

"(F) assure the use of outreach efforts that will identify individuals eligible for assistance under this Act, with special emphasis on older individuals with the greatest economic or social needs (with particular attention to low-income minority individuals) and inform such individuals of the availability of such assistance.".

(b) AREA PLANS.—Section 306(a) of the Act (42 U.S.C. 3026(a)) is amended—

(1) by inserting after "residing in such area" in paragraph (1) the following: ", the number of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such area, the number of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such area,",

(2) by inserting after "rural elderly," in paragraph (5)(B) the following: "older individuals who have greatest economic need (with particular attention to low-income minority individuals), and older individuals who have greatest social need (with particular attention to low-income minority individuals),", and

(3) by inserting before the semicolon at the end of paragraph (6)(A) the following: "and an annual evaluation of the effectiveness of outreach conducted under paragraph (5)(B)".

(c) STATE PLAN.—Section 307(a) of the Act (42 U.S.C. 3027(a)), as amended by sections 130(c) and 131(b), is amended—

(1) by inserting before the semicolon in paragraph (8) a comma and the following: "including an evaluation of the effectiveness of the State agency in reaching older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals", and

(2) by adding at the end the following:

"(24) The plan shall provide assurances that the State agency will require outreach efforts that will—

"(A) identify older individuals who are eligible for assistance under this title, with special emphasis on older individuals with greatest economic need (with particular attention to low-income minority individuals), older individuals with greatest social need (with particular attention to low-income minority individuals), and older individuals who reside in rural areas; and

"(B) inform such individuals of the availability of such assistance.".

COORDINATION RELATING TO MENTAL HEALTH SERVICES

SEC. 133. Section 306(a)(6) of the Act (42 U.S.C. 3026(a)(6)), as amended by section 128, is amended—

(1) by striking out "and" in subparagraph (K); and

(2) by striking out the period at the end of subparagraph (L) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end the following:

"(M) coordinate any mental health services provided with funds expended by the area agency on aging for part B with the mental health services provided by community health centers and by other public agencies and nonprofit private organizations.".

SERVICES TO OLDER NATIVE AMERICANS

SEC. 134. (a) ORGANIZATION.—(1) Section 305(a)(1)(E) of the Act (42 U.S.C. 3025(a)(1)(E)), as amended by section 132(a), is amended by inserting "the distribution of older Indians residing in such areas," after "such areas," the second place it appears.

(2) Section 306(a)(1) of the Act, as amended by section 132(b), is amended by inserting ", and the number of older Indians," before "and" the last time it appears in the parenthetical.

(b) AREA PLANS.—Section 306(a)(6) of the Act (42 U.S.C. 2026(a)(6)), as amended by sections 128 and 133, is amended—

(1) by striking out "and" at the end of subparagraph (L);

(2) by striking out the period at the end of subparagraph (M) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end the following:

"(N) if there is a significant population of older Indians in the planning and service area of the area agency, the area agency shall conduct outreach activities to identify older Indians in such area and shall inform such older Indians of the availability of assistance under this Act.".

(c) EDUCATION AND TRAINING.—(1) Section 402 of the Act (42 U.S.C. 3030bb) is amended by adding at the end the following:

"(c) The Commissioner shall ensure that grants and contracts under this title are equitably awarded to agencies, organizations, and institutions representing minorities.".

(2) Section 410(5) of the Act is amended by inserting "(including centers of gerontology to improve, enhance, and expand minority personnel and training programs)" after "gerontology".

(3) Section 411(a) of the Act is amended by adding at the end the following:

"(4) To provide in-service training opportunities and courses of instruction on aging to Indian tribes through public and nonprofit Indian aging organizations.".

(4) The matter in parentheses in the first sentence of section 412(a) of the Act is amended by striking out "and" and inserting "and minority populations" after "services".

(5) Section 423(a) of the Act is amended by adding at the end the following:

"(4) The Commissioner shall ensure that grants and contracts under this section are equitably awarded to agencies, organizations, and institutions representing minorities.".

(6) Section 425(a) of the Act is amended—

(A) by striking "(1)" and "(2)" and inserting "(A)" and "(B)", respectively,

(B) by inserting "(1)" after "(a)", and

(C) by adding at the end the following:

"(2) The Commissioner shall carry out, directly or through grants or contracts, special

training programs and technical assistance designed to improve services to minorities.".

(d) TASK FORCE.—(1) The Commissioner on Aging shall establish a permanent interagency task force that is representative of departments and agencies of the Federal Government with an interest in older Indians and their welfare and is designed to make recommendations with respect to facilitating the coordinations of services and the improvement of services to older Indians.

(2) The task force shall be chaired by the Associate Commissioner on Native American Aging and shall submit its findings and recommendations to the Commissioner at 6-month intervals beginning after the date of the enactment of this Act. Such findings and recommendations shall be included in the annual report required by section 207(a) to be submitted by the Commissioner.

(e) SPECIAL REPORT ON SERVICES FOR OLDER INDIANS.—(1) The Commissioner on Aging shall enter into a contract with a public agency or nonprofit private organization, to conduct a thorough study of the availability and quality of services under the Act to older Indians. The study shall include—

(A) an analysis of how many Indians now participate in programs under titles III and VI of such Act as compared to how many older Indians are eligible to participate in such programs,

(B) a description of how grants under titles III and VI of such Act are made to Indian tribes and how services are made available to older Indians, and

(C) a determination of what services are currently provided through title VI of such Act to older Indians and how well the Administration on Aging assures that supportive services under title VI of such Act to Indians are commensurate with supportive services under title III of such Act with special consideration to information and referral services, legal services, transportation services, and the ombudsman services.

(2) Not later than December 31, 1988, the Commissioner on Aging shall prepare and submit to the Congress a report on the study required by this subsection, together with such recommendations, including recommendations for legislation, as the Commissioner considers to be appropriate.

SERVICES TO INDIVIDUALS WITH DISABILITIES

SEC. 135. (a) DEFINITIONS.—(1) Section 302(11) of the Act (42 U.S.C. 3022) is amended by inserting after "health" the following: "(including mental health)".

(2) Section 302 of the Act is amended by adding at the end thereof the following:

"(13) The term 'individual with disabilities' means an individual—

"(A) who has a disability attributable to mental or physical impairment or a combination of mental and physical impairments that result in substantial functional limitations in one or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, (vii) economic self-sufficiency, (viii) cognitive functioning, and (ix) emotional adjustment; and

"(B) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke, epilepsy, Parkinson's disease, Alzheimer's disease and related dementia), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined to cause comparable substantial functional limitation.

"(14) The term 'severe disability' means a severe, chronic disability of an individual that—

"(A) is likely to continue indefinitely;

"(B) results in substantial functional limitation in three or more of the major life activities specified in paragraph (13)(A) (i) through (vii); and

"(C) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.".

(b) ORGANIZATION.—Section 305(a)(2) of the Act, as amended by section 132(a)(2), is amended—

(1) by striking out "and" at the end of subparagraph (E);

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new subparagraph:

"(G) provide assurances that the State agency will consult with State and area agencies with primary responsibility for individuals with disabilities, including severe disabilities, and develop collaborative programs, where appropriate, to meet the needs of older individuals with disabilities.".

(c) AREA PLANS.—Section 306(a)(5)(B) of the Act, as amended by section 132(b)(2), is amended by inserting after "individuals)," the second time it appears the following: "elderly with severe disabilities,".

(d) STATE PLANS.—(1) Section 307(a)(3)(A) of the Act is amended by inserting after "legal assistance" in the parenthetical the following: "and mental health services".

(2) Section 307(a)(13)(I) of the Act is amended by inserting before the semicolon at the end thereof a comma and the following: "and to individuals with disabilities who reside with and accompany older individuals who are eligible under this Act".

(3) Section 307(a) of the Act, as amended by sections 130(c), 131(b), and 132(c), is amended by adding after paragraph (24) the following new paragraph:

"(25) The plan shall provide, with respect to the needs of older individuals with severe disabilities, assurances that the State will—

"(A) coordinate planning, identification, assessment of needs, and service for older individuals with disabilities with particular attention to individuals with severe disabilities with the State agencies with primary responsibility for individuals with disabilities, including severe disabilities, and develop collaborative programs, where appropriate, to meet the needs of older individuals with disabilities; and

"(B) with respect to the needs of older individuals with developmental disabilities, coordinate planning with the State developmental disabilities planning council designated under section 124(a)(1) of the Developmental Disabilities Act.".

(e) SUPPORTIVE SERVICES.—(1) Section 321(a)(1) of the Act is amended by inserting after "health" the following: "(including mental health)".

(2) Section 321(a)(4)(B) of the Act is amended by striking out "suffering from physical disabilities" and inserting in lieu thereof "who have physical disabilities".

(3) Section 321 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) The Commissioner shall encourage area agencies on aging to enter into interagency or other formal agreements with public agencies or private organizations furnishing mental health services to ensure a coordinated approach in meeting the mental health and psychosocial needs of older individuals.".

CONFIDENTIALITY OF INFORMATION RELATING TO LEGAL ASSISTANCE PROVIDED

SEC. 136. (a) AREA AGENCY ON AGING.—Section 306 of the Act (42 U.S.C. 3026), as amended by section 130(b), is amended by adding at the end the following:

"(d) An area agency on aging may not require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.".

(b) STATE AND STATE AGENCY.—Section 307 of the Act (42 U.S.C. 3027) is amended by adding at the end the following:

"(g) Neither a State, nor a State agency, may require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.".

COORDINATION OF COMMUNITY-BASED SERVICES

SEC. 137. Section 307(a) of the Act (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), and 135(d), is amended by inserting after paragraph (25) the following:

"(26) The plan shall provide assurances that area agencies on aging will conduct efforts to facilitate the coordination of community-based, long-term care services, pursuant to section 306(a)(6)(I), for older individuals who—

"(A) reside at home and are at risk of institutionalization because of limitations on their ability to function independently;

"(B) are patients in hospitals and are at risk of prolonged institutionalization; or

"(C) are patients in long-term care facilities, but who can return to their homes if community-based services are provided to them.".

PAYMENTS

SEC. 138. Section 309(c) of the Act (42 U.S.C. 3029(c)) is amended—

(1) by inserting "average annual" after "less than its", and

(2) by striking "preceding fiscal year" and inserting "period of 3 fiscal years preceding such year".

IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS

SEC. 139. (a) AUTHORIZATION OF APPROPRIATIONS.—Section 303 of the Act (42 U.S.C. 3023), as amended by section 123, is amended by adding at the end the following:

"(d) There are authorized to be appropriated $25,000,000 for fiscal year 1988, $26,250,000 for fiscal year 1989, $27,563,000 for fiscal year 1990, $28,941,000 for fiscal year 1991, and $30,388,000 for fiscal year 1992 for the purpose of making grants under part D of this title (relating to in-home services).".

(b) AREA PLANS.—Section 306(a) of the Act (42 U.S.C. 3026(a)) is amended—

(1) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon and "and"; and

(2) by inserting after paragraph (6) the following:

"(7) provide assurances that any amount received under part D will be expended in accordance with such part.".

(c) STATE PLANS.—(1) Section 307(a)(10) of the Act (42 U.S.C. 3027(a)(10)) is amended by inserting "and in-home services (as defined in section 342(1))" after "nutrition services".

(2) Section 307(a) of the Act (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), 135(d), and 137, is amended by inserting after paragraph (26) the following:

"(27) Each such plan shall provide assurances of consultation and coordination in planning and provision of in-home services under section 341 with State and local agencies and private nonprofit organizations which administer and provide services relating to health, social services, rehabilitation, and mental health services.".

(d) PROGRAM.—Title III of the Act is amended by adding at the end the following:

"PART D—IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS

"PROGRAM AUTHORIZED

"SEC. 341. (a) With funds appropriated to carry out this part, the Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to provide in-home services to frail older individuals, relating to the individual's environment and functional support needs, including in-home supportive services for older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and to the families of such victims.

"(b) In carrying out the provisions of this part, each area agency shall coordinate with other community agencies and voluntary organizations providing counseling and training for family caregivers and support service personnel in management of care, functional and needs assessment services, assistance with locating, arranging for, and coordinating services, case management, and counseling prior to admission to nursing home to prevent premature institutionalization.

"DEFINITIONS

"SEC. 342. For purposes of this part—

"(1) the term 'in-home service' includes—

"(A) homemaker and home health aides;

"(B) visiting, telephone reassurance, and personal emergency response;

"(C) chore maintenance;

"(D) respite care for families, including adult day care; or

"(E) minor remodeling of homes necessary to facilitate the ability of older individuals to remain at home, and not covered by other programs; and

"(2) the term 'frail' means having a physical or mental disability, including having Alzheimer's disease or related disorders with neurological or organic brain dysfunction, that restricts the ability of an individual to perform normal daily tasks or which threatens the capacity of an individual to live independently.

"STATE CRITERIA

"SEC. 343. The State agency shall develop eligibility criteria for providing in-home services to frail older individuals which shall take into account—

"(1) age;

"(2) greatest economic need;

"(3) noneconomic factors contributing to the frail condition; and

"(4) noneconomic and nonhealth factors contributing to the need for such services.

"MAINTENANCE OF EFFORT

"SEC. 344. Funds made available under this part shall be in addition to, and may not be used to supplant, any funds that are or would otherwise be expended under any Federal, State, or local law by a State or unit of general purpose local government (including area agencies on aging which have in their planning and services areas existing services which primarily serve older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and the families of such victims).".

STATE PLAN INFORMATION REGARDING SERVICES TO OLDER INDIVIDUALS RESIDING IN RURAL AREAS

SEC. 140. Section 307(a) of the Act (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), 135(d), 137, and 139(c)(2), is amended by adding after paragraph (27) the following:

"(28) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared, describe the methods used to satisfy the service needs of older individuals who reside in rural areas.".

HEALTH EDUCATION AND PROMOTION FOR OLDER AMERICANS

SEC. 141. (a) AUTHORIZATION OF APPROPRIATIONS.—Section 303 of the Act (42 U.S.C. 3023), as amended by sections 123 and 139(a), is amended by adding at the end thereof the following:

"(e) There are authorized to be appropriated $5,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, 1991, and 1992 for the purpose of making grants under part E of this title (relating to periodic preventive health, health education, and promotion services).".

(b) AREA PLANS.—Section 306(a) of the Act, as amended by section 139, is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and "and"; and

(3) by inserting after paragraph (7) the following:

"(8) provide assurances that any amount received under part E will be expended in accordance with such part; and".

(c) PROGRAM.—Title III of the Act, as amended by section 139, is further amended by adding at the end thereof the following:

"PART E—PREVENTIVE HEALTH SERVICES

"PROGRAM AUTHORIZED

"SEC. 351. (a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for periodic preventive health services to be provided at senior centers or alternative sites as appropriate.

"(b) Preventive health services under this part may not include services eligible for reimbursement under Medicare.

"(c) The Commissioner shall, to the extent possible, assure that services provided by other community organizations and agencies are used to carry out the provisions of this part.

"DISTRIBUTION TO AREA AGENCIES

"SEC. 352. The State agency shall give priority, in carrying out this part, to areas of the State—

"(1) which are medically underserved; and

"(2) in which there are a large number of other individuals who have the greatest economic need for such services.

"DEFINITIONS

"SEC. 353. For the purpose of this part and section 307 the term 'preventive health services' means—

"(1) routine health screening, which may include hypertension, glaucoma, cholesterol, cancer, vision and hearing screening;

"(2) group exercise programs;

"(3) home injury control services, including screening of high-risk home environments and educational programs on injury protection in the home environment;

"(4) nutritional counseling and educational services;

"(5) screening for the prevention of depression, coordination of community mental health services, educational activities, and referral to psychiatric and psychological services;

"(6) educational programs on the benefits and limitations of Medicare and various supplemental insurance coverage, including individual policy screening and health insurance-needs counseling; and

"(7) counseling regarding followup health services based on any of the services provided for above.".

PREVENTION OF ABUSE OF OLDER INDIVIDUALS

SEC. 142. (a) DEFINITIONS.—Section 302 of the Act (42 U.S.C. 3022), as amended by section 135(a), is amended by adding at the end the following:

"(15) The term 'abuse' means the willful—

"(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm or pain or mental anguish; or

"(B) deprivation by a caretaker of goods or services which are necessary to avoid physical harm, mental anguish, or mental illness.

"(16) The term 'elder abuse' means abuse of an older individual.

"(17) The term 'caretaker' means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, receipt of payment for care, as a result of family relationship, or by order of a court of competent jurisdiction.

"(18) The term 'exploitation' means the illegal or improper act or process of a caretaker using the resources of an older individual for monetary or personal benefit, profit, or gain.

"(19) The term 'neglect' means the failure to provide for oneself the goods or services which are necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

"(20) The term 'physical harm' means bodily pain, injury, impairment, or disease.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 303 of the Act, as amended by sections 123, 139(a), and 141(a), is amended by adding at the end the following:

"(f) There are authorized to be appropriated $5,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, 1991, and 1992 to carry out part F (relating to abuse, neglect, and exploitation of older individuals)."

(c) AREA PLANS.—Section 306(a) of the Act, as amended by section 139(b), is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and "and", and

(3) by inserting after paragraph (7) the following:

"(8) provide assurances that any amount received under part F will be expended in accordance with such part.".

(d) STATE PLAN.—(1) Section 307(a)(16) of the Act is amended by striking "provide" the

second time it appears and inserting ", if funds are not appropriated under section 303(f) for a fiscal year, provide that for such fiscal year".

(2) Section 307(a) of the Act, as amended by sections 130(c), 131(b), 132(c), 135(d), 137, 139(c)(2), and 140, is amended by adding at the end the following:

"(29) The plan shall provide assurances that if the State receives funds appropriated under section 303(f), the State agency and area agencies on aging will expend such funds to carry out part F.".

(e) ABUSE, NEGLECT, AND EXPLOITATION OF OLDER INDIVIDUALS.—Title III of the Act is amended by adding at the end the following:

"PART F—ABUSE, NEGLECT, AND EXPLOITATION OF OLDER INDIVIDUALS

"PROGRAM AUTHORIZED

"SEC. 361. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to carry out a program with respect to the prevention of abuse, neglect, and exploitation of older individuals. The program shall—

"(1) be consistent with relevant State law and coordinated with State adult protective service activities and other State and local elder abuse prevention and protection;

"(2) provide for—

"(A) public education and outreach services to identify and prevent abuse, neglect, and exploitation of older individuals;

"(B) receipt of reports of such abuse, neglect, and exploitation;

"(C) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance if appropriate and with the consent of the older individuals to be referred; and

"(D) the referral of complaints and other reports of abuse, neglect, or exploitation of older individuals to law enforcement agencies, public protective service agencies, licensing and certification agencies, ombudsman programs, or protection and advocacy system if appropriate;

"(3) not permit involuntary or coerced participation in such program by alleged victims, abusers, or their households; and

"(4) require that all information gathered in the course of receiving such a complaint or report, and making such a referral, shall remain confidential unless—

"(A) all parties to such complaint or report consent in writing to the release of such information; or

"(B) the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system.".

ASSISTIVE TECHNOLOGY SERVICES

SEC. 143. (a) FUNCTIONS OF THE COMMISSIONER.—Section 202(a)(5) of the Act (42 U.S.C. 3012(a)(5)) is amended by inserting after "supportive services" the following: "(including assistive technology services)".

(b) GENERAL RULE.—Section 302(a) of the Act, as amended by section 135 and 142, is amended by adding at the end thereof the following:

"(21) The term 'supportive services' includes assistive technology services.

"(22) The term 'assistive technology services' means services designed to apply technology, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with functional limitations.".

PART C—DEMONSTRATION GRANTS

DEMONSTRATION PROJECTS; PURPOSE

SEC. 151. Section 401(1) of the Act (42 U.S.C. 3030aa) is amended by inserting the following before the semicolon a comma and the following: "with special emphasis on minority individuals, low-income individuals, frail individuals, and individuals with disabilities".

MULTIDISCIPLINARY CENTERS

SEC. 152. Section 412(a) of the Act (42 U.S.C. 3032(a)) is amended by striking "may" and inserting "shall".

VOLUNTEER OPPORTUNITIES

SEC. 153. Section 422(b) of the Act (42 U.S.C. 3035a) is amended—

(1) by striking out "and" at the end of paragraph (7);

(2) by striking out the period at the end of paragraph (8) and inserting a semicolon and the word "and"; and

(3) by adding at the end thereof the following:

"(9) provide expanded, innovative volunteer opportunities to older individuals which are designed to fulfill unmet community needs, while at the same time avoiding duplication of existing volunteer programs, which may include—

"(A) projects furnishing intergenerational services by older individuals addressing the needs of children, such as—

"(i) tutorial services in elementary and special schools;

"(ii) after school programs for latch key children;

"(iii) voluntary services for day care center programs; and

"(B) volunteer service credit projects operated in conjunction with ACTION, permitting elderly volunteers to earn credits for services furnished, which may later be redeemed for similar volunteer services.".

SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE

SEC. 154. Section 423(a)(1) of the Act (42 U.S.C. 3035b(a)(1)), as amended by section 134(c)(5), is amended by striking "may" and inserting "shall".

DEMONSTRATION PROGRAM OF OUTREACH TO ELDERLY SSI, MEDICAID, AND FOOD STAMP ELIGIBLES

SEC. 155. (a) DEMONSTRATION PROGRAM AUTHORIZED.—Part B of title IV of the Act is amended by adding at the end thereof the following new section:

"DEMONSTRATION PROGRAM OF OUTREACH TO ELDERLY SSI, MEDICAID, AND FOOD STAMP ELIGIBLES

"SEC. 427. (a) The Commissioner is authorized to make grants to, or enter into contracts with, State agencies on aging and area agencies on aging for the conduct of demonstration projects designed to demonstrate the feasibility of conducting outreach activities for older individuals who are eligible for but not receiving benefits under title XVI of the Social Security Act (or assistance under a State plan program under title XVI of that Act) relating to supplemental security income benefits, under title XVIIII of the Social Security Act, relating to medical assistance benefits, and benefits under the Food Stamp Act of 1977, in order to assist such individuals in applying for such benefits.

"(b) Grants and contracts under this section may be used for—

"(1) identifying older individuals with the greatest economic need who may be eligible for assistance described in subsection (a);

"(2) for outreach activities for planning in service in area agencies on aging for such individuals; and

"(3) for application assistance for such individuals.

"(c) No grant may be made and no contract may be entered into under this section unless an application is made to the Commissioner at such time, in such manner, and containing such information as the Commissioner may reasonably require. Each such application shall—

"(1) describe the activities for which assistance is sought;

"(2) provide for an evaluation of the activities for which assistance is sought; and

"(3) assurances that the applicant will prepare and submit to the Commissioner a report of the activities conducted with assistance under this section and the evaluation of that assistance.

"(d) In approving applications under this section, the Commissioner shall assure a geographic equitable distribution of assistance.

"(e) The Commissioner shall, as part of the annual report submitted under section 207, prepare and submit a report on the evaluations submitted under this section, together with such recommendations as the Commissioner may deem appropriate. In carrying out this section, the Commissioner shall consider—

"(1) the number of older individuals reached through outreach activities supported under this section;

"(2) the dollar amount of benefits to older individuals;

"(3) the cost of the activities in terms of the number of individuals reached and the benefit dollars involved; and

"(4) the effect on supportive services and nutrition services furnished under title III of this Act.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 431(a) of the Act is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by inserting "(other than section 427)" after "title"; and

(3) by adding at the end thereof the following new paragraph:

"(2) There are authorized to be appropriated $3,000,000 for the fiscal year 1988 and such sums for each of the 4 succeeding fiscal years to carry out the provisions of section 427.".

(c) OUTREACH AND APPLICATION ASSISTANCE FUNCTIONS OF ADMINISTRATION ON AGING.—Section 202(a) of the Act, as amended by sections 103(a) and 106(a), is amended—

(1) by striking out "and" at the end of paragraph (19);

(2) by striking out the period at the end of paragraph (20) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end the following:

"(21) obtain from—

"(A) the Department of Agriculture information explaining the requirements for eligibility to receive benefits under the Food Stamp Act of 1977; and

"(B) the Social Security Administration information explaining the requirements for eligibility to receive supplemental security income benefits under title XVI of the Social Security Act (or assistance under a State plan program under title XVI of that Act);

and distribute such information, in written form, to State agencies, for redistribution to area agencies on aging, to carry out outreach activities and application assistance.".

DEMONSTRATION GRANTS FOR INDIVIDUALS WITH DISABILITIES

SEC. 156. (a) TRAINING.—Section 411(c) of the Act (42 U.S.C. 3031(c)) is amended—

(1) by striking out "custodial and skilled care for older individuals who suffer from" and inserting in lieu thereof "services to individuals with disabilities and to individuals with", and

(2) by striking out "other neurological and organic brain disorders of the Alzheimer's type" and inserting in lieu thereof "and related disorders with neurological and organic brain dysfunction".

(b) MULTIDISCIPLINARY CENTERS.—(1) Section 412(a) of the Act, as amended by sections 105(e) and 134(c)(4), is amended by inserting before "income maintenance" the following: "disabilities (including severe disabilities),".

(2) Section 412(a) of the Act, as amended by sections 105(e) and 134(c) in paragraph (1) of this subsection is further amended by inserting after "supportive services" the following: "(including assistive technology services),".

(c) SPECIAL PROJECT.—Part A of title IV of the Act is amended by adding at the end thereof the following new section:

"SPECIAL DISABILITIES TRAINING PROJECT

"SEC. 413. The Commissioner is authorized to make grants to any public agency or private nonprofit organization and may enter into contracts with any public agency or private nonprofit organization to develop and provide training programs to service providers under title III of this Act and nursing home care providers to meet the special service needs of older individuals with disabilities and who are residing either in the community or in nursing care facilities.".

(d) DEMONSTRATION GRANTS.—(1) Section 422(b)(2)(A) of the Act is amended by inserting after "mental health services" the following: "or who have severe disabilities".

(2) Section 422(b)(2) of the Act is amended—

(A) by striking out "and" at the end of subclause (C); and

(B) by adding after subclause (D) the following new subclauses:

"(E) the identification and provision of services to elderly individuals with severe disabilities; and

"(F) the provision of rehabilitation services, and communication aids and devices to assist older individuals with severe disabilities.".

(3) Section 422(b) of the Act, as amended by section 153, is amended—

(A) by striking out the "and" at the end of paragraph (8),

(B) by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and "and", and

(C) by adding after paragraph (9) the following new paragraph:

"(10) address the needs of older individuals through the use of assistive technology services by studying and demonstrating methods of increasing the awareness of, the access to, and the use of assistive technology services for older individuals designed to increase their functional independence;".

(e) LONG-TERM CARE SPECIAL PROJECTS.—Section 423(a)(3) of the Act is amended by inserting after "geriatric health maintenance organizations" a semicolon and the following: "services to older individuals with severe disabilities residing in nursing homes".

(f) ADDITIONAL SPECIAL PROJECTS.—(1) Part B of title IV of the Act, as amended by section 155, is further amended by adding at the end thereof the following:

"OMBUDSMAN AND ADVOCACY DEMONSTRATION PROJECTS

"SEC. 428. (a) The Commissioner is authorized to make grants to not less than three nor more than ten States to demonstrate and evaluate cooperative projects between the State long-term care ombudsman program and the State protection and advocacy systems for developmental disabilities and mental illness, established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.) and under the protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99-319).

"(b) The Commissioner on Aging shall prepare and submit to the Congress after each fiscal year a report of the study and evaluation required by paragraph (1) of this section. Each such report shall contain such recommendations as the Commissioner on Aging deems appropriate.".

(2) Section 431(a) of the Act, as amended by section 154(b), is amended by—

(A) by striking out "section 427" in the parenthetical and inserting in lieu thereof "sections 427 and 428"; and

(B) by adding at the end thereof the following:

"(3) There are authorized to be appropriated $1,000,000 for each of the fiscal years 1988 and 1989 to carry out the provisions of section 428. The funds appropriated pursuant to this subsection shall remain available for expenditure for the succeeding fiscal year.".

HOME-CARE QUALITY ASSURANCE DEMONSTRATION PROJECTS

SEC. 157. (a) DEMONSTRATION PROGRAM AUTHORIZED.—Part B of title IV of the Act, as amended by sections 155 and 156, is further amended by adding at the end thereof the following:

"HOME-CARE QUALITY ASSURANCE DEMONSTRATION PROJECTS

"SEC. 429. (a)(1) The Commissioner is authorized to make grants to not less than six nor more than ten States to demonstrate and evaluate the effectiveness of a home-care quality assurance program for in-home care services for older individuals furnished under this Act.

"(2) For the purposes of this section 'quality assurance program' includes quality assurances with respect to in-home care services and may include the availability of consumer education services, services involving the use of consumer hotlines, ombudsman services, legal assistance services, protection and advocacy services, and the use of community service agencies.

"(b) No grant may be made and no contract may be entered into under this section unless an application is made to the Commissioner at such time, in such manner, and containing such information as the Commissioner may reasonably require. Each such application shall—

"(1) describe activities for which assistance is sought;

"(2) provide for an evaluation of the activities for which assistance is sought; and

"(3) provide assurances that the applicant will prepare and submit a report to the Commissioner on the activities conducted with assistance under this section and the evaluation of that assistance.

"(c) In approving applications under this section, the Commissioner shall assure equitable geographic distribution of assistance.

"(d) The Commissioner shall, as part of the annual report submitted under section 207, prepare and submit a report on the evaluation submitted under this section together with such recommendations as the Commissioner may deem appropriate. In carrying out this section, the Commissioner shall include in the report—

"(1) a description of the demonstration projects assisted under this section;

"(2) an evaluation of the effectiveness of each such project; and

"(3) recommendations of the Commissioner with respect to the desirability and feasibility of carrying out on a nation-wide basis the home-care consumer quality assurance program.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 431(a) of the Act, as amended by sections 154(b) and 155(f)(2), is amended—

(1) by striking out "sections 427 and 428" in the parenthetical and inserting in lieu thereof "section 427, 428, and 429"; and

(2) by adding at the end thereof the following:

"(3) There are authorized to be appropriated $2,000,000 for each of the fiscal years 1989 and 1990 to carry out the provisions of section 429.".

AUTHORIZATION OF APPROPRIATIONS FOR TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS

SEC. 158. Section 431(a)(1) of the Act, as amended by sections 154(b), 155(f)(2), and 156(b), is amended to read as follows:

"SEC. 431. (a)(1) There are authorized to be appropriated to carry out the provisions of this title $32,970,000 for the fiscal year 1988, $34,619,000 for the fiscal year 1989, $36,349,000 for the fiscal year 1990, $38,167,000 for the fiscal year 1991, and $40,075,000 for the fiscal year 1992.".

PART D—COMMUNITY SERVICE EMPLOYMENT

ADMINISTRATIVE COSTS OF EMPLOYMENT PROJECTS

SEC. 161. Paragraph (3) of section 502(c) of the Act (42 U.S.C. 3056(c)(3)) is amended to read as follows:

"(3) Of the amount for any project to be paid by the Secretary under this subsection, not more than 13.5 percent for fiscal year 1987 and each fiscal year thereafter shall be available for paying the costs of administration for such project, except that—

"(A) whenever the Secretary determines that it is necessary to carry out the project assisted under this title, based on information submitted by the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b), the Secretary may increase the amount available for paying the cost of administration to an amount not more than 15 percent of the cost of such project; and

"(B) whenever the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b) demonstrates to the Secretary that—

"(i) major administrative cost increases are being incurred in necessary program components, including liability insurance, payments for workmen's compensation, costs associated with achieving unsubsidized placement goals, and other operation requirements imposed by the Secretary;

"(ii) the number of employment positions in the project or the number of minority eligible individuals participating in the project will decline if the amount available for paying the cost of administration is not increased; or

"(iii) the size of the project is so small that the amount of administrative expenses incurred to carry out the project necessarily

exceed 13.5 percent of the amount for such project;

the Secretary shall increase the amount available for the fiscal year for paying the cost of administration to an amount not more than 15 percent of the cost of such project.".

COMMUNITY SERVICE EMPLOYMENT FOR OLDER INDIANS

SEC. 162. (a) PROGRAM ASSURANCE.—Section 502(b)(1)(M) of the Act (42 U.S.C. 3056) is amended to read as follows:

"(M) will assure, that to the extent feasible, such project will serve the needs of minority, limited English-speaking, and Indian eligible individuals in proportion to their numbers in the State and take into consideration their rates of poverty and unemployment;".

(b) RESERVATION OF FUNDS.—Section 506(a)(1)(A) of the Act is amended by inserting after the first sentence the following: "The Secretary shall next reserve such sums as may be necessary for national grants or contracts with public or nonprofit national Indian aging organizations with the ability to provide employment services to older Indians and with national public or nonprofit Pacific/Asian organizations, but only in a fiscal year in which the amount available under this title exceeds the amount appropriated for fiscal year 1987.".

DEFINITION OF COMMUNITY SERVICES

SEC. 163. Section 507(3) of the Act (42 U.S.C. 3056e(3)) is amended by inserting "(particularly literacy tutoring)" after "educational services".

AUTHORIZATION OF APPROPRIATIONS FOR COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

SEC. 164. Section 508(a)(1) of the Act (42 U.S.C. 3056f(a)(1)) is amended to read as follows:

"(1) $386,715,000 for the fiscal year 1988, $406,051,000 for the fiscal year 1989, $426,353,000 for the fiscal year 1990, $447,671,000 for the fiscal year 1991, and $470,055,000 for the fiscal year 1992; and".

EMPLOYMENT ASSISTANCE AND OTHER PROGRAMS

SEC. 165. Title V of the Act (42 U.S.C. 3056-3056f) is amended by adding at the end the following:

"EMPLOYMENT ASSISTANCE AND FEDERAL HOUSING AND FOOD STAMP PROGRAMS

"SEC. 509. Funds received by eligible individuals from projects carried out under the program established in this title shall not be considered to be income of such individuals for purposes of determining the eligibility of such individuals, or of any other persons, to participate in any housing program for which Federal funds may be available or for any income determination under the Food Stamp Act of 1977.".

PART E—NATIVE AMERICAN PROGRAMS

NATIVE AMERICAN PROGRAMS

SEC. 171. Title VI of the Act (42 U.S.C. 3057-3057g) is amended to read as follows:

"TITLE VI—GRANTS FOR NATIVE AMERICANS

"STATEMENT OF PURPOSE

"SEC. 601. It is the purpose of this title to promote the delivery of supportive services, including nutrition services to American Indians, Alaskan Natives, and Hawaiian Natives that are comparable to services provided under title III.

"FINDINGS; SENSE OF CONGRESS

"SEC. 602. (a) The Congress finds that the older Indians of the United States—

"(1) are a rapidly increasing population;

"(2) suffer from high unemployment;

"(3) live in poverty at a rate estimated to be as high as 61 percent;

"(4) have a life expectancy between 3 and 4 years less than the general population;

"(5) lack sufficient nursing homes, other long-term care facilities, and other health care facilities;

"(6) lack sufficient Indian area agencies on aging;

"(7) frequently live in substandard and over-crowded housing;

"(8) receive less than adequate health care;

"(9) are served under this title at a rate of less than 19 percent of the total national Indian elderly population living on Indian reservations; and

"(10) are served under title III of this Act at a rate of less than 1 percent of the total participants under that title.

"(b) The Congress finds the elderly Hawaiian Natives—

"(1) have a life expectancy 10 years less than any other ethnic group in the State of Hawaii;

"(2) rank lowest on 9 of 11 standard health indicies for all ethnic groups in Hawaii;

"(3) are often unaware of social services and do not know how to go about seeking such assistance; and

"(4) live in poverty at a rate of 34 percent.

"(c) It is the sense of the Congress that older Indians, older Alaskan Natives, and older Hawaiian Natives are a vital resource entitled to all benefits and services available and that such services and benefits should be provided in a manner that preserves and restores their respective dignity, self-respect, and cultural identities.

"PART A—INDIAN PROGRAM

"ELIGIBILITY

"SEC. 611. (a) A tribal organization of an Indian tribe is eligible for assistance under this part only if—

"(1) the tribal organization represents at least 50 individuals who have attained 60 years of age or older; and

"(2) the tribal organization demonstrates the ability to deliver supportive services, including nutritional services.

"(b) For the purposes of this part the terms 'Indian tribe' and 'tribal organization' have the same meaning as in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"GRANTS AUTHORIZED

"SEC. 612. The Commissioner may make grants to eligible tribal organizations to pay all of the costs for delivery of supportive services and nutrition services for older Indians.

"APPLICATIONS

"SEC. 613. (a) No grant may be made under this part unless the eligible tribal organization submits an application to the Commissioner which meets such criteria as the Commissioner may by regulation prescribe. Each such application shall—

"(1) provide that the eligible tribal organization will evaluate the need for supportive and nutrition services among older Indians to be represented by the tribal organization;

"(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

"(3) provide that the tribal organization will make such reports in such form and containing such information, as the Commissioner may reasonably require, and comply with such requirements as the Commissioner may impose to assure the correctness of such reports;

"(4) provide for periodic evaluation of activities and projects carried out under the application;

"(5) establish objectives consistent with the purposes of this part toward which activities under the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the tribal organization proposes to overcome such obstacles;

"(6) provide for establishing and maintaining information and referral services to assure that older Indians to be served by the assistance made available under this part will have reasonably convenient access to such services;

"(7) provide a preference for Indians aged 60 and older for full or part-time staff positions wherever feasible;

"(8) provide assurances that either directly or by way of grant or contract with appropriate entities nutrition services will be delivered to older Indians represented by the tribal organization substantially in compliance with the provisions of part C of title III, except that in any case in which the need for nutritional services for older Indians represented by the tribal organization is already met from other sources, the tribal organization may use the funds otherwise required to be expended under this clause for supportive services;

"(9) contain assurances that the provisions of sections 307(a)(14)(A) (i) and (iii), 307(a)(14)(B), and 307(a)(14)(C) will be complied with whenever the application contains provisions for the acquisition, alteration, or renovation of facilities to serve as multipurpose senior centers;

"(10) provide that any legal or ombudsman services made available to older Indians represented by the tribal organization will be substantially in compliance with the provisions of title III relating to the furnishing of similar services; and

"(11) provide satisfactory assurance that fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the tribal organization, including any funds paid by the tribal organization to a recipient of a grant or contract.

"(b) For the purpose of any application submitted under this part, the tribal organization may develop its own population statistics, with certification from the Bureau of Indian Affairs, in order to establish eligibility.

"(c) The Commission shall approve any application which complies with the provisions of subsection (a).

"(d) Whenever the Commissioner determines not to approve an application submitted under subsection (a) the Commission shall—

"(1) state objections in writing to the tribal organization within 60 days after such decision;

"(2) provide to the extent practicable technical assistance to the tribal organization to overcome such stated objections; and

"(3) provide the tribal organization with a hearing, under such rules and regulations as the Commissioner may prescribe.

"(e) Whenever the Commissioner approves an application of a tribal organization under this part, funds shall be awarded for not less than 12 months.

"SURPLUS EDUCATIONAL FACILITIES

"SEC. 614. (a) Notwithstanding any other provision of law, the Secretary of the Interior through the Bureau of Indian Affairs

shall make available surplus Indian educational facilities to tribal organizations, and nonprofit organizations with tribal approval, for use as multipurpose senior centers. Such centers may be altered so as to provide extended care facilities, community center facilities, nutrition services, child care services, and other supportive services.

"(b) Each eligible tribal organization desiring to take advantage of such surplus facilities shall submit an application to the Secretary of the Interior at such time and in such manner, and containing or accompanied by such information, as the Secretary of the Interior determines to be necessary to carry out the provisions of this section.

"PART B—HAWAIIAN NATIVES PROGRAM

"ELIGIBILITY

"SEC. 621. A public or nonprofit private organization having the capacity to provide services under this part for Hawaiian Natives is eligible for assistance under this part only if—

"(1) the organization will serve at least 50 individuals who have attained 60 years of age or older; and

"(2) the organization demonstrates the ability to deliver supportive services, including nutrition services.

"GRANTS AUTHORIZED

"SEC. 622. The Commissioner may make grants to public and nonprofit private organizations to pay all of the costs for the delivery of supportive services and nutrition services to older Hawaiian Natives.

"APPLICATION

"SEC. 623. (a) No grant may be made under this part unless the public or nonprofit private organization submits an application to the Commissioner which meets such criteria as the Commissioner may by regulation prescribe. Each such application shall—

"(1) provide that the organization will evaluate the need for supportive and nutrition services among older Hawaiian Natives to be represented by the organization;

"(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

"(3) provide assurances that the organization will coordinate its activities with the State agency on aging;

"(4) provide that the organization will make such reports in such form and containing such information as the Commissioner may reasonably require, and comply with such requirements as the Commissioner may impose to ensure the correctness of such reports;

"(5) provide for periodic evaluation of activities and projects carried out under the application;

"(6) establish objectives, consistent with the purpose of this title, toward which activities described in the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the organization proposes to overcome such obstacles;

"(7) provide for establishing and maintaining information and referral services to assure that older Hawaiian Natives to be served by the assistance made available under this part will have reasonably convenient access to such services;

"(8) provide a preference for Hawaiian Natives age 60 and older for full or part-time staff positions wherever feasible;

"(9) provide that any legal or ombudsman services made available to older Hawaiian Natives represented by the nonprofit private organization will be substantially in compliance with the provisions of title III relating to the furnishing and similar services; and

"(10) provide satisfactory assurances that the fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the nonprofit private organization, including any funds paid by the organization to a recipient of a grant or contract.

"(b) The Commissioner shall approve any application which complies with the provisions of subsection (a).

"(c) Whenever the Commissioner determines not to approve an application submitted under subsection (a) the Commissioner shall—

"(1) state objections in writing to the nonprofit private organization within 60 days after such decision;

"(2) provide to the extent practicable technical assistance to the nonprofit private organization to overcome such stated objections; and

"(3) provide the organization with a hearing under such rules and regulations as the Commissioner may prescribe.

"(d) Whenever the Commissioner approves an application of a nonprofit private or public organization under this part funds shall be awarded for not less than 12 months.

"DEFINITION

"SEC. 624. For the purpose of this part, the term 'Hawaiian Native' means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.

"PART C—GENERAL PROVISIONS

"ADMINISTRATION

"SEC. 631. In establishing regulations for the purpose of part A the Commissioner shall consult with the Secretary of the Interior.

"PAYMENTS

"SEC. 632. Payments may be made under this title (after necessary adjustments, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement in such installments and on such conditions, as the Commissioner may determine.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 633. (a) There are authorized to be appropriated $13,000,000 for the fiscal year 1988, $15,600,000 for the fiscal year 1989, $18,720,000 for the fiscal year 1990, $22,464,000 for the fiscal year 1991, and $26,956,800 for the fiscal year 1992 to carry out the provisions of this title other than section 614.

"(b) Whenever the amount appropriated for subsection (a) is equal to or more than 110 percent of the amount appropriated for this title in fiscal year 1987, not more than 10 percent of the amount appropriated for such fiscal year shall be available for part B.".

PART F—MISCELLANEOUS AND TECHNICAL AMENDMENTS

PERSONAL HEALTH EDUCATION AND TRAINING PROGRAMS

SEC. 181. Section 706(a) of the Act is amended to read as follows:

"(a) There are authorized to be appropriated to carry out this title, such sums as may be necessary for each of the fiscal years 1988 through 1992.".

TECHNICAL AMENDMENTS

SEC. 182. (a) Section 102(1) of the Act (42 U.S.C. 3002(1)) is amended by striking "other than for purposes of title V" and inserting "except that for purposes of title V such term means the Secretary of Labor".

(b)(1) Section 102 of the Act (42 U.S.C. 3002) is amended—

(A) in paragraph (3)—

(i) by striking "includes" and inserting "means any of the several States,", and

(ii) by striking "Puerto Rico" and inserting "the Commonwealth of Puerto Rico", and

(B) by adding at the end the following:

"(8) The term 'Trust Territory of the Pacific Islands' includes the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.".

(2) Section 302 of the Act (42 U.S.C. 3022), as amended by section 135(a), is amended—

(A) by striking paragraph (6), and

(B) by redesignating paragraphs (7) through (20) as paragraphs (6) through (19), respectively.

(3) Section 506(a)(4)(A) of the Act (42 U.S.C. 3056d(a)(4)(A)) is amended by striking "Puerto Rico" and inserting "the Commonwealth of Puerto Rico".

(4) Section 507 of the Act (42 U.S.C. 3056e) is amended—

(A) by striking paragraph (1), and

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(c) Section 201(a) of the Act (42 U.S.C. 3011(a)) is amended by striking "his functions" and inserting "the functions of the Commissioner".

(d) Section 204(d)(3) of the Act (42 U.S.C. 3015(d)(3)) is amended by inserting "to" after "Secretary,".

(e)(1) Section 302 of the Act (42 U.S.C. 3022), as amended by subsection (b)(2) and sections 135 and 143, is amended by adding at the end the following:

"(23) The term 'greatest economic need' means the need resulting from an income level at or below the poverty levels established by the Office of Management and Budget.

"(24) The term 'greatest social need' means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, and cultural, social, or geographical isolation including that caused by racial or ethnic status which restricts an individual's ability to perform normal daily tasks or which threatens such individual's capacity to live independently.".

(2) Section 305(d) of the Act (42 U.S.C. 3025(d)) is amended—

(A) by striking "(d)(1)" and inserting "(d)", and

(B) by striking paragraph (2).

(3) Section 306(a) of the Act (42 U.S.C. 3026(a)) is amended by striking the last sentence.

(f) Section 304(c) of the Act is amended to read as follows:

"(c) The provisions of section 307(d) shall apply to a State's failure to qualify under the State planning requirements of section 307.".

(g) Section 304(d)(1) of the Act (42 U.S.C. 3024(d)(1)) is amended in the matter preceding subparagraph (A) by inserting a comma after "section 308(b)".

(h) Section 305(a)(1)(E) of the Act (42 U.S.C. 3025(a)(1)(E)) is amended by striking "legal services" and inserting "legal assistance".

(i) Section 305(a)(2)(C) of the Act (42 U.S.C. 3025(a)(2)(C)) is amended by inserting "in accordance with subsection (d)" before the semicolon at the end.

(j) Section 306(a)(5)(B) of the Act (42 U.S.C. 3016(a)(5)(B)) is amended by inserting "and" at the end.

(k) Section 306(a)(6)(G) of the Act (42 U.S.C. 3026(a)(6)(G)), as amended by section 137(b), is amended by striking "and" at the end.

(l) Section 307(a) of the Act (42 U.S.C. 3027(a)) is amended—

(1) by striking "Each such plan shall—" and inserting "Each such plan shall comply with all of the following requirements:",

(2) in paragraph (1)—

(A) by inserting "The plan shall" after "(1)", and

(B) by striking the semicolon at the end and inserting a period,

(3) in paragraph (2)—

(A) by inserting "The plan shall" after "(2)", and

(B) by striking the semicolon at the end and inserting a period,

(4) in paragraph (3)—

(A) in subparagraph (A) by inserting "The plan shall" after "(3)(A)", and

(B) in subparagraph (B)—

(i) by inserting "The plan shall" after "(B)", and

(ii) by striking the semicolon at the end and inserting a period,

(5) in paragraph (4)—

(A) by inserting "The plan shall" after "(4)", and

(B) by striking the semicolon at the end and inserting a period,

(6) in paragraph (5)—

(A) by inserting "The plan shall" after "(5)", and

(B) by striking the semicolon at the end and inserting a period,

(7) in paragraph (6)—

(A) by inserting "The plan shall" after "(6)", and

(B) by striking the semicolon at the end and inserting a period,

(8) in paragraph (7)—

(A) by inserting "The plan shall" after "(7)", and

(B) by striking the semicolon at the end and inserting a period,

(9) in paragraph (8)—

(A) by inserting "The plan shall" after "(8)", and

(B) by striking the semicolon at the end and inserting a period,

(10) in paragraph (9)—

(A) by inserting "The plan shall" after "(9)", and

(B) by striking the semicolon at the end and inserting a period,

(11) in paragraph (10)—

(A) by inserting "The plan shall" after "(10)", and

(B) by striking the semicolon at the end and inserting a period,

(12) in paragraph (11)—

(A) by inserting "The plan shall" after "(11)", and

(B) by striking the semicolon at the end and inserting a period,

(13) in paragraph (13)—

(A) by inserting "The plan shall" after "(13)", and

(B) in subparagraph (I) by striking the semicolon at the end and inserting a period,

(14) in paragraph (14)—

(A) by inserting "The plan shall" after "(14)", and

(B) in subparagraph (E) by striking the semicolon at the end and inserting a period,

(15) in paragraph (15) by inserting "The plan shall" after "(15)",

(16) in paragraph (16)—

(A) by inserting "The plan shall" after "(16)", and

(B) in subparagraph (C) by striking the semicolon at the end and inserting a period,

(17) in paragraph (17)—

(A) by inserting "The plan shall" after "(17)", and

(B) by striking the semicolon at the end and inserting a period,

(18) in paragraph (18)—

(A) by inserting "The plan shall" after "(18)", and

(B) by striking the semicolon at the end and inserting a period,

(19) in paragraph (19)—

(A) by inserting "The plan shall" after "(19)", and

(B) by striking the semicolon at the end and inserting a period,

(20) in paragraph (20)—

(A) by inserting "The plan shall" after "(20)", and

(B) in subparagraph (B)(ii) by striking "; and" at the end and inserting a period, and

(21) in paragraph (21)—

(A) by inserting "The plan shall" after "(21)", and

(B) by striking "an amount equal to an amount".

(m) Section 308(b) of the Act (42 U.S.C. 3028(b)) is amended—

(1) by striking "(b)(1)(A)" and inserting "(b)(1)",

(2) in paragraph (1)—

(A) by striking "(i)" and inserting "(A)", and

(B) by striking "(ii)" the second place it appears and inserting "(B)",

(3) in paragraph (2)—

(A) by striking "(2)(A)" and inserting "(2)",

(B) by striking "(i)" and inserting "(A)", and

(C) by striking "(ii)" the second place it appears and inserting "(B)",

(4) in paragraph (3)(C) by striking "he" and inserting "the Commissioner",

(5) in subparagraphs (A) and (B) of paragraph (5) by striking "appropriated" each place it appears and inserting "allotted", and

(6) in paragraph (5)(B) beginning with the dash strike out all through the period and insert in lieu thereof: "not more than 30 percent of the funds allotted for any fiscal year.".

(n) Section 321(a)(10) of the Act is amended by inserting "for" after "advocate".

(o) Section 337 of the Act (42 U.S.C. 3030g) is amended by striking "Association of Area Agencies on Aging" and inserting "National Association of Area Agencies on Aging".

(p) Section 507(2) of the Act is amended by striking out "the Bureau of Labor Statistics" and inserting in lieu thereof "the Office of Management and Budget".

TITLE II—1991 WHITE HOUSE CONFERENCE ON AGING

WHITE HOUSE CONFERENCE AUTHORIZED

SEC. 201. (a) FINDINGS.—The Congress finds that—

(1) the number of individuals 55 years of age or older was approximately 51,400,000 in 1986, and will, by the year 2040, be approximately 101,700,000;

(2) more than 1 of every 6 persons age 55 or older will be hospitalized during the next year;

(3) persons 55 years of age or older have a higher average out-of-pocket medical cost burden than younger persons; approximately 17 percent of individuals age 55 to 64 experience out-of-pocket costs in excess of 20 percent of their family income and the average per capita out-of-pocket cost of persons 65 years of age or older is expected to equal 18.5 percent of income by 1991;

(4) there is a great need to ensure access and the quality of affordable health care to all older individuals;

(5) the need for a comprehensive and responsive long-term care delivery system is great;

(6) the availability and cost of suitable housing, together with suitable services needed for independent or semi-independent living, still cause concern to older individuals;

(7) the ability to lead an independent or semi-independent life is contingent, in many cases, upon the availability of a comprehensive and effective social service system for older individuals;

(8) the availability and access to opportunities for continued productivity and employment is of great importance to middle-aged and older individuals who want or need to work;

(9) the fulfillment, dignity, and satisfaction of retirees still depend on the continuing development of a consistent national retirement policy;

(10) there is a continuing need to maintain and preserve the national policy with respect to increasing, coordinating, and expediting biomedical and other appropriate research directed at determining the causes and effects of the aging process;

(11) false stereotypes about aging and the process of aging continue to be prevalent throughout the United States and policies should be nurtured to overcome such stereotypes; and

(12) the talents and experience of older individuals represent a valuable community resource which should be developed and more widely shared within the local community.

(b) POLICY.—It is the policy of the Congress that—

(1) the Federal Government should work jointly with the States and their citizens to develop recommendations and plans for action to meet the challenges and needs of older individuals, consistent with the objectives of this section; and

(2) in developing programs for the aging pursuant to this section emphasis should be directed toward individual, private, and public initiatives and resources intended to enhance the economic security and self-sufficiency of elder Americans.

AUTHORIZATION OF THE CONFERENCE

SEC. 202. (a) AUTHORITY TO CALL CONFERENCE.—The President may call a White House Conference on Aging in 1991 in order to develop recommendations for additional research and action in the field of aging which will further the policy set forth in subsection (b).

(b) PLANNING AND DIRECTION.—The Conference shall be planned and conducted under the direction of the Secretary in cooperation with the Commissioner on Aging and the Director of the National Institute on Aging, and the heads of such other Federal departments and agencies as are appropriate. Such assistance may include the assignment of personnel.

(c) PURPOSE OF THE CONFERENCE.—The purpose of the Conference shall be—

(1) to increase the public awareness of the essential contributions of older individuals to society;

(2) to identify the problems of the older individuals;

(3) to develop recommendations for the coordination of Federal policy with State and local needs and the implementation of such recommendations;

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(4) to examine the well-being of older individuals;

(5) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and improving the well-being of older individuals; and

(6) to review the status of recommendations adopted at previous White House Conferences on Aging.

(d) CONFERENCE PARTICIPANTS AND DELEGATES.—

(1) PARTICIPANTS.—In order to carry out the purposes of this section, the Conference shall bring together—

(A) representatives of Federal, State, and local governments;

(B) professional and lay people who are working in the field of aging; and

(C) representatives of the general public, particularly older individuals.

(2) SELECTION OF DELEGATES.—The delegates shall be selected without regard to political affiliation or past partisan activity and shall, to the best of the appointing authority's ability, be representative of the spectrum of thought in the field of aging.

CONFERENCE ADMINISTRATION

SEC. 203. (a) ADMINISTRATION.—In administering this section, the Secretary shall—

(1) request the cooperation and assistance of the heads of such other Federal departments and agencies as may be appropriate in the carrying out of this section;

(2) furnish all reasonable assistance, including financial assistance, to State agencies on the aging and to area agencies on the aging, and to other appropriate organizations, to enable them to organize and conduct conferences in conjunction with the Conference;

(3) prepare and make available for public comment a proposed agenda for the Conference which will reflect to the greatest extent possible the major issues facing older individuals consistent with the provisions of subsection (a);

(4) prepare and make available background materials for the use of delegates to the Conference which the Secretary deems necessary; and

(5) engage such additional personnel as may be necessary to carry out the provisions of this section without regard to provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) DUTIES.—The Secretary shall, in carrying out the Secretary's responsibilities and functions under this section, assure that—

(1) the conferences under subsection (a)(2) will—

(A) include a conference on older Indians to identify conditions that adversely affect older Indians, to propose solutions to ameliorate such conditions, and to provide for the exchange of information relating to the delivery of services to older Indians, and

(B) be so conducted as to assure broad participation of older individuals;

(2) the proposed agenda for the Conference under subsection (a)(3) is published in the Federal Register not less than 180 days before the beginning of the Conference and the proposed agenda is open for public comment for a period of not less than 60 days;

(3) the final agenda for the Conference under subsection (a)(3), taking into consideration the comments received under paragraph (2), is published in the Federal Register and transmitted to the chief executive officers of the States not later than 30 days after the close of the public comment period provided for under paragraph (2);

(4) the personnel engaged under subsection (a)(5) shall be fairly balanced in terms of points of views represented and shall be appointed without regard to political affiliation or previous partisan activities;

(5) the recommendations of the Conference are not inappropriately influenced by any appointing authority or by any special interest, but will instead be the result of the independent judgment of the Conference; and

(6) current and adequate statistical data, including decennial census data, and other information on the well-being of older individuals in the United States are readily available, in advance of the Conference, to the delegates of the Conference, together with such information as may be necessary to evaluate Federal programs and policies relating to aging. In carrying out this subparagraph, the Secretary is authorized to make grants to, and enter into cooperative agreements with, public agencies and nonprofit private organizations.

CONFERENCE COMMITTEES

SEC. 204. (a) ADVISORY COMMITTEE.—The Secretary shall establish an advisory committee to the Conference which shall include representation from the Federal Council on Aging and other public agencies and private nonprofit organizations as appropriate.

(b) OTHER COMMITTEES.—The Secretary may establish such other committees, including technical committees, as may be necessary to assist in the planning, conducting, and reviewing the Conference.

(c) COMPOSITION OF COMMITTEES.—Each such committee shall be composed of professionals and public members, and shall include individuals from low-income families and from minority groups. A majority of the public members of each such committee shall be 55 years of age or older.

(d) COMPENSATION.—Appointed members of any such committee (other than any officers of employees of the Federal Government), while attending conferences or meetings of the committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not to exceed the daily prescribed rate for GS-18 under section 5332 of title 5, United States Code (including travel time). While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of such title for persons employed intermittently in Federal Government service.

REPORT OF THE CONFERENCE

SEC. 205. (a) PROPOSED REPORT.—A proposed report of the Conference, which shall include a statement of comprehensive coherent national policy on aging together with recommendations for the implementation of the policy, shall be published and submitted to the chief executive officers of the States not later than 60 days following the date on which the Conference is adjourned. The findings and recommendations included in the published proposed report shall be immediately available to the public.

(b) RESPONSE TO PROPOSED REPORT.—The chief executive officers of the States, after reviewing and soliciting recommendations and comments on the report of the Conference, shall submit to the Secretary, not later than 180 days after receiving the report, their views and findings on the recommendations of the Conference.

(c) FINAL REPORT.—The Secretary shall, after reviewing the views and recommendations of the chief executive officers of the States, prepare a final report of the Conference, which shall include a compilation of the actions of the chief executive officers of the States and take into consideration the views and findings of such officers.

(d) RECOMMENDATIONS OF SECRETARY.—The Secretary shall, within 90 days after submission of the views of the chief executive officers of the States, publish and transmit to the President and to the Congress recommendations for the administrative action and the legislation necessary to implement the recommendations contained within the report.

DEFINITIONS

SEC. 206. For the purposes of this title—

(1) the term "area agency on aging" means the agency designated under section 305(a)(2)(A) of the Act;

(2) the term "State agency on aging" means the State agency designated under section 305(a)(1) of the Act;

(3) the term "Secretary" means the Secretary of Health and Human Services;

(4) the term "Conference" means the White House Conference on Aging authorized in subsection (b); and

(5) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands.

AUTHORIZATION OF APPROPRIATIONS

SEC. 207. (a) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary, for each of the fiscal years 1989, 1990, and 1991, to carry out this section. Sums appropriated under this paragraph shall remain available until the expiration of the 1-year period beginning on the date the Conference is adjourned. New spending authority or authority to enter into contracts as provided in this section shall be effective only to the extent and in such amounts as are provided in advance in appropriations Acts.

(b) RETURN OF UNEXPENDED FUNDS.—Any funds remaining upon the expiration of such 1-year period shall be returned to the Treasury of the United States and credited as miscellaneous receipts.

TITLE III—ALZHEIMER'S DISEASE RESEARCH

REQUIREMENT FOR CLINICAL TRIALS

SEC. 301. (a) GENERAL AUTHORITY.—(1) The Director of the National Institute on Aging shall provide for the conduct of clinical trials on the efficacy of the use of such promising therapeutic agents as have been or may be discovered and recommended for further scientific analysis by the National Institute on Aging and the Food and Drug Administration, like tetrahydroaminoacridine, to treat individuals with Alzheimer's disease, to retard the progression of symptoms of Alzheimer's disease, or to improve the functioning of individuals with such disease.

(2) Nothing in this title shall be construed to affect adversely any research being conducted as of the date of enactment of this Act.

(b) RULES FOR CONDUCT OF CLINICAL TRIALS.—The clinical trials required by subsection (a) shall be conducted for a period beginning on such date as the Director of the National Institute on Aging considers appropriate and ending on—

(1) September 30, 1990; or

(2) such date as such Director determines that such trials have provided sufficient data to determine the efficacy of the use of such drugs to treat individuals with Alzheimer's disease, to retard the progression of symptoms of Alzheimer's disease, or to improve the functioning of individuals with such disease,

whichever is earlier.

AUTHORIZATION OF APPROPRIATIONS

SEC. 302. There are authorized to be appropriated $2,000,000 for each of the fiscal years 1988, 1989, and 1990 to carry out this title.

TITLE IV—GENERAL PROVISIONS

EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 401. (a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on October 1, 1987.

(b) APPLICATION OF AMENDMENTS.—The amendments made by title I of this Act shall not apply with respect to—

(1) any area plan submitted under section 306(a) of the Older Americans Act of 1965, or

(2) any State plan submitted under section 307(a) of such Act,

and approved for any fiscal year beginning before the date of the enactment of this Act.

And from the Select Committee on Indian Affairs, with amendments; as follows:

On page 9, in the table of contents, insert the following:

TITLE V—NATIVE AMERICAN PROGRAMS

Sec. 501. Short title.
Sec. 502. Review of applications for assistance.
Sec. 503. Procedural requirements.
Sec. 504. Inclusion of Native American Pacific Islanders.
Sec. 505. Authorization of appropriations.
Sec. 506. Revolving loan fund for Native Hawaiians.
Sec. 507. Effective date.

At the end of the reported amendment of the Committee on Labor and Human Resources, insert the following:

TITLE V—NATIVE AMERICAN PROGRAMS

SHORT TITLE

SEC. 501. This title may be cited as the "Native American Programs Amendments Act of 1987".

REVIEW OF APPLICATIONS FOR ASSISTANCE

SEC. 502. The Native American Programs Act of 1974 (42 U.S.C. 2991-2992d) is amended—

(1) in the first sentence of section 803(a) by inserting ", on a single year or multiyear basis," after "financial assistance",

(2) by redesignating sections 813 and 814 as sections 815 and 816, respectively,

(3) by redesignating sections 806 through 812, as sections 807 through 813, respectively, and

(4) by inserting after section 805 the following new section:

"PANEL REVIEW OF APPLICATIONS FOR ASSISTANCE

"SEC. 806. (a)(1) The Secretary shall establish a formal panel review process for purposes of—

"(A) evaluating applications for financial assistance under sections 803 and 805, and

"(B) determining the relative merits of the projects for which such assistance is requested.

"(2) Members of review panels established under paragraph (1) shall be appointed by the Secretary from among individuals who are not officers or employees of the Administration for Native Americans. In making appointments to such panels, the Secretary shall give preference to American Indians, Hawaiian Natives, and Alaskan Natives.

"(b) Each review panel established under subsection (a)(1) that reviews any application for financial assistance shall—

"(1) determine the merit of each project described in such application;

"(2) rank such application with respect to all other applications it reviews for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

"(3) submit to the Secretary a list that identifies all applications reviewed by such panel and arranges such applications according to rank determined under paragraph (2).

"(c) Upon the request of the chairman of the Select Committee on Indian Affairs of the Senate or of the chairman of the Committee on Education and Labor of the House of Representatives made with respect to any application for financial assistance under section 803 or 805, the Secretary shall transmit to the chairman written notice—

"(1) containing a copy of the list submitted to the Secretary under subsection (b)(3) in which such application is ranked;

"(2) specifying which other applications ranked in such list have been approved by the Secretary under sections 803 and 805; and

"(3) if the Secretary has not approved each application superior in merit, as indicated on such list, to the application with respect to which such notice is transmitted, containing a statement of the reasons relied upon by the Secretary for—

"(A) approving the application with respect to which such notice is transmitted; and

"(B) failing to approve each pending application that is superior in merit, as indicated on such list, to the application described in subparagraph (A).".

PROCEDURAL REQUIREMENTS

SEC. 503. (a) The Native American Programs Act of 1974 (42 U.S.C. 2991-2992d) is amended by inserting after section 813, as so redesignated by section 502, the following new section:

"ADDITIONAL REQUIREMENTS APPLICABLE TO RULE MAKING

"SEC. 814. (a) Notwithstanding subsection (a) of section 553 of title 5, United States Code, and except as otherwise provided in this section, such section 553 shall apply with respect to the establishment and general operation of any program that provides loans, grants, benefits, or contracts authorized by this title.

"(b) The exception provided in subparagraph (A) of the last sentence of section 553(b) of title 5, United States Code, shall not apply with respect to any rule (including any general statement of policy) that is—

"(1) proposed under this title;

"(2) applicable exclusively to any program, project, or activity authorized by, or carried out under, this title; or

"(3) applicable to the organization, procedure, or practice of an agency (as defined in section 551(1) of title 5, United States Code) and that would solely affect the administration of this title.

"(c) The exceptions provided by paragraphs (1) and (2) of section 553(d) of title 5, United States Code, shall not apply to any rule (or general statement of policy) that—

"(1) is issued to carry out this title;

"(2) applies exclusively to any program, project, or activity authorized by, or carried out under, this title; or

"(3) is applicable to the organization, procedure, or practice of an agency (as defined in section 551(1) of title 5, United States Code) and that will solely affect the administration of this title.

"(d) Each rule to which this section applies shall contain after each of its sections, paragraphs, or similar textual units a citation to the particular provision of statutory or other law that is the legal authority for such section, paragraph, or unit.

"(e) Except as provided in subsection (c), if as a result of the enactment of any law affecting the administration of this title it is necessary or appropriate for the Secretary to issue any rule, the Secretary shall issue such rule not later than 180 days after the date of the enactment of such law.

"(f) Whenever an agency publishes in the Federal Register a rule (including a general statement of policy) to which subsection (c) applies, such agency shall transmit a copy of such rule to the Select Committee on Indian Affairs of the Senate and to the Committee on Education and Labor of the House of Representatives.".

(b) Section 815 of the Native American Programs Act of 1974 (42 U.S.C. 2992c), as so redesignated by section 502, is amended—

(1) in paragraph (3) by striking out "and" at the end thereof,

(2) by redesignating paragraph (4) as paragraph (5), and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) the term 'rule' has the meaning given it in section 551(4) of title 5, United States Code, as amended from time to time; and".

INCLUSION OF NATIVE AMERICAN PACIFIC ISLANDERS

SEC. 504. (a) Subsection (a) of section 803 of the Native American Programs Act of 1974 (42 U.S.C. 2991b(a)) is amended by inserting the following sentence after the first sentence thereof: "The Secretary is authorized, subject to the availability of funds appropriated under the authority of section 816(c), to provide financial assistance to public and nonprofit private agencies serving Native American Pacific Islanders (including American Samoan Natives) for projects pertaining to the purposes of this Act.".

(b)(1) Section 802 of the Native American Programs Act of 1974 (42 U.S.C. 2991a) is amended by inserting ", Native American Pacific Islanders (including American Samoan Natives)," after "Hawaiian Natives".

(2) Paragraph (2) of section 806(a) of the Native American Programs Act, as added by section 502(4) of this Act, is amended by inserting "Native American Pacific Islanders (including American Samoan Natives)," after "Hawaiian Natives,".

(3) Section 808 of the Native American Programs Act of 1974 (42 U.S.C. 2991f), as redesignated by section 502, is amended by inserting "or Territory" after "State" each place it appears.

AUTHORIZATION OF APPROPRIATIONS

SEC. 505. Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d(a)), as redesignated by section 502 of this Act, is amended—

(1) by striking out "1979 through 1986" in subsection (a) and inserting in lieu thereof "1987, 1988, 1989, 1990, and 1991", and

(2) by adding at the end thereof the following new subsection:

"(c) There are authorized to be appropriated $500,000 for each of the fiscal years 1987, 1988, 1989, 1990, and 1991 for the purpose of providing financial assistance to Native American Pacific Islanders (including American Samoan Natives) under section 803(a).".

REVOLVING LOAN FUND FOR NATIVE HAWAIIANS

SEC. 506. The Native American Programs Act of 1974 (42 U.S.C. 2991) is amended by inserting immediately after section 803 the following new section:

"LOAN FUND; DEMONSTRATION PROJECT

"SEC. 803A. (a)(1) In order to provide funding that is not available from private sources, the Secretary, acting through an appropriate State agency, or a community-based Native Hawaiian organization whose purpose is economic and social self-sufficiency, shall establish and carry out, in the State of Hawaii, a 60-month demonstration project involving the establishment of a revolving loan fund—

"(A) from which the Secretary, acting through such agency or community-based Native Hawaiian organization, shall make loans to Native Hawaiian organizations and to individual Native Hawaiians for the purpose of promoting economic development,

"(B) into which all payments, interest, charges, and other amounts collected from loans made under subparagraph (A) shall, notwithstanding any other provision of law, be deposited.

"(2) The Secretary may make loans under paragraph (1)(A) only if the Secretary determines that—

"(A) the borrower is unable to obtain financing from other sources on reasonable terms and conditions, and

"(B) there is a reasonable prospect that the borrower will be able to repay the loan.

"(3)(A) Loans made under paragraph (1)(A) shall be—

"(i) for a term that does not exceed 5 years, and

"(ii) at a rate of interest determined by the Secretary of the Treasury on the basis of the market yield on municipal bonds at the time the loan is made.

"(B) Notwithstanding subparagraph (A)(ii), the rate of interest on loans made under paragraph (1)(A) shall not exceed the average yield on marketable obligations of the United States of comparable maturity that are outstanding at the time the loan is made.

"(4) The Secretary is authorized to require any borrower of a loan under paragraph (1)(A) to provide such collateral as the Secretary determines to be necessary to secure the loan.

"(5)(A) The Secretary may cancel, adjust, compromise, or reduce the amount of any loan made under paragraph (1)(A), or release or subordinate any collateral securing payment of such amount, if the Secretary determines that—

"(i) such amount is uncollectable or collectable only at an unreasonable cost, or

"(ii) such action would be in the best interests of the United States.

"(6) The Secretary, out of funds available in the revolving loan fund established under paragraph (1), shall—

"(A) pay expenses incurred by the Secretary in administering the revolving loan fund, and

"(B) provide competent management and technical assistance to borrowers for loans made under paragraph (1)(A) to assist the borrower in meeting the objectives of the loan.

"(7) The Secretary, in consultation with such State agency or community-based Native Hawaiian organization, shall prescribe regulations which set forth the procedures and criteria to be used in making loans under paragraph (1)(A). The Secretary is authorized to prescribe such other regulations as may be necessary to carry out the purposes of this subsection, including regulations involving reporting and auditing.

"(8) No loan shall be made from the fund upon the expiration of the 60-month period following the date of the enactment of this Act.

"(9)(A) Notwithstanding any other provision of this Act, there is authorized to be appropriated to the fund established pursuant to this section the sum of $3,000,000, to remain available until expended.

"(B) Moneys in the fund shall be available for expenditure by the Secretary without fiscal year limitation for the purpose of carrying out the provisions of this title.

"(10) All moneys in the fund following the termination of the demonstration project under this section, not otherwise needed, as determined by the Secretary, to carry out this section, shall be deposited in the Treasury of the United States as miscellaneous receipts. All amounts thereafter deposited in the fund pursuant to subsection (a)(1)(B) of this section following such termination shall be transferred to the Treasury as miscellaneous receipts.

"(b) On or before the expiration of the 48-month period following the date of the enactment of this section, the Secretary, in consultation with the State agency or contracting community-based Native Hawaiian organization referred to in paragraph (1) of subsection (a) of this section, shall report to the Congress concerning the administration of this section, together with the views and recommendations of the Secretary as to the effectiveness of the demonstration program, and whether it should be expanded to other groups eligible for assistance under this section, and extended.".

EFFECTIVE DATE

SEC. 507. Notwithstanding the provisions of section 401 of this Act, the amendment made by section 506 of this Act shall take effect upon the expiration of the 90-day period following the date of the enactment of this Act.

Mr. BYRD. Mr. President, I should announce, before Senators get away, that at the moment it appears probable that there will be a rollcall vote yet today.

The PRESIDING OFFICER. The question recurs on the first committee amendment from the Committee on Indian Affairs. Is there further debate?

Mr. BYRD. Mr. President, Senator MATSUNAGA, I believe, has an amendment.

The PRESIDING OFFICER. Without objection, the first committee amendment is agreed to.

Mr. BYRD. These are committee amendments from the Indian Affairs Committee, am I correct?

The PRESIDING OFFICER. Yes.

Mr. BYRD. Have we gotten down to the committee substitute for the Labor Committee?

The PRESIDING OFFICER. We have an additional committee amendment from the Committee on Indian Affairs.

The question is on the second committee amendment.

Without objection, the committee amendment is agreed to.

Mr. BYRD. Is the question on the committee substitute?

The PRESIDING OFFICER. The Senator is correct.

Mr. MATSUNAGA. Mr. President, as I understand it, the committee amendment has been agreed to?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 661

(Purpose: To make certain technical corrections)

Mr. MATSUNAGA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Hawaii [Mr. MATSUNAGA] proposes an amendment numbered 661.

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

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

The amendment is as follows:

On page 18, line 7, strike out "Federal" and insert in lieu thereof "National".

On page 62, line 15, strike out "section 139(b)" and insert in lieu thereof "sections 139(b) and 141(b)".

On page 62, line 17, strike out "(6)" and insert in lieu thereof "(7)".

On page 62, line 19, strike out "(7)" and insert in lieu thereof "(8)".

On page 62, line 21, strike out "(7)" and insert in lieu thereof "(8)".

On page 62, line 22, strike out "(8)" and insert in lieu thereof "(9)".

On page 75, lines 8 and 9, strike out "section 154(b)" and insert in lieu thereof "section 155(b)".

On page 78, line 3, strike out "(3)" and insert in lieu thereof "(4)".

Mr. MATSUNAGA. Mr. President, this is purely a technical amendment which corrects the numbering in the bill in two places and which corrects the title of the National Advisory Panel on Alzheimer's Disease. I ask for its adoption.

The question is on agreeing to the amendment.

The amendment (No. 661) was agreed to.

Mr. MATSUNAGA. Mr. President, I rise to urge my colleagues to give their full support to S. 887, the Older Americans Act Amendments of 1987. Mr. President, it has been said by sages of past that the greatness of any society can be accurately measured by the

degree to which it cares for its elderly citizens. I fully subscribe to this age-old maxim of wisdom.

Since 1965, the Older Americans Act has provided the bedrock for constructing a vast network of supportive services for our Nation's senior citizens. I am proud to have been involved in the development of the original bill in 1965, and I am proud to bring these amendments, which strengthen and enhance the programs and services of the Older Americans Act, to the Senate floor today.

Mr. President, in 1965, Congress enacted this landmark legislation, which created a relatively small service program but also established the framework for a national policy on aging. The original act set forth 10 national policy objectives aimed at improving the lives of older people in the areas of income, health, housing, employment, retirement, and community services. Congress also created the Administration on Aging, which was directed to stimulate more effective use of existing resources for the elderly.

As the act has evolved through successive reauthorizations and amendments, it has become the cornerstone for the development and delivery of a broad array of social services for older persons. While older individuals may receive services under a multiplicity of other Federal programs, the act is viewed as the major vehicle for the organization and delivery of services to older Americans. Major amendments in 1972 and 1973 created the national nutrition program for the elderly and the network of area agencies on aging. The 1973 amendments folded authority for the community service employment program for low-income older people under the auspices of the act, and the 1978 amendments streamlined the various service programs and added a new service program for older Indians. Subsequent amendments have expanded the authority and responsibilities of State and area agencies on aging.

During the 22 years since enactment, the act has evolved from a program of small grants to one that now supports 57 State agencies on aging and over 660 area agencies on aging.

Mr. President, we are all familiar with the demographic facts about the aging of the Nation's population. The elderly population has grown more rapidly in this century than has the remainder of the population, and the trend is predicted to continue into the 21st century. Between 1980 and the year 2020, the total population in the United States is projected to increase by slightly more than 30 percent, while the elderly population is projected to increase by more than 200 percent.

One of the more critical demographic factors which has influenced the development of these amendments is the startling pace of increase among the oldest segment of our society. Those 85 years of age and older are now the fastest growing age group. This factor has prompted the committee to include a new subpart in title III in order to provide nonmedical, in-home services which will assist frail, older persons to remain in their own homes.

The increased number of people in the oldest age group is also expected to dramatically affect demand for nursing home care. The need for the services of long-term care ombudsmen is expected to rise substantially, and the requirement for additional services will be matched by the need for additional protections for both nursing home residents and ombudsmen, as well as the need for additional training of ombudsmen. The committee has created a separate authorization for State long-term care ombudsmen programs, and has required States to guard against conflict of interest, reprisals against residents, and liability for good faith performance of duties by ombudsmen. In addition, the bill requires that all ombudsmen, whether paid staff or volunteers, be properly trained to perform their job.

Mr. President, other characteristics of the older population are important also to consider as we plan for the future of these programs. Over the last two decades, we have seen dramatic improvements in the economic status of the elderly in terms of overall poverty rates. However, there are certain groups of the elderly who are at substantially greater risk of poverty, including older minorities, older women, and the very old.

Mr. President, the committee has reaffirmed the original intent of the Older Americans Act to provide services to all older Americans, but, at the same time, we have recognized that the aging network must continue to reach out to those most in need. In particular, the committee has added language which emphasizes services to older individuals who are minorities, low-income, disabled, mentally ill, or who have debilitating diseases such as Alzheimer's. In addition, in light of the vast unmet needs of older Indians, the committee has eliminated several provisions that inhibited closer coordination of services for older Indians under title VI with services provided under title III the committee also authorized a substantial increase in funding for title VI, and, as we have done in many measures over the past 10 years, expanded the definition of native Americans to include Hawaiian natives.

The committee also has taken the steps necessary to ensure that we know who is receiving services and what types of services are being provided. In future years, this data base will provide both Congress and the administration with the information needed to make informed policy decisions.

Mr. President, I would like to particularly thank the ranking minority member of the Subcommittee on Aging, the Senator from Mississippi, Mr. COCHRAN, for his dedication to the success of this legislation and his fair and balanced approach to its development.

In closing, Mr. President, I strongly urge unanimous approval of S. 887, the Older Americans Act Amendments of 1987.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 660

(Purpose: To amend the Public Health Service Act to establish a program for the provision of health care services in the home for individuals who are suffering from a catastrophic or chronic illness)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator HATCH and Senator INOUYE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas (Mr. DOLE), on behalf of Mr. HATCH, Mr. INOUYE, Mr. GARN, and Mr. BRADLEY proposes an amendment numbered 660.

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

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

The amendment is as follows:

On page 126, after line 14, add the following:

TITLE VI—HEALTH CARE SERVICES IN THE HOME

SHORT TITLE

SEC. 601. This title may be cited as the "Health Care Services in the Home Act of 1987".

PROGRAM AUTHORIZED

SEC. 602. (a) IN GENERAL.—Part A of title XIX of the Public Health Service Act is amended by adding at the end thereof the following:

"SUBPART 2—HEALTH CARE SERVICES IN THE HOME

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 1910C. For the purpose of allotments to States to carry out the activities described in section 1910F, there are authorized to be appropriated $100,000,000 for fiscal year 1988, $100,000,000 for fiscal year 1989, and $100,000,000 for fiscal year 1990.

"ALLOTMENTS

"SEC. 1910D. (a)(1) Except as provided in paragraph (2), the Secretary shall allot to each State for each fiscal year from the amounts appropriated under section 1910C for such fiscal year an amount equal to the product of—

"(A) the population of the State, multiplied by

"(B) the relative per capita income of the State.

For purposes of subparagraph (B), the term 'relative per capita income' has the same

meaning as in the last sentence of section 1913(a)(1).

"(2) Notwithstanding paragraph (1)—

"(A) the total amount of the allotment for each of the several States, the District of Columbia, and Puerto Rico for each fiscal year shall not be less than one-half of 1 percent of the total amount appropriated under section 1910C for such fiscal year;

"(B) the total amount of the allotment for each of the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands for each fiscal year shall not be less than one-fourth of 1 percent of the total amount appropriated under section 1910C for such fiscal year; and

"(C) the total amount of the allotment for each of American Samoa and the Commonwealth of the Northern Mariana Islands for each fiscal year shall not be less than one-sixteenth of 1 percent of the total amount appropriated under section 1910C for such fiscal year.

"(b) To the extent that all the funds appropriated under section 1910C for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

"(1) one or more States have not submitted an application or description of activities in accordance with section 1910G for such fiscal year;

"(2) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) some State allotments are offset or repaid under section 1906(b)(3) (as such section applies to this subpart pursuant to section 1910G(d)),

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for such fiscal year without regard to this subsection.

"(c)(1) If the Secretary—

"(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this subpart be provided directly by the Secretary to such tribe or organization, and

"(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this subpart,

the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (a) for a fiscal year the amount determined under paragraph (2).

"(2) The Secretary shall reserve for the purpose of paragraph (1) from amounts that would otherwise be allotted to such State under subsection (a) an amount equal to the amount which bears the same ratio to the State's allotment for the fiscal year involved under subsection (a) as the population of the Indian tribe or tribal organization bears to the population of the State.

"(3) The amount reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(4) In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe.

"PAYMENTS UNDER ALLOTMENTS TO STATES

"SEC. 1910E. (a) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under section 1910D (other than any amount reserved under subsection (c) of such section) from amounts appropriated for that fiscal year.

"(b) Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

"USE OF ALLOTMENTS

"SEC. 1910F. (a)(1) Except as provided in subsections (b), (c), and (d), amounts paid to a State under section 1910E from its allotment under section 1910D for any fiscal year may be used to provide health care services in the home for eligible individuals. Such amounts may be used to—

"(A) pay compensation for the services of physicians, nurses, and social workers who plan, manage or provide or arrange for the provision of, health care services in the home for eligible individuals;

"(B) identify and locate eligible individuals needing the provision of health care services in the home;

"(C) develop proper standards and quality assurance mechanisms for the provision of health care services in the home for eligible individuals;

"(D) coordinate health care services provided in the home for eligible individuals under this subpart with other supportive social services provided for such individuals;

"(E) coordinate other long-term care services provided for eligible individuals by public and private institutions and voluntary organizations in order to ensure the provision of such services and to maximize the use of funds provided under this subpart and under other Federal laws; and

"(F) provide training to health professionals (other than physicians, nurses, and social workers), particularly training for health professionals who work within hospitals to educate individuals who may benefit from the provision of health care services in the home, and training in advanced discharge planning.

"(2) A State may use amounts paid to it under section 1910E to provide health care services in the home for eligible individuals through grants to health care organizations. In making such grants, a State shall give priority to home care programs, including home care programs based in hospitals. As a condition of receipt of a grant under this paragraph, a State shall require a health care organization to use amounts provided under such grant only for the provision of health care services in the home for eligible individuals.

"(b) Of the total amount paid to a State under section 1910E for a fiscal year—

"(1) at least 85 percent of such total amount shall, in the case of fiscal year 1988, be used by the State to pay compensation under subsection (a)(1)(A);

"(2) not more than 10 percent of such total amount may, in the case of fiscal year 1988, be used by the State for activities under this subpart other than the payment of compensation under subsection (a)(1)(A); and

"(3) not more than 5 percent may, in the case of a fiscal year beginning after September 30, 1988, be used by the State for activities under this subpart other than the payment of compensation under subsection (a)(1)(A).

"(c) Not more than $2,500 per year may be used by a State, with respect to any eligible individual, to pay compensation for the services of physicians, nurses, and social workers under subsection (a)(1)(A).

"(d) A State may not use amounts paid to it under section 1910E to—

"(1) provide inpatient services, except services involving advanced discharge planning;

"(2) make cash payments to intended recipients of services;

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds;

"(5) provide services under this subpart to an individual if the total cost to the Federal Government of providing such services would exceed the total cost of institutionalization of such individual;

"(6) provide reimbursement for services performed by any individual other than a physician, nurse, or social worker; or

"(7) provide supportive social services for which planning and management is conducted under subsection (a)(1)(D).

"(e) The Secretary, if requested by a State, shall provide technical assistance to the State in planning and operating activities to be carried out under this subpart.

"APPLICATION AND DESCRIPTION OF ACTIVITIES; REQUIREMENTS

"SEC. 1910G. (a)(1) In order to receive an allotment for a fiscal year under section 1910D, each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require.

"(2) Each application required under paragraph (1) for an allotment under section 1910D for a fiscal year shall contain assurances that the State will meet the requirements of subsection (b).

"(b) As part of the annual application required by subsection (a) for an allotment for any fiscal year, the chief executive officer of each State shall—

"(1) certify that the State agrees to use the funds allotted to it under section 1910D in accordance with the requirements of this subpart;

"(2) provide assurances that such chief executive officer will designate or establish a State agency to administer funds provided under this subpart;

"(3) certify that the State will coordinate the provision of health care services in the home with funds provided under this subpart with activities conducted to provide such services by voluntary, religious, and community organizations and local governments;

"(4) provide assurances that the State will make reasonable efforts to provide health care services in the home under this subpart through home care programs in the State, including home care programs based in hospitals; and

"(5) provide assurances that the State will, to the maximum extent feasible, provide health care services in the home under this subpart to individuals who are low income individuals and who are not receiving equivalent home health care services under the State's medicaid plan approved under title XIX of the Social Security Act.

"(c) The chief executive officer of a State shall, as part of the application required by subsection (a) for any fiscal year, also prepare and furnish the Secretary (in accordance with such form as the Secretary shall

provide) with a description of the intended use of the payments the State will receive under section 1910E for the fiscal year for which the application is submitted, including information on the programs and activities to be supported and services to be provided. The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal. The description shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this subpart, and any revision shall be subject to the requirements of the preceding sentence.

"(d) Except where inconsistent with the provisions of this subpart, the provisions of section 1903(b), section 1906(a), paragraphs (1) through (5) of section 1906(b), and sections 1907, 1908, and 1909 shall apply to this subpart in the same manner as such provisions apply to subpart 1 of this part.

"(e) Each report submitted by a State to the Secretary under section 1906(a)(1) (as such section applies to this subpart pursuant to subsection (d) of this section) shall include an analysis of the cost effectiveness of providing health care services in the home for eligible individuals under this subpart.

"EVALUATIONS

"SEC. 1910H. The Secretary shall conduct, or arrange for the conduct of, evaluations of services provided and activities carried out with payments to States under this subpart.

"DEFINITIONS

"SEC. 1910I. For purposes of this subpart—

"(1) The term 'eligible individual' means an individual who—

"(A) resides at home and is at risk of institutionalization because of medical limitations on the ability of such individual to function independently;

"(B) is a patient in a hospital who is at risk of prolonged hospitalization, and who could be cared for in a long-term care institution or who could return to the community if health care services in the home are available; or

"(C) is a patient in a skilled nursing facility or an intermediate care facility who could return to the community if health care services in the home are available.

"(2) The terms 'Indian tribe' and 'tribal organization' have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.".

(b) TECHNICAL AMENDMENTS.—Such part is further amended—

(1) by striking out the heading of such part and inserting in lieu thereof the following:

"PART A—PREVENTIVE HEALTH SERVICES, HEALTH SERVICES, AND HEALTH SERVICES IN THE HOME";

(2) by inserting after the heading of such part the following:

"Subpart 1—Preventive Health and Health Services"; and

(3) by striking out "this part" and inserting in lieu thereof "this subpart" each place it appears in sections 1902(d)(1)(A), 1902(d)(1)(B), 1904(a)(1), 1904(a)(3), 1904(b), 1905(c)(1), 1905(c)(3), 1905(c)(2), 1905(c)(4), 1905(c)(6), and 1905(d).

EFFECTIVE DATE

SEC. 603. This title and the amendments made by this title shall take effect on October 1, 1988.

On page 10, after item "Sec. 507", insert the following:

"TITLE VI—HEALTH CARE SERVICES IN THE HOME

"Sec. 601. Short title.
"Sec. 602. Program authorized.
"Sec. 603. Effective Date.".

HOME CARE BLOCK GRANT

Mr. BRADLEY. Mr. President, I rise as a cosponsor of the amendment offered by my colleague from Utah, Mr. HATCH, to authorize $100 million for home care services for low-income individuals who are not eligible for other Federal programs.

Mr. President, the Federal Government funds home care services through a variety of programs, including Medicare, Medicaid, the Older Americans Act, and title XX. Each of these programs has separate eligibility criteria for services. Ofttimes, elderly persons in need of services are ineligible for services and fall through the cracks. The block grant funds authorized by this amendment would be used by States to fill these gaps and meet the needs of these persons.

These funds can be used to pay for the services of physicians, nurses, and social workers who manage or provide for the provision of health care services in the home and to coordinate other long-term care services provided for eligible individuals by public and private institutions and voluntary organizations. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 660) was agreed to.

Mr. BYRD. Mr. President, I suggest the absence of a quorum and I ask that the time not be charged to either side.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Who yields time?

Mr. COCHRAN. Mr. President, will the distinguished managers yield me time for a 5-minute statement?

The PRESIDING OFFICER. The minority leader controls the time.

Mr. DOLE. Mr. President, I yield my time to the distinguished Senator from Mississippi.

Mr. COCHRAN. I thank the distinguished manager.

Mr. President, it has been a pleasure to work this year as the senior Republican member on the subcommittee on aging with my good friend and colleague from Hawaii, the chairman of the subcommittee. We began the year knowing that in September the Older Americans Act would expire and it was going to be our responsibility to recommend to the Senate any changes that ought to be made in the act and to recommend the reauthorization.

Knowing that, we had a series of hearings. We heard from witnesses from all over the country, beneficiaries of the Older Americans Act, as well as those who were involved in administering the programs. I think we got a very good view of how this program is benefiting many of our senior citizens and some changes that should be made to improve the sensitivity of the law and the programs that are administered under it.

Let me just cite a couple of examples of changes that have been made in this bill if the Senate goes along with it and approves it.

One is that the membership of the Federal Council on Aging will now be made up by a majority of those who are old enough to be served by the programs under the act. I think that is an important change. It was brought to our attention by testimony in one of the hearings by a witness from my State.

Another change is some in-home non-health-care services that will be made available through grants to the States under the Older Americans Act. This is important because of the need for respite care, homemaker services, chore services for the elderly who would like to stay in their homes and are physically able to, but they need assistance in order to do that. I think this change in the law is going to help make it possible for many of our older citizens to avoid unnecessary institutional care.

I think, by and large, Mr. President, this is a piece of legislation the Senate can be very proud of. I hope it is approved, and I am sure it will be, by the vast majority of the Senate.

There are other changes. Senators have been very helpful in suggesting changes to the act. I think it has been strengthened by reason of the bill that we are presenting to the Senate today.

I thank the chairman of the subcommittee for being cooperative with me and with Senators on this side in fashioning a bipartisan proposal that will strengthen the Older Americans Act.

I yield the floor, Mr. President.

I reserve the remainder of the time that is allocated to this side.

The PRESIDING OFFICER. Who yields time?

Mr. MATSUNAGA. Mr. President, we have a time limitation, as I under-

stand it, of 15 minutes, equally divided; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MATSUNAGA. Before I yield to the Senator from Florida, I wish to commend the Senator from Mississippi. He has been very, very cooperative. The speed with which this bill has moved through the subcommittee hearings, the markups, in both the subcommittee and the full committee, and the floor has been largely due to the cooperation given by the Senator from Mississippi.

I wish, as chairman of the Aging Subcommittee, to thank the ranking Senator of that subcommittee.

How much time do I have remaining on this side?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. MATSUNAGA. I yield 2 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. I thank the Senator very much.

I express my appreciation to the Senator from Hawaii and the Senator from Mississippi for their outstanding work on this legislation and would like to speak to one provision that represents a new dimension for the Older Americans Act, that is the emphasis on preventive strategies and particularly the use of States as the instrument to shape appropriate community-based programs that promote optimal health in the older population.

Mr. President, most Federal Government programs for older Americans have been crisis oriented—after you are sick enough to go into the hospital, then a range of services become available. I believe that one of the new directions that this bill starts us toward is that of prevention. How do we keep people well enough so that they do not go into the hospitals, so they do not have to incur both the great personal pain and financial costs to themselves and to the Federal Government?

The preventive health services part of this bill will, for the first time, provide grants to the States to initiate a range of preventive health services. These will include routine health screening so that most of those conditions that are the most likely to mature into serious illnesses can be identified early and remediated.

The bill includes group exercise programs and a very creative program for home injury control so that people can keep themselves at the highest possible level of good health.

Many older Americans suffer an injury which eventually leads to a fundamental catastrophic change in the quality of their life because of a condition in their own home, for example, a fall as a result of an inadequately equipped bathroom or an otherwise hazardous home environment, nutritional counseling, mental health screening, and Medicare benefits education are additional programs under this new preventive health initiative of the Older Americans Act which will help redirect our Nation's efforts toward health promotion and disease prevention.

I commend the Senators from Hawaii and Mississippi for their leadership.

I am very enthusiastic as to what consequences in terms of improving the lives of many thousands of older Americans will come as a result of your work and of these new initiatives and I look forward to working with you over the years ahead to see that these initiatives fulfill their very bright promise. Thank you very much.

Mr. MATSUNAGA. I thank the Senator, if the Senator will yield, for the great interest he has shown in this bill and in matters pertaining to healthy Americans.

I commend him for it.

Mr. COCHRAN. Mr. President, does the distinguished Senator not choose to use any further time?

Mr. MATSUNAGA. I reserve the remainder of my time.

Mr. COCHRAN. I yield myself such time as I may consume.

Mr. President, let me at this time take advantage of the opportunity to thank the staff members of our subcommittee. We had a lot of witnesses, a lot of hearings, a lot of staff work that was going on in the background in the development of this bill that was very professional and reflected credit on the Senate.

I particularly would like to commend Jackie Knox and Anne Cherry of the subcommittee staff on this side of the aisle who worked very, very hard to develop suggested changes and improvements in the Older Americans Act, and to try to get the witnesses who could best help us understand the programs administered under this act to attend hearings.

I also, of course, would like to commend those who worked with Senator MATSUNAGA for their work. They all did an outstanding job.

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

AMENDMENT NO. 662

(Purpose: To require furnishing information on age discrimination prohibitions for enrollees under title V of the Act.)

Mr. BYRD. Mr. President, I offer an amendment on behalf of Mr. MELCHER.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. MELCHER, proposes an amendment numbered 662.

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

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

The amendment is as follows:

On page 80, after line 24, insert the following:

INFORMATION ON AGE DISCRIMINATION PROHIBITIONS

SEC. 163. Section 503(b) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by inserting at the end thereof the following:

"(2) The Secretary shall distribute to grantees under this title, for distribution to program enrollees, and at no cost to grantees or enrollees, informational materials developed and supplied by the Equal Employment Opportunity Commission and other appropriate Federal agencies which the Secretary detemines are designed to help enrollees identify age discrimination and understand their rights under the Age Discrimination in Employment Act.".

On page 81, line 2, strike out "SEC. 163." and insert in lieu thereof "SEC. 164.".

On page 81, line 7, strike out "SEC. 164." and insert in lieu thereof "SEC. 165.".

On page 81, line 15, strike out "SEC. 165." and insert in lieu thereof "SEC. 166.".

Amend the table of contents accordingly.

Mr. MELCHER. Mr. President, among the most important functions of the Older Americans Act is providing unemployed, low-income older persons with community service employment opportunities. The Senior Community Service Employment Program under title V of the act has been an extremely effective and valuable tool for providing seniors with needed jobs and income.

Contractors under title V do a commendable service in finding jobs for older Americans, especially with the limited resources they have. One problem which still hinders their placement of seniors, however, is age discrimination in the workplace.

Last year, Congress amended the Age Discrimination in Employment Act to eliminate mandatory retirement for all but a few designated professions. In eliminating the age cap, we recognized that older Americans are among this country's most valuable resources. We acknowledged that age alone has nothing to do with a person's desire or ability to work. This is important to recognize at a time of such rapid growth in our country's elderly population.

While many industries are also beginning to recognize the value of the older worker, many are not. More must be done to educate people about age discrimination at a time when many industries are becoming increasingly savvy at getting around the law. While the ADEA provides recourse for those who have been discriminated against, many people still do not know what those rights are. On top of that, older employees and job seekers are often unaware that they are being discriminated against.

Today I am introducing an amendment to change that. My amendment would require the Labor Department, which administrates the overall SCSEP, to provide title V contractors with information about age discrimination. The contractors could then distribute this information to program participants so they would know what their rights are under the law.

I want to make it clear that I am not offering this amendment because of any problems with title V contractors. To the contrary, because these groups have been so effective, they will serve as an excellent vehicle for getting this information into the hands of people who need it. For age discrimination law to be effective, the people who it's intended to protect must understand how it affects them.

The amendment I'm offering today is supported by the National Council on the Aging, as well as such title V contractors as the American Association of Retired Persons, Green Thumb, the National Caucus and Center on Black Aged, and the Urban League. I urge all my colleagues to join with me and these organizations in supporting this important amendment.

Mr. MATSUNAGA. Mr. President, I rise in support of the amendment offered by the Senator from Montana [Mr. MELCHER], which would require the Secretary of Labor to distribute information on individual rights with respect to age discrimination to Senior Community Service Employment Program grantees for subsequent distribution to participants. In my view, this provision will ensure that participants in Older Americans Act employment programs understand how to identify age discrimination and what to do if they believe that they have been discriminated against on the basis of age. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 662) was agreed to.

AMENDMENT NO. 663

(Purpose: To require the Secretary of Labor to develop a consumer price index which reflects the impact of inflation on elderly Americans)

Mr. BYRD. Mr. President, I send to the desk on behalf of Mr. MELCHER another amendment.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. MELCHER and Mr. PRESSLER, proposes an amendment numbered 663.

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

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

The amendment is as follows:

On page 101, after line 23, insert the following:

PART G—CONSUMER PRICE INDEX FOR OLDER AMERICANS

INDEX AUTHORIZED

SEC. 191. The Secretary of Labor shall, through the Bureau of Labor Statistics, develop, from existing data sources, a reweighted index of consumer prices which reflects the expenditures for consumption by retired Americans aged 62 and over. The Secretary shall furnish to the Congress the index within 180 days after the date of enactment of this Act. The Secretary shall include with the index furnished a report which explains the characteristics of the reweighted index, the research necessary to develop and measure accurately the rate of inflation affecting older Americans, and provides estimates of time and cost required for additional activities necessary to carry out the objectives of this section.

On page 9, in the table of contents, after item "Sec. 182." insert the following:

"PART G—CONSUMER PRICE INDEX FOR OLDER AMERICANS

"Sec. 191. Index authorized.".

Mr. MELCHER. Mr. President, on May 27, the full Senate expressed its will on the amendment I am offering again today by voting unanimously—95-0—to require the Department of Labor to develop a separate Consumer Price Index [CPI] for the elderly. Despite this overwhelming vote, the amendment was dropped in the joint Senate/House conference.

In 1986, the cost of prescriptions, doctors fees, hospital costs, and other medical costs increased about 8 percent. Residential phone service increased over 20 percent during the past 3 years. Public transportation and even funerals were up an estimated 6 percent in 1986. Financing a new car or house was down in 1986, but older Americans do not buy these items as much as the general population. None of these differential spending patterns of the elderly could have been reflected in the Consumer Price Index that is used for the formulation of retirees cost-of-living adjustments [COLA's] because this index—the CPI—does not even survey one retired person.

To address this situation, I believe it is essential that we develop an index which specifically focuses on what goods and services the elderly purchase. My amendment would not tie future COLA's to this new index, but would require the Department of Labor to develop an index to give Congress and older Americans a more accurate picture of the costs and inflation the elderly face.

The major reason why my amendment was deleted in the Senate/House supplemental appropriations conference appears to be due to the fact that the Department of Labor's Bureau of Labor Statistics [BLS] had raised concerns about the language within the amendment and its 90-day reporting requirement. As chairman of the Senate Special Committee on Aging, I felt it was important that BLS have the opportunity to outline their concerns with the amendment. Therefore, I held an Aging Committee hearing on June 29 to give them such an opportunity.

During the hearing and in followup discussions, BLS stated that they could not meet the 90-day reporting requirement outlined in the original amendment and indicated that it would take 180 days to complete the study mandated by the amendment. In addition, BLS informed us that they felt they needed a better working definition of the elderly population they would be studying. Last, BLS informed me that they would like to include in their report an analysis of the reweighting I am requesting, along with information regarding alternative approaches to obtaining an accurate measure of the inflation the elderly face.

The purpose of my amendment was not to give the Department of Labor an impossible or unwanted task. Rather, my main concern was to obtain information that I, and very obviously the rest of the Senate, believe is important.

In an attempt to accommodate all affected parties, I have modified my amendment to give BLS the time they need to complete this study—180 days. Further, I have tightened the definition of the elderly to be surveyed to include those "retired Americans aged 62 and over." Last, I am adding language which requires the Secretary of Labor to include with the data furnished their suggestions for alternative methods to obtain an accurate measure of inflation affecting older Americans, and to provide time and cost estimates for such alternatives.

With these modifications, BLS has informed me that I have "alleviated the major concerns raised by BLS Commissioner Janet Norwood." It is my hope that the Senate will once again give this amendment its strong endorsement, and that I also have satisfied the initial objections of the House of Representatives.

At a time when the most recent medical inflation statistics from June show that overall medical prices are nearly doubling the rise in overall consumer prices, and nonprescription drugs and prescription drugs are respectively tripling and doubling the general inflation rate, I believe it is particularly important that the Congress has a more accurate measure of the inflation older Americans face.

I urge all my colleagues to join with me once again in sending a strong message about our desire to have this essential information and I ask that this amendment be incorporated into the Older Americans Act.

Mr. MATSUNAGA. Mr. President, I rise in support of the amendment offered by the Senator from Montana,

Mr. MELCHER, which would require the Department of Labor to develop a Consumer Price Index based on the spending patterns of older Americans. It is important to note that this amendment does not require the use of a new index for cost-of-living allowances for Social Security or any other programs which specifically serve the elderly, but it will give Congress, the administration, and the elderly a better sense of how price changes are affecting their purchasing power.

Mr. President, I urge my colleagues to support this amendment.

The PRESIDING OFFICER. If there be no further debate on the amendment, the question is on agreeing to the amendment.

The amendment (No. 663) was agreed to.

AMENDMENT NO. 664

(Purpose: To provide for participation of older persons and chronically impaired disabled persons in child care food program)

Mr. BYRD. Mr. President, I send to the desk an amendment on behalf of Mr. MELCHER.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. MELCHER, proposes an amendment numbered 664.

Mr. BYRD. 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:

On page 114, strike out lines 1 through 14 and insert the following:

TITLE IV—NATIONAL SCHOOL LUNCH ACT AMENDMENT

PARTICIPATION OF OLDER PERSONS AND CHRONICALLY IMPAIRED DISABLED PERSONS IN CHILD CARE FOOD PROGRAM

SEC. 401. Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended by adding at the end the following:

"(p)(1) For purposes of this section, adult day care centers shall be considered eligible institutions for reimbursement for meals or supplements served to persons 60 years of age or older or to chronically impaired disabled persons, including victims of Alzheimer's disease or other neurological and organic brain disorders of the Alzheimer's type. Reimbursement provided to such institutions for such purposes shall supplement, not supplant, funds provided for such purposes on the effective date of this subsection, unless the quality of meals or level of services provided is improved through participation in the program.

"(2) For purposes of this subsection—

"(A) the term 'adult day care center' means any public agency or private nonprofit organization, or any proprietary title XIX or title XX center, which—

"(i) is licensed or approved by Federal, State, or local authorities to provide adult day care services to chronically impaired disabled adults or persons 60 years of age or older in a group setting outside their homes on a less than 24-hour basis; and

"(ii) provides for such care and services directly or under arrangements made by the agency or organization whereby the agency or organization maintains professional management responsibility for all such services; and

"(B) the term 'proprietary title XXIX or title XX center' means any private, for-profit center providing adult day care services for which it receives compensation from amounts granted to the States under title XIX or XX of the Social Security Act and which title XIX or title XX beneficiaries were not less than 25 per cent of enrolled eligible participants in a calendar month preceding initial application or annual reapplication for program participation.

"(3)(A) The Secretary of Agriculture, in consultation with the Commissioner on Aging, may establish separate guidelines for reimbursement of institutions described in this subsection.

"(B) The guidelines shall contain provisions designed to assure that reimbursement under this subsection shall not duplicate reimbursement under part C of title III of the Older Americans Act of 1965, for the same meal served.".

On page 126, after line 14, insert the following:

TITLE VI—GENERAL PROVISIONS

EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 601. (a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on October 1, 1987.

(b) APPLICATION OF AMENDMENTS.—The amendments made by title I of this Act shall not apply with respect to—

(1) any area plan submitted under section 306(a) of the Older Americans Act of 1965, or

(2) any State plan submitted under section 307(a) of such Act.

and approved for any fiscal year beginning before the date of the enactment of this Act.

Amend the table of contents accordingly.

Mr. MELCHER. Mr. President, this amendment extends meal assistance under the Child Care Food Program of the School Lunch Act to eligible persons participating in adult day care programs.

This amendment would simply extend supplemental assistance on a means tested basis for two meals and a snack per day to qualified programs. It would be limited to public and private nonprofit adult day care centers or to for-profit centers only if they receive payment under Medicaid or title XX. At least 25 percent of the participants in for-profit centers must also be eligible for Medicaid or title XX benefits. Programs must also be licensed or approved by Federal, State, or local authorities to provide adult day care services to chronically impaired disabled adults or persons 60 years or older in a group setting outside their homes on a less than 24-hour basis.

Like the School Lunch Program, free meals would be available to adult day care participants with incomes below 130 percent of the poverty line—$595 per month for an individual. Reduced price meals would be available to those whose incomes ranged from 130 to 185 percent of poverty—$847 per month. As the average income of adult day care participants is below the poverty line, the need for this meal assistance is very obvious.

Many adult day care centers now get assistance under the Meals Program of the Older Americans Act. Adoption of this amendment would free up that funding to meet the increasing demand for these meals, particularly home-delivered. Many home-delivered meals programs have waiting lists, have tightened eligibility and some are struggling to raise money from other sources.

In addition, it is estimated from a recent study by the national association of nutrition and aging services programs that as many as 2,000 communities are waiting for meal sites. Also, some States estimate tens of thousands of elderly that could and should be served under the Meals Program of the Older Americans Act.

By extending child care food assistance to adult day care centers, nutritional standards would be improved through minimum requirements and greater use would be made of commodities as well.

Providing this meal assistance also wouldn't cost very much. CBO estimates are for $5 million in direct spending in 1988, $6 milion in 1989, and $7 million in 1990.

In the past few years, there has been a tremendous growth of adult day care programs throughout all 50 States and the District of Columbia. This movement has been very successful in helping our Nation's senior citizens stay in their own communities, in their own homes, and with family caregivers.

Most adult day care programs are nonprofit and provide a wide range of individualized services under medical supervision. These include health assessment and monitoring, personal care, meals, nutrition counseling and often physical, speech and/or physical therapy. Several studies have shown that adult day care services not only prevent or reduce the need for nursing home and hospital care but is very cost effective as compared to other forms of health services.

This amendment is supported by a broad intergenerational coalition including the Children's Defense Fund, the Food Research and Action Center, the Leadership Council on Aging, the National Council of Senior Citizens, and Villers Advocacy Associates.

I strongly believe that it is vital to extend this meal assistance to eligible frail elderly and disabled individuals in America's adult day care centers. I urge your support of this amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter I received from Jack Ossofsky, chairman, Leadership Council of Aging Organizations.

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

LEADERSHIP COUNCIL OF AGING ORGANIZATIONS,
July 14, 1987.

Hon. JOHN MELCHER,
U.S. Senate,
Washington, DC.

DEAR MR. MELCHER: On behalf of the Leadership Council of Aging Organizations, I want to express our support of your proposed amendment to the Older Americans Act that would extend to adult day care participants eligibility for meals through the USDA child care food program without reducing food available to children.

Such an amendment, already included in the House version of the OAA amendments, will assist financially struggling adult day care centers to provide nutritious meals and snacks to many more older Americans and younger disabled adults and to provide additional services. Your recognition of adult day care as a viable service for functionally impaired people that warrants financial aid from various Federal sources is greatly appreciated.

Sincerely,

JACK OSSOFSKY, *Chair.*

LEADERSHIP COUNCIL OF AGING ORGANIZATIONS

American Association for International Aging
American Association of Homes for the Aging
American Association of Retired Persons
AFL-CIO Department of Occupational Safety, Health and Social Security
AFSCME Retiree Program
American Society on Aging
Asociacion Nacional Pro Personas Mayores
Association for Gerontology in Higher Education
Catholic Golden Age
Gerontological Society of America
Gray Panthers
National Association of Area Agencies on Aging
National Association of Foster Grandparents Program Directors
National Association of Mature People
National Association of Meal Programs
National Association of Nutrition and Aging Services Program
National Association of Older American Volunteer Program Directors
National Association of RSVP Directors, Inc.
National Association of Retired Federal Employees
National Association of Senior Companion Project Directors
National Association of State Units on Aging
National Caucus and Center on Black Aged, Inc.
National Council of Senior Citizens
National Council on the Aging, Inc.
National Interfaith Coalitions on Aging
National Pacific/Asian Resource Center of Aging
National Senior Citizens Law Center
Older Women's League
United Auto Workers/Retired Members Department
Villers Advocacy Associates

Mr. MATSUNAGA. Mr. President, I rise in support of the amendment offered by the senior Senator from Montana, Mr. MELCHER, which would extend what is currently a child care food program authorized under the National School Lunch Act to adult day care centers which serve older and disabled individuals.

Mr. President, I understand that the administration had raised some objections to a similar provision in the House bill which reauthorizes the Older Americans Act. One concern was that the provision might allow double subsidies to occur. I wish to commend Senator MELCHER for accommodating this concern by adding a provision which explicitly prohibits dual subsidies.

The other objection involved the potential cost of the program, based on an assumption that many senior centers and congregate meal sites would qualify and apply for status as adult day care centers in order to receive this subsidy. I understand that the Congressional Budget Office reexamined its cost estimate in light of this concern, but ultimately decided that its original $5 million estimate is correct. I believe that this represents a rather small investment in better nutrition for the elderly, and urge my colleagues to support the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 664) was agreed to.

The PRESIDING OFFICER. The question is now on the Labor Committee substitute.

Mr. COCHRAN. Mr. President, if there is time remaining, how much time is remaining for this side?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. COCHRAN. Mr. President, let me say, in conclusion, that the changes that have been made and the reauthorization of this program, in my judgment, will help meet the changing needs and circumstances of senior citizens and older Americans throughout the country. The amendments that have been offered by Senators while we were in the markup phase of developing the bill and in final form, the amendments which have been added here on the floor of the Senate today I think are improvements in the bill and will help us meet the challenge that we face in maintaining programs that are efficiently operated, that are sensitive to these changing needs, and that all go toward the goal of improving the opportunities of senior citizens for fuller and happier lives and improve the standard of living and opportunities for our senior citizens.

I thank the distinguished leader for his indulgence and I have no requests for any time on this side.

Mr. President, I yield the remainder of our time.

Mr. MATSUNAGA. Mr. President, how much time do I have remaining on this side?

The PRESIDING OFFICER. The Senator has 45 seconds.

Mr. MATSUNAGA. I ask unanimous consent, Mr. President, that Senator GRASSLEY of Iowa be added as a cosponsor of the measure now pending.

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

Mr. HATCH. Mr. President, today we are considering S. 887, the Older Americans Act Amendments of 1987. I am pleased to have been involved in the process of fine tuning this important piece of legislation.

I have been an active participant during the past two reauthorizations of the Older Americans Act—both as chairman of the Labor and Human Resources Committee and as a conferee. During these deliberations, we made changes in the structure of the law to give State agencies more flexibility in the management of the grants that pay for supportive services, senior citizen centers and nutrition programs.

Until the law was modified, we found that many senior centers were forced to leave money unspent in one account while other accounts had run out of money. Many centers, especially in rural States such as Utah, had to close their doors, turning away older people who needed nutritional hot meals. They had no money for the vehicle that brought the people to the centers to eat, although there was sufficient funds in other accounts. Specific language to expand the ability to transfer funds between titles was not incorporated in the bill reported out of committee, but it is my understanding that the transferability provisions in current law will remain unchanged.

Although the Older Americans Act has provided necessary social services, the demand on title III—B funds has increased dramatically as a result of number of factors including population growth.

During the past few years, the Older Americans Act and its services have automatically become targeted to the "old old" and the frail populations. In the 1970's, Federal funds primarily supported the development of community services such as senior centers, transportation and congregate meals. The elderly population aged in the last decade, and today their needs are quite different. They now require services to help them remain independent and in their own homes. The bill we are voting on today will address these needs and ensure that the Older Americans Act continues to address today's problems.

There is, however, an additional issue facing the elderly which the Older American's Act should address—the issue of health care in the home. Often, treatment at home can provide more compassionate health care and, at the same time, save money. We need to realize that there are viable al-

ternatives to hospital based care, especially given the mounting medical costs in our Nation. Since 1978, I have been working with the citizens from my State to implement a program that will enable States to provide health care in the home.

The amendment we are offering today will provide $100 million for States to provide health care services in the home. This will reimburse a professional health care team to help in the home during an illness. Let a doctor and nurse develop the treatment plan; and let them work on providing quality health care services in a cost-effective way. I truly believe that this approach will demonstrate how to provide effective health care services within a home.

It is our intent that home and community based services established or supported under this amendment will consist of team oriented, managed care coordinated with the full spectrum of home and community based services necessary to maintain ailing individuals outside the hospital. This managed care approach will enable the team to pay for other care and treatment services deemed appropriate such as, respiratory therapy, physical therapy, and occupational therapy.

I hope this proposal will become law, because Americans want health care in the home. A recent poll asked the American public where they would like to see more health care provided. The result was a resounding majority in favor of home health care. Americans, by a margin of 9 to 1, prefer home care to any other kind of care.

I want to give special thanks to the Senator from Hawaii, Senator INOUYE, who has been a champion of home health care and a true leader in this field. In addition, much credit must go to Senator GARN and Senator BRADLEY who have worked hard to make home health care a reality. I also want to thank Senator KENNEDY and Senator MATSUNAGA for their courtesy and assistance in getting this important piece of legislation through the Senate.

Special thanks should also go to Shauna O'Neil, who is the director of the Salt Lake County Aging Services, Jan Tremmel, with the Utah Visiting Nurses Association, and Grant Howarth, president of Utah Home Care Association for their dedication and efforts on behalf of those who will benefit from home health care.

But most importantly, I want to thank Mrs. Cleo Boyer and my other friends in Utah. They know what home health care means and they know what this legislation means for them and their families. They will not have to be alone again.

Finally, I want to commend Senator MATSUNAGA, Senator COCHRAN, and the rest of the Subcommittee on Aging for taking the time to look at this amendment to the Older Americans Act. As we know, the Older Americans Act funds programs very dear to our seniors—supportive services, nutrition programs both congregate and home delivered meals, senior centers, transportation, and employment programs. Our seniors would definitely feel a void in their lives without these essential services provided by the act. By adding health care in the home to these services, we will provide the elderly with the variety of services they need and deserve. I urge my colleagues to expedite its passage through Congress.

Mr. WEICKER. Mr. President, I rise in support of S. 887, the 5-year reauthorization of the Older Americans Act. This legislation will continue to build upon the established partnership among Federal, State, and local governments to further the independence and self-sufficiency of our Nation's senior citizens.

Since 1965, the Older Americans Act has guided the Nation's efforts to respond to the changing needs and increasing diversity of a growing elderly population, and reflects our commitment to meeting the unique needs of our Nation's elderly citizens by providing quality social service programs in transportation, health care, employment, counseling, adult day care, information and referral, and nutritional services.

I am particularly pleased that this legislation incorporates several provisions to address the needs of an increasing population of elderly individuals with disabilities. Currently, of the 9 million elderly individuals in this country, approximately 4 percent, or between 200,000 and 500,000, are developmentally disabled. The initiatives that have been included will ensure that the needs of elderly persons with disabilities will not fall through the cracks of a system that fails to recognize the unique problems of this population.

In many respects, elderly individuals with disabilities are like any other elderly individual, needing adequate and appropriate housing, activities to occupy their day, a range of support services, available and accessible health care, transportation and nutritional assistance. However, older individuals with disabilities additionally face a number of difficult problems. Some of these individuals, particularly those with severe disabilities receive services from the network of developmental disability service providers. However, for the majority who are less impaired, the state-of-the-art has changed so that their needs can, and should, be met by the same service network that provides services for older persons.

Therefore several amendments have been included to the act to begin to address the needs of the elderly disabled.

First, in order to foster greater interaction between professionals in both the developmental disabilities system and the aging network, authority was added to permit one of the multidisciplinary gerontology centers to engage in research and training regarding the needs of elderly individuals with disabilities. Increasingly, gerontological educators are beginning to work with service providers to develop crossdisciplinary curricula for those in the aging network who are serving developmentally disabled persons, and those in the developmental disability service agencies whose clientele are aging.

Second, the act has been amended to establish a collaborative working relationship between two existing programs designed to assist individuals in residential facilities: the Ombudsman Program under the Older Americans Act, and the Protection and Advocacy Program for Disabled Individuals. Recognizing that clients residing in long-term care facilities comprise a diverse population of frail elderly, elderly who are mentally ill, persons who are developmentally disabled and persons with severe physical disabilities, an authorization of $1 million has been added to demonstrate and evaluate cooperative projects between State long-term care ombudsman programs and State protection and advocacy agencies in meeting the needs of this diverse population residing in long-term care facilities.

Under current law, elderly individuals who are mentally ill and persons with developmental disabilities are entitled to advocacy services under the protection and advocacy systems for these individuals. The Nursing Home Ombudsman Program provides advocacy services for the entire population residing in long-term care facilities; however, the lack of adequate resources limits the ability of all three programs to provide comprehensive, coordinated advocacy services. The Ombudsman Program, created to facilitate the resolution of complaints made by or on behalf of residents of such facilities, and the protection and advocacy agencies which exist to advocate for clients' rights and to investigate incidents of abuse and neglect, will now begin to work together to ensure that quality services are provided to those residing in long-term care facilities.

In addition, several new requirements for State and area agencies on aging to coordinate planning and activities with agencies and organizations providing services to persons with disabilities has been incorporated in order to expand coordination of activities of the aging network and the disability community.

The Reauthorization of the Older Americans Act reflects the Nation's commitment to enhancing the quality of life for our elderly citizens. I believe we have a responsibility to the elderly of this country to ensure that they are not deprived of their dignity and independence by unnecessary—and costly—reliance on institutional care. By expanding the availability of needed health, social and nutritional services, and creating a new emphasis on the needs of the disabled elderly, I believe the reauthorization before the Senate today will enhance the ability of elderly Americans to continue to live independently. Finally, I commend Senator MATSUNAGA and Senator COCHRAN for their leadership on this legislation, and I would also like to thank Senator HARKIN for his work on the provisions addressing the needs of the disabled elderly.

Mr. GRASSLEY. Mr. President, I congratulate Senators MATSUNAGA, COCHRAN, KENNEDY, and HATCH, the Senators principally responsible for this year's reauthorization of the Older Americans Act on bringing before the Senate a bill that Members will be able to support with pleasure.

The Older Americans Act, as I am sure my colleagues are well aware, is one of the major statutes authorizing programs designed to assist older Americans. Over the years since its inception, the Older Americans Act has been supported virtually unanimously by the Congress. The Older Americans Act network of State units on aging and area agenices on aging administers a popular program of meals programs, social services, and community service employment that has served well older Americans in need of those services.

The Senate bill this year begins a new program of in-home services for the frail elderly, a new program of elder abuse prevention, and strengthens the ombudsman and health promotion features of title III. The addition of a well-defined home health component to the act will be welcome throughout the network and by those who depend on services in the home to avoid institutionalization. The Older Americans Act has always provided authority to provide such home health services, but the addition of a separate subpart with a separate authorization will greatly enhance the network's already extensive involvement in the provisions of such services. I welcome this new addition to the title III family of programs.

The strengthening of the Ombudsman Program follows a period of considerable discussion, prompted by the Institute of Medicine's report on nursing home reform, about ways in which the Ombudsman Program could be strengthened. Bills to accomplish this were introduced last year, and again this year, and hence, have been available and had ample opportunity to be discussed by all interested parties. I think the changes incorporated into the bill improve the program and can be lived with by all affected parties.

In like manner, the new Elder Abuse Program follows considerable experience since the last reauthorization with this problem and programmatic activity to deal with it. When last we reauthorized the act, in 1984, I was chairman of the subcommittee of orginal jurisdiction in the Senate, and I well remember the resistance in certain quarters to incorporating stiff elder abuse provisions in the bill. We did incorporate at that time, and after lengthy negotiations, some provisions dealing with elder abuse. After passage of the act, the National Association of State Units on Aging undertook a major project on elder abuse. I think we have come some way in the 3 years since the last reauthorization with respect to this problem, and am pleased to see a specific subtitle developed on elder abuse.

Mr. President, one last word on the addition in this bill of Senator HATCH's amendment to the Public Health Service Act establishing a home and community-based Care Program for Older People at risk of institutionalization. I followed this legislation carefully during my years on the Labor Committee during the 98th and 99th Congresses. In the 98th Congress, I had problems with the bill, principally because it; at that time, was to cost around $2.5 billion over 3 years, and also because it seemed to me that there were several important design problems with the programs the bill would have established. In the last Congress, I became a cosponsor of the bill when the funding authorized was reduced to $100 million, which struck me as a more appropriate level at which to start an untested program, and when the bill was redrafted to become much tighter and focused more closely on only those elderly who were at risk of institutionalization. It seems to me that a program such as this deserves endorsement by the Senate. It is a block grant, not a categorical program; hence, States will have maximum flexibility to develop the program in a way which suits their particular circumstances. It is not an entitlement program, so the Congress will retain control over the growth, if there is growth, in the program. It is targeted on those elderly most at risk of institutionalization, so, if it works as intended, it should help forestall costly nursing home care for a significant portion of the 5 percent of the elderly who, in any year, need nursing home care.

With that, Mr. President, I urge my colleagues to support the bill.

Mr. HARKIN. Mr. President, I am proud to be a cosponsor of S. 887, the bill to reauthorize and strengthen the Older Americans Act of 1965. The Older Americans Act is highly significant legislation that serves as the cornerstone for the development and delivery of a broad array of services for older persons. The bill we are considering today will strengthen existing programs and authorize some critical new ones.

The issues of older Americans are increasingly the issues of all Americans. The elderly population has grown more rapidly in this century than has the rest of the population. The older population—persons 65 or older—numbered 28.5 million in 1985. They represented 12 percent of the U.S. population, about 1 in every 8 Americans. The number of older Americans increased by 2.8 million or 11 percent since 1980, compared to an increase of 4 percent for the under 65 population.

Older Americans constituted 12 percent of the national population in 1985. Yet in my home State, Iowa, the elderly represented more than 13 percent of the total State population. This growth in the older population is predicted to become even more pronounced in the 21st century. Between 1980 and 2020, the total population is projected to increase by more than 200 percent. American population statistics will continue to show this trend as people live longer and members of the baby boom generation reach retirement age in the coming decades. In Iowa we are likely to see an even greater impact on population statistics if the "negative out-migration" trend in the State continues. State demographers report that older Iowans migrate out of the State at a rate of 1 percent, but this is offset by a 1.5 percent migration of older people into the State.

One of the more critical demographic factors to consider is the startling pace of increase among the oldest segment of our society. Persons 85 years of age and older are now the fastest growing age group. These factors will have significant implication for continued and expanded need for services authorized and funded under the Older Americans Act and for the other services coordinated through the act.

The Older Americans Act has become the cornerstone for the development and delivery of a broad array of services for older persons. Although older persons may benefit under a multiplicity of other Federal programs, the Older Americans Act is a major vehicle for the organization and delivery of services.

This bill includes provisions of particular importance to older individuals residing in rural areas. The bill before us today would require outreach efforts to identify older individuals who are eligible for assistance with emphasis on individuals with the greatest economic and social needs and those residing in rural areas.

A new requirement would be added for State plans to include a description of methods used to satisfy the service needs of older individuals residing in rural areas. This provision requires documentation, by the Administration on Aging, of the amount of service provided to rural areas and nonrural areas. The purpose of this provision is simple. It will provide the data we need to assure that resources are allocated appropriately to guarantee an adequate level of service in rural areas as well as in urban areas.

We who know rural areas, know that because of high transportation costs and a reduced number of people for the services provided, rural areas have higher per capita costs in their programs. I would like to see increases in funding for rural areas, but the data needed to justify these increases simply are not available. These new reporting requirements will yield the needed data to help us draw conclusions about the future needs of rural and urban areas.

The bill would create new authorizations for appropriations under the Older Americans Act for in-home services, health promotion services and for ombudsman services for older Americans.

The long-term care ombudsman program has been very important in improving the quality of care for residents of long-term care facilities. This bill includes provisions to strengthen this important program by clarifying certain functions, assuring training and legal protection for ombudsmen, and improving procedures for reporting complaints of facility residents. The bill also requires a study of the impact of the ombudsman program on issues affecting residents of board and care facilities.

I am pleased that the bill includes amendments I offered with Senator WEICKER to require the State agency to coordinate ombudsman activities with the protection and advocacy systems established under the Developmental Disabilities Assistance and Bill of Rights Act and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986. The coordination of these three programs will result in more effective advocacy services for the full range of residents of nursing homes and long care facilities.

The bill adds a new authorization for grants to States for nonmedical in-home services for frail older person. This will allow individuals with disabilities, including those with Alzheimer's disease or related disorders, to receive in-home services such as, homemaker services, home health aides, and minor remodeling or environmental modification of homes if necessary to enable the individual to remain at home. Also included in this part would be the provision of respite care for families, including adult day care. These and similar in-home services can greatly increase the capacity of individuals to remain in their own homes rather than enter an institution.

A new authorization for the provision of health education and promotion services for older Americans would also be provided by this bill. The program is intended to provide health screening, education and other health promotion services primarily in congregate settings. This is just plain good sense. There is a vital need for promoting good health and preventing illness or disability and the potential long-range savings in health care costs is great.

I am pleased that my suggestions and amendments were accepted by the Labor and Human Resources Committee and I am proud to have contributed to the development of these important provisions.

I am also very pleased that the bill incorporates amendments I crafted with Senator WEICKER which ensure that individuals with disabilities receive the benefits of the programs under the act, that mental health services are included and coordinated, that the long-term care ombudsman program is strengthened and is coordinated with the protection and advocacy system for individuals with disabilities, that training programs for providers of services to older individuals with disabilities will be authorized, and that multidisciplinary centers of gerontology will be supported and will include an emphasis on disability. These amendments will improve access to needed programs for older individuals with disabilities.

I am pleased that my additional amendments concerning assistive technology have also been included in the committee substitute. The inclusion of assistive technology is an extremely significant action and it is one that will surely increase the effectiveness of the programs and services with minimal or no increased spending.

Technology has been a major factor in the growth of the older population and its increased longevity. Technology can also have a significant impact on the functional ability and the vitality of older Americans and assist them to maintain their independence, maximize their options, and improve the quality of their lives. My amendments assure that assistive technology and related services be included as an integral part of the full range of services coordinated and provided under the act.

Assistive technology services is a systematic approach for enabling older individuals to obtain the products, services and information they need in order to appropriately use technology to compensate for functional limitations or disabilities. These assistive technologies can be effectively applied in such areas as employment, recreation, independent living, and other community living arrangement. Assistive technology services can make a significant contribution to the lives of older individuals through increasing independent functioning, postponing or eliminating the need for institutionalization, reducing the difficulty of care giving, and improving the quality of life.

Assistive technology services may include: information referral, assessment, evaluation, device fitting, modification of commercial equipment, design and fabrication of customized equipment, installation, usage training, repair and maintenance. It is this integration of assistive devices and related services that provides the basis of individualized and comprehensive assistive technology services.

There is a wide range in the assistive technology services any one older individual with functional limitations may need. The majority may need little beyond information on the availability of a simple assistive device. Most technological interventions are simple, and include things like: a magnifying lens for reading small print, assistive listening devices, bathroom safety grab bars, adapted gardening tools, a seat that facilitates standing up, or an access ramp. A few individuals will need more comprehensive technological support systems such as motorized wheelchairs and mechanical lifts. Increasing awareness of the availability and applicability of both simple and complex technological solutions is one of the main components of assistive technology services.

My amendments would include assistive technology services as a part of all supportive services provided or coordinated under the act, would include assistive technology services as a focus in gerontology centers funded under the act, and would give priority to demonstration projects designed to increase older individuals' awareness of and access to assistive technology services.

I strongly support S. 887 and am gratified that I was able to help to shape these provisions over the last several months.

Mr. METZENBAUM. Mr. President, I add my wholehearted support to the reauthorization of the Older Americans Act. I am pleased to be a cosponsor of the Older Americans Act Amendments of 1987.

Mr. President, my colleagues and their staffs have worked hard to strengthen and update the act. I commend the chairman, Senator MATSUNAGA, and his staff who have labored long hours to incorporate meritorious recommendations and build bipartisan consensus.

This bill adds important new provisions to the Older Americans Act. It includes special programs for elderly

persons who are developmentally disabled. It imposes greater accountability for targeting services with respect to economic and social needs, especially for low-income minority individuals. It strengthens the ombudsman program, and promotes outreach and assistance efforts, preventive health care, and programs for the prevention of elderly abuse.

I am especially pleased, Mr. President, that many of the provisions of my bill, S. 81, dealing with Alzheimer's disease victims and their families could be incorporated into the Older Americans Act reauthorization.

This addition to the act provides for adult day care and a range of in-home services and respite care for family caregivers. It requires area agency coordination with other community and voluntary agencies which provide counseling and training for support personnel and family caregivers. It authorizes counseling prior to admission to nursing homes to prevent premature institutionalization. It requires the Commissioner of Aging to consult with the national Alzheimer's disease advisory panel, as authorized and established in my bill of last year.

In addition, this committee saw fit to address another urgent concern of Alzheimer families. It included a provision for clinical trials of potentially useful drugs to be administered by the centers I and others helped to establish.

We all hope that a breakthrough is near, whether through drugs or brain-cell implants, preventive measures, or genetic breakthroughs. But until that time, mental health and supportive social services must be better adapted to meet the needs of dementia patients and their families who suffer now and bear so great a burden.

This legislation takes another giant step in addressing the changing needs of our elderly citizens. But there is more that Congress must do to assure those needs are met effectively. As a followup measure, Senator KENNEDY and I have requested the Office of Technology Assessment to conduct a study of how best to ensure quality home and community-based care, as well as effective strategies for locating, arranging for, and coordinating in-home and community-based services for our elderly. I hope the results of this study will assist us in meeting the needs of senior citizens more compassionately and effectively.

Mr. BINGAMAN. Mr. President, the distinguished chairman of the Subcommittee on Aging and his staff should be commended for their diligent work in completing action on the reauthorization of the Older Americans Act. The bill that has been brought to the floor not only reauthorizes this important act but it strengthens its provisions in a number of significant ways.

This Senator is pleased to have played a small role in shaping this legislation through the addition of key provisions of S. 1069, the Older American Indian Services Improvement Act.

My legislation attempts to strengthen the current Indian Grant Program under title VI and to increase coordination between title VI and other portions of the Older Americans Act. In particular, title III—State grants and title V—employment services. This would mean that old Indians would be eligible for title III services and that they would have an Indian contractor to provide employment opportunities. Title VI has been underfunded since its inception and this would allow greater access to more prominent program.

This legislation strengthens, expands, and clarifies pertinent titles of the Older Americans Act to ensure better access and delivery of services for older American Indians.

The Subcommittee on Aging during the last reauthorization of the Older Americans Act directed in report language that it join with the Special Committee on Aging to hold oversight hearings on title VI, the Indian Grant Program under the Older Americans Act. Through testimony developed at two hearings sponsored by the Special Committee on Aging, one on the health concerns of Indian elderly, and a second, on the delivery of title VI services, a substantial record has been laid to justify this legislation.

These two hearings confirm that older American Indians remain among our country's most impoverished citizens. They live at a rate of poverty between 33 percent to as high as 83 percent, varying from reservation to reservation. Inadequate and inaccessible health care, lack of transportation, dilapidated housing, and the rural environment of the majority of older reservation Indians add to an already difficult way of life.

Title VI of the Older Americans Act was added in 1978 as a way of delivering services to the American Indian population, but it did not get underway until 1980. Since that time it has grown from 85 to 124 grantees. What has become increasingly evident is the lack of coordination with other sections of the act, inattention to Indian grantees by the Office of State and Tribal Programs, and ambiguity about tribal eligibility for other titles in the Older Americans Act.

My legislation has largely been included in the Older Americans Act to address some of these issues. The committee has made certain changes to expand the scope of coverage of the tribal programs. Where my legislation was directed solely at Indian elderly, the committee bill has been expanded in several areas to provide coverage to Native Americans. Primarily the committee has sought to include Native Hawaiians within the scope of these programs to be consistent with other actions taken by the committee on similar statutes.

The major addition to title VI is the creation of an Office for Native American Programs which will administer and oversee the title VI program. Currently, that program comes under the Office of State and Tribal Programs. This legislation merely separates out an Indian office and designates an Associate Commissioner on Native American Aging—an "Indian desk," if you will. Unless such an office is established improvements to the title VI program will not take place. The Administration on Aging [AOA] has been given the opportunity to establish this office and to make corrections on their own and it has yet to do so. During the last reauthorization of the Older Americans Act, I agreed to withdraw my "Indian desk" amendment on the assurance by AOA that it would create such a position with advice and support from Indian tribes. Much to my dismay this did not happen as agreed. For this reason, I believe that Congress should designate an office to assure greater accountability from AOA to the Indian grantees.

Title VI is further amended to specify that the Associate Commissioner on Native American Aging also establish an interagency task force on older American Indians and produce a study of the availability and quality of services for older American Indians.

One of the major roadblocks for Indians in gaining access to services under the Older Americans Act is the lack of coordination between title III, State grants, and title VI, Indian grants. With the Indian population fairly evenly divided—52 percent living on the reservation and 48 percent in urban areas—service providers need to know who are eligible. Therefore, this bill deletes the condition that title VI grantees are not to serve persons eligible for title III services. I can understand the original intent of this language—to avoid "double dipping". As was brought out very clearly in a Special Committee on Aging hearing held by Senator NICKLES, and echoed at the field hearing I chaired in New Mexico on health issues facing older Indians, greater coordination needs to take place between title III and title VI. Therefore, opening up access to title III allows equity for those off the reservation who may be eligible for such services.

To further ensure increased coordination a new section is added to title III to clarify and require improved monitoring of services between these two titles. Additions include specifying that Indian elders will not be denied title III services, and that area agencies on aging with a significant Indian population shall conduct outreach ac-

tivities to identify older American Indians living within their planning and service area. Further, the newly designated Associate Commissioner on Native American Aging shall have some oversight to recommend to the Commissioner the delivery of services and coordination between title III and title VI.

Because older American Indians suffer from chronic unemployment, this legislation also calls for targeting of employment services to older Native Americans under title V, Community Service Employment. A recent survey conducted by the National Indian Council on Aging shows that only 1.6 percent of the total positions available by the national contractors and State agencies on aging were filled by older Indians. Older American Indians have the lowest rate among all ethnic groups to access employment services under title V. This bill mandates that at the next available opportunity for national grants or contracts, that older American Indians be emphasized.

This legislation also amends title IV, Training and Research, to open up grants and contracts to agencies and organizations representing minorities. Adequate inservice training and instruction on the particular needs of older Americans of ethnic backgrounds remains a priority that will hopefully be addressed by a more equitable distribution of title IV funding.

The bill provides for an increase in authorization providing $13 million for fiscal year 1988. I am hopeful with this increased authorization that the quality of service will improve and that more older Indians will be served.

Mr. President, I would be remiss if I did not say I have some serious concerns about the changes made in the bill as reported with respect to the expanded coverage and the implications for title VI and Indian elderly. I agree that the special needs of the Native Hawaiian elderly should be addressed but I have serious reservations about doing so under title VI. Title VI was originally included by Congress to look at the problems facing American Indian elderly. The program developed after national meetings on the problems concluded that "Among racial and ethnic minorities in this country, Indians are unique in that the Constitution, numerous court decisions, and Federal law clearly reserve to federally recognized Indian tribes powers of self-government." Only by this recognition did Congress allow Indian tribes to obtain their own title VI grant program. The Federal policy is toward a trust relationship between Federal tribes and I believe that Native Hawaiians more appropriately come under the State which has a "trust" relationship and deserve to be a separate title. I am sorry this suggestion could not have been accommodated and I hope the issue can be addressed in conference.

Thank you, Mr. President.

Mr. DASCHLE. Mr. President, as a cosponsor of S. 887, the Older Americans Act Amendments of 1987, I strongly urge the support of my colleagues for this important legislation.

The Older Americans Act programs have grown dramatically since their enactment 22 years ago. In 1965, the Older Americans Act was established as a small program of grants for the aged. As it has evolved through 10 reauthorizations, it has become the major vehicle for delivery of social and nutrition services for the elderly. While S. 887 provides for continuation of essential services including nutrition, health care, transportation, employment, and legal assistance, it does not merely maintain the status quo. The Older Americans Act Amendments of 1987 call for further refinements and improvements in this landmark legislation.

Traditionally, the Older Americans Act has been instrumental in allowing senior citizens to maintain their independence through the services it provides. One of the most important new provisions of S. 887 is the addition of part D to title III, authorizing grants to States for nonmedical, inhome services for frail seniors, including victims of Alzheimer's disease. Through assistance with activities such as meal preparation, household chores, and personal hygiene, the elderly will be better able to remain in their own homes and avoid or delay costly nursing home care.

In order to address the needs of older Americans currently residing in institutions, the Labor and Human Resources Committee acted to improve the Long-Term Care Ombudsman Program. This program, established in the 1978 Older Americans Act Amendments, has played an increasingly vital role in identifying and addressing concerns about the quality of care received by nursing home residents. However, the Institute of Medicine's study "Improving the Quality of Care in Nursing Homes" recommended strengthening the Older American's Act ombudsman program. Many of the study's recommendations have been embodied in these amendments and will prove to be a valuable protection for long-term care facility residents.

In this same vein, a critical measure has been included to provide assistance to the 1.1 million older individuals suffering from abuse, neglect and exploitation. This long-needed provision would complement existing efforts by urging States take a more active role in the development of programs to prevent elder abuse and improve adult protection. Elder abuse is a growing national problem and I strongly believe that program is evidence of Congress' commitment to combat this disgrace.

In addition, older Native Americans are not overlooked in the 1987 reauthorization. The major addition to title VI is the creation of an Office of Tribal progams which will administer and oversee the title VI program. It also clarifies that Indians are eligible for services under both titles III and VI. By enacting this provision, Indian elderly will be placed on a level comparable with the rest of the elderly population.

In summary, a vote in favor of the Older Americans is simply the best way we can say to our senior citizens that we believe they are valuable citizens and can still make significant contributions to society.

Mr. HEINZ. Mr. President, I rise today to lend my support for passage of S. 887, the legislation reauthorizing the Older Americans Act. The programs under this act have proved their worthiness time and again and I am pleased to join as an original cosponsor of this bill.

Part of America's strength rests in the interdependence of her generations—meshing the vitality and openness of our youth with the energy and wisdom of our elderly. The committee's amendment includes a provision I requested which builds on this strength by amending the Older Americans Act to encourage intergenerational volunteer opportunities for older citizens through senior centers.

The Older Americans Act deserves special applause for a Federal program that accomplishes its goal. Since its enactment in 1965, the OAA has targeted hundreds of millions of dollars to this country's senior citizens.

Most of these dollars fuel the drive of senior citizens to participate in activities that advance the quality of life in their communities. These activities include title V jobs, the Foster Grandparents Program, and the Senior Companion Program. Participating seniors provide tutoring and guidance to youth, maintain the beauty of local and national parks, and serve their home-bound contemporaries. Dollars used to administer these programs—and to pay modest stipends to low-income participants in some cases—are dollars invested in vital services to young and old alike.

The amendment of section 422 of the act would greatly expand the ability of seniors to nurture and assist children in their area through volunteer programs in senior centers. Projects could include tutoring in schools, providing day care for the children of low-income parents, and conducting supervised activities for latchkey children. Because they will be operated through senior centers, these activities will give many more seniors the opportunity to

participate in volunteer activities, as often as they choose.

Intergenerational projects like these foster mutual understanding and respect between generations. Children gain confidence and security from contact with caring, patient adults with a lifetime of experience to share. Seniors reconfirm their sense of worth and their self-esteem and recharge their health and sense of community from their contributions.

These projects could be funded from the total funds designated for demonstration projects under the Older Americans Act and would not reduce the funds available to any existing programs. This special designation reemphasizes our commitment that children and senior citizens receive the highest priorities in the Federal budget.

I would like to add that the projects funded under this bill would not take away from another important program already in existence today—the Retired Senior Volunteer Program—commonly known as RSVP. It is my intention that wherever possible, these demonstration projects be coordinated with existing RSVP programs so that we do not duplicate efforts, but expand our available pool of senior volunteers and increase the effectiveness of the contributions they make.

Many seniors are willing and able to give of themselves. By uniting senior centers with local child-serving organizations, this bill will provide our elderly with the opportunity to make a difference in a child's life. I thank the distinguished members of the Aging Subcommittee for including this very important provision.

Mr. MATSUNAGA. Mr. President, I strongly support title V of S. 887—the Older Americans Act—which would reauthorize the Native Americans Programs Act, and I want to compliment the senior Senator from Hawaii [Mr. INOUYE] and the members of the Select Committee on Indian Affairs for their expeditious action on this measure as well as for the many improvements which they made in the Native American Programs Act.

The Native American Programs Act, enacted in 1975 during the 93d Congress, is designed to promote the economic and social self-sufficiency of American Indians, Alaskan Natives and native Hawaiians, and to reduce their dependency on various forms of public assistance. Assistance in the form of grants and contracts is provided to a broad range of Indian tribes, Alaskan Native villages, and native Hawaiian organizations.

The pending legislation would authorize similar assistance to a new group of indigenous peoples—native American Pacific Islanders residing in Guam, American Samoa, and the Northern Mariana Islands. American Samoans who have emigrated to Hawaii and the continental United States also would be eligible for assistance through their nonprofit, private and public organizations. These population groups have characteristics which are very similar to those of the native Americans already covered by the Native American Programs Act, and, like other native Americans, they tend to suffer a high rate of unemployment, and lack adequate educational opportunities, employment training, and health care.

In addition, title V authorizes a new 60-month demonstration project for native Hawaiians—a revolving loan program through which native Hawaiian organizations and individuals unable to obtain credit for the establishment and expansion of business projects through conventional means could borrow funds. Native Hawaiians are not eligible to participate in the existing Bureau of Indian Affairs loan programs, which are limited to American Indians. Moreover, recent studies have shown that Hawaiians have not been very successful in obtaining loans through the traditional minority business development programs. The proposed demonstration project, funded at $3 million, seeks to determine whether or not Hawaiians would benefit from more innovative types of assistance.

In closing, Mr. President, I wish to say that the Native American Programs Act has during its relatively short existence provided some much needed aid to one of our Nation's neediest minority groups. It is a good act which should be reauthorized, and I urge my colleagues to support it.

Mr. MELCHER. Mr. President, today the Senate is considering S. 887, legislation to reauthorize the Older Americans Act, an effective and enduring piece of legislation, that has helped many of our elderly.

The Committee on Labor and Human Resources has reported many very good amendments to the Older Americans Act and I commend the managers for their efforts. I had hoped that a bill I introduced on May 12, 1987, the Volunteer Service Promotion Act of 1987 (S. 1189), would have been included as an amendment to S. 887, as reported. I was joined by Senators BOND, BURDICK, DECONCINI, and INOUYE as cosponsors of this legislation.

I do acknowledge and appreciate that an effort was made to include language in S. 887, providing for "expanded innovative, volunteer opportunities . . . which may include volunteer service credit projects operated in conjunction with action," which is a step in the right direction, but I don't believe it goes far enough.

The Volunteer Service Promotion Act represents a new and imaginative idea that could help millions of our elderly population remain self-sufficient in their own homes, where they want to be, rather than spending their final years in an institution isolated from family and friends.

Service credit projects are designed to help fulfill the unmet needs of millions of America's senior citizens, through an innovative program of volunteer service credits, which offers incentives for voluntarism, while giving seniors the opportunity and the dignity to earn credits that they may draw upon later. It also gives volunteers of any age the capability of earning credits by helping one individual and donating those same credits to others to be redeemed, thus helping twice as many people, while at the same time, promoting intergenerational cooperation.

It is estimated by the year 2000, 7.2 million elderly people will need some kind of limited assistance because of chronic ailments and the nursing home population is expected to reach over 2 million. Statistics indicate that the absence of informal support from spouse or family members is the most critical factor in the institutionalization of an older person.

For countless families, who are caring for loved ones suffering from Alzheimer's disease, just a few hours of respite care is all they need to keep their lives in perspective. That's not much, but to someone who needs it, it's the difference between just existing and living a quality life.

As public policymakers we must begin to find additional cost-effective ways of addressing the demand being made on our resources. I see volunteer service credit programs as doing just that.

In light of this impending crisis in our society, I had intended to offer the Volunteer Service Promotion Act of 1987 as an amendment during consideration of S. 887. This amendment would authorize annual grants over a 5-year period to designated States for demonstration projects testing the feasibility of volunteer service credit projects. It is not intended to serve as a substitute for other social service programs or older American volunteer services that are already in place.

However, because I am aware of the questions surrounding this concept of volunteerism, I am going to withhold offering this amendment with the understanding that the Subcommittee on Aging, at the direction of Senator MATSUNAGA, will conduct a hearing in the fall of the Volunteer Service Credit Promotion Act, where it may be given further consideration. I believe, under the circumstances, there needs to be a greater dialog and clarification of this program and an opportunity to alleviate the concerns that have been expressed.

Mr. MATSUNAGA. Mr. President, I appreciate the sincerity of the distinguished Senator from Montana in his efforts to increase services to the elderly through a new concept in voluntarism. And I can assure the Senator that the subcommittee is committed to ensuring that older Americans and their families receive the assistance they need to live as independently as possible.

As the Senator knows, the Subcommittee on Aging explicitly considered the inclusion of S. 1189 in the Older Americans Act, but decided against including it in that form for several reasons. First, there are several demonstration programs currently underway which do precisely what S. 1189 would have proscribed. Oregon and Missouri have tried such programs with foundation grants, and the State of Florida has operated such a demonstration program with grant money from the Administration on Aging. So the concept is currently being tested.

The second reason is simply a question of feasibility. There was substantial concern among subcommittee and committee members that such a program could create entitlement situations which would disrupt the planning and operations of area agencies, and which could prove to be very cost ineffective.

Finally, there was concern that, in its broader form, the provision more properly belongs in the Domestic Volunteer Service Act, which authorizes such programs as ACTION, Retired Senior Volunteer Programs [RSVP], and Foster Grandparents, rather than the Older Americans Act. It is important that we utilize the administrative structure that can most appropriately and effectively implement the program.

As the Senator knows, the subcommittee did include a specific reference to allow the Health and Human Services Secretary to fund such demonstration programs under title IV of the act. However, I believe it is appropriate that the Subcommittee on Aging take a closer look at the results of the demonstration programs which have already been funded by the Administration on Aging and private foundations, and, as chairman of the subcommittee, I will be pleased to hold a hearing on the issue in the fall.

Mr. LAUTENBERG. Mr. President, I rise today to support the passage of this bill reauthorizing the Older Americans Act. The Older Americans Act has been a valuable resource for senior citizens all over the country. For over 20 years, older Americans have received community and social services through OAA funding. I am pleased to be a cosponsor of this legislation.

I am also very pleased that the Labor and Human Resources Committee has included in this bill provisions that were in a bill that I introduced in April. The first proposal from my bill is for in-home services for frail older individuals. In fiscal year 1988, $25 million would be authorized for grants to States to provide in-home services, such as homemaker aides, visiting and telephone reassurance, chore maintenance, or in-home respite care for families.

My second proposal authorizes periodic preventive health services, to be offered at senior centers or other convenient locations. These preventive services would be those not covered by Medicare, such as routine physicial examinations, immunizations, vision and hearing screening, and counseling and referral for followup health services.

These proposals would make a start in dealing with some important unmet needs of our older constituents. We all know that people are living longer lives. Men reaching age 85 now can expect to live 15 percent longer than an 85 year old man in 1960. For women the increase is twice as much—33 percent longer.

The question to ask is whether longer lives mean better lives. Are people staying healthy and vigorous as they live longer? A Canadian study covering 1951 to 1978 found that life expectancy increased by an average of 6 years, but for almost 5 of those years a person's activity was limited.

But that does not mean an older person needs to be in a nursing home or other institution. Often people can stay in their own homes if they receive some assistance. They may have chronic conditions which threaten their independence, but not their lives. These conditions include arthritis, hypertension, heart conditions, and hearing disorders. About 41 percent of people age 65 to 74 and 53 percent of people age 75 and over had some limitation in activity due to chronic conditions. But only 15 percent of the younger group and 22 percent of the older were unable to carry on any major activity. Most of the group with a limitation could remain independent with some assistance.

In 1985, about 5.2 million senior citizens required some assistance to maintain their independence. The assistance needed falls into different categories. Less than half need assistance in some or all basic physical activities, sometimes called activities of daily living. This category includes getting in and out of bed, dressing, eating, bathing, and using the toilet.

A slightly larger group needs assistance with home management activities, also called instrumental activities of daily living. These include shopping, cooking, and cleaning.

Some activities are more difficult than others for senior citizens. Some of the activities which cause the most difficulty for older people are as follows: heavy work around the house—3.8 million people; shopping for groceries—2.9 million; going places outside—2.4 million; bathing—2.1 million; doing laundry—2.1 million; preparing meals—1.5 million; getting in or out of bed—1.3 million; managing one's own money—1.3 million.

Many of these older Americans receive assistance in their homes, primarily from family and friends. The 1984 National Health Interview Survey found that nearly one-third of the people age 65 and over who were living in the community had trouble with basic physical or home management activities. However, only about one-quarter of the over 65 population received assistance with these activities. This means that nearly 10 percent of the over-65 population needs help at home and is not receiving it.

Included in the legislation being considered today is my proposal, which is based on a recommendation of the National Governors' Association and supported by the National Council of Senior Citizens, to authorize a program of grants to provide these much needed in-home services. The services will help many older Americans to continue living in their homes or in the homes of others without having to give up their independence by going into a nursing home. The services also will assist the family and friends who already provide much of this help, giving them a deserved respite or helping hand.

Many of the health problems of senior citizens, as well as all the rest of us, can be avoided or kept in check by early detection. Preventive medicine is the most cost-effective medicine. However, many people do not have regular checkups and health screenings. There are a variety of explanations for this, including the fact that Medicare and many other health insurance plans do not pay for these routine services. Also, physicians are not readily accessible in many areas.

This bill includes an authorization of grants for preventive health services to be provided at senior centers or other sites. These services would be provided periodically, perhaps three or four times a year. Perhaps a health fair format would be used, providing informal health education as well as examinations and screening. These screenings should identify the early stages of diseases and disabling conditions so that the individual can receive timely treatment and advice from physicians. The proposal specifically excludes services which would be paid for by Medicare. Priority in services would be given to areas which are medically underserved and which have a concentration of economically needy individuals.

Mr. President, I am very gratified that the committee included my proposals in the reauthorization of the Older Americans Act. It was a great

pleasure for me to work with the distinguished chairman of the Aging Subcommittee, Mr. MATSUNAGA, as he shepherded this important bill through the legislative process. The passage of this bill is a significant landmark for our Nation's senior citizens.

Mr. PELL. Mr. President, I am extremely pleased that the Senate will today consider the reauthorization of the Older Americans Act, S. 887. For over 20 years now, the Older Americans Act has been an invaluable source of community and social support for our country's most precious resource—our senior citizens. Under the leadership of the distinguished chairman of the Subcommittee on Aging, the able Senator from Hawaii, and that of the Senator from Mississippi, the ranking minority member of that subcommittee, those vital services that the Older Americans Act provides to our elderly will not only continue, but will indeed flourish for the next 5 years.

The act has been so much improved during this reauthorization cycle that it would be to time consuming for me to mention every area of improvement. I would like to mention briefly, however, some matters that have been of special concern to me.

The new program under title III, section (d) is a major accomplishment and is welcome news for frail older individuals in need of homecare and daycare. I support it wholeheartedly. The new and improved ombudsman program is also welcome news for individuals in nursing homes. With these two major expansions of programs, this committee has demonstrated compassion and caring for the most vulnerable of our elderly.

Alzheimer's disease and related dementia is probably the most cruel of diseases threatening our elderly and their families. It is a disease that takes the minds of its victims while leaving their bodies intact. It often progresses to the point of leaving only a shell of a human being, and memories are all that is left for families and loved ones to hold.

The congressional mandate in the Older Americans Act for the National Institute of Aging to conduct clinical trials of promising new drugs for the treatment of Alzheimer's offers hope where there has been none before. Because of these clinical trials, we will have a definitive answer on whether the drug THA is as effective as early indications promise. If it is, I intend to move forward to ensure that it is available to all who need it. If it is not, we can then use our resources in another area, until we do find some hope for the millions of Americans and their families for whom Alzheimer's is a living nightmare.

Prevention is the most sadly neglected health need in our Nation. With some very few exceptions, America's system of health care is one of disease treatment, not disease prevention. I am pleased, Mr. Chairman, that this committee has taken one small step in the area of health promotion and disease prevention.

Section (e) of title III will now, when this bill becomes law, provide local communities with the means and guidance to administer health promotion activities for older Americans. These activities, such as screening for hypertension, cancer, vision problems, depression, and others, group exercise, nutritional counseling and education, home injury prevention, and so forth, will hopefully serve as model for others to follow. Prevention is the most humane, cost effective and vital of our health care needs. I believe that this committee shows great leadership with its health promotion amendment to title III. I wish to thank not only the chairman and members of the Subcommittee on Aging for working with me on this provision, but also the Senator from New Jersey, Mr. LAUTENBERG and the able Senator from Florida, Mr. GRAHAM, for the important roles they have played in drafting this amendment.

With this reauthorization of the Older Americans Act, we have made it easier for seniors employed under title V to qualify for subsidized housing and food stamps. I think that this amendment simply clarifies what Congress originally intended when it created these programs, but this amendment puts to rest any further questions of interpretation. Older Americans who receive small incomes from community-based employment should not thereby be shut out of programs designed to help them. We have brought seniors with mental health problems and developmental disabilities into the mainstream of the act. That is the way it should be.

Mr. President, I could not be more pleased that the Senate will today consider and pass this important legislation. The hard work of all involved in this bill has been exceptional and our Nation's senior citizens will be the beneficiaries of those labors.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, do we have the number of the House companion bill?

The PRESIDING OFFICER. It is H.R. 1451, but the bill is not available at the desk.

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be discharged from further consideration of H.R. 1451 and the Senate proceed to its immediate consideration.

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

Mr. BYRD. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and that the text of S. 887, as amended, be inserted in lieu thereof.

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

Mr. BYRD. Mr. President, may we proceed to third reading on that measure?

The PRESIDING OFFICER. Without objection, the bill will be deemed to have been read the third time.

Mr. BYRD. Mr. President, I ask for the yeas and nays on final passage of H.R. 1451.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, has all time been yielded back?

Mr. MATSUNAGA. Yes.

Mr. COCHRAN. All time has been yielded back on this side, I say to the distinguished majority leader.

Mr. MATSUNAGA. All time has expired.

Mr. BYRD. Mr. President, before we proceed with this rollcall vote, the distinguished Republican leader and I discussed a calling up of a nomination, it being the nomination of Mr. McPherson.

There is a request for a rollcall vote on that nomination also. I shall suggest the absence of a quorum so as to inquire of the Republican leader if we might proceed with both rollcall votes.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. 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. BYRD. Mr. President, I have the approval of the distinguished Republican leader to make the following request.

I ask unanimous consent that upon the disposition of the pending matter on which a rollcall vote has been ordered the legislation having to do with the Older Americans Act, that immediately upon the disposition of that legislation the Senate go into executive session and that the Senate proceed forthwith to consider the nomination of M. Peter McPherson, of Virginia, to be Deputy Secretary of the Treasury, vice Richard G. Darman, resigned; that there be no time for debate thereon; that any Senators who may wish

to insert statements in the RECORD may do so; and that a vote occur immediately on the nomination of Mr. McPherson.

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

ORDER FOR ROLLCALL VOTE ON MC PHERSON NOMINATION

Mr. BYRD. Mr. President, I ask unanimous consent that there be an order at this time for the yeas and nays on the nomination of Mr. McPherson.

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

Mr. BYRD. Mr. President, I ask for the yeas and nays as in executive session.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. BYRD. Mr. President, there will be two rollcall votes back to back. This may be catching some Senators on short notice. I shall suggest the absence of a quorum shortly so as to give Senators a little further notice. There will be two rollcall votes, one in legislative session.

Let me be exact as to the bill number. That would be on H.R. 1451, which is the companion measure to S. 887, a bill to extend the authorization of appropriations for and to strengthen the provisions of the Older Americans Act of 1965.

The vote will occur on passage of that measure whereupon the Senate will then go into executive session and a rollcall vote will occur on the nomination of Mr. Peter McPherson. Following those two rollcall votes I anticipate no more rollcall votes today.

ORDERS FOR TOMORROW

ORDER FOR RECESS UNTIL 8 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8 o'clock tomorrow morning.

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

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that following the orders for the recognition of the two leaders on tomorrow morning there be a period for the transaction of morning business not to extend beyond the hour of 10 o'clock a.m. and that Senators be permitted to speak during that period for morning business.

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

Mr. BYRD. Mr. President, in this way we will get the morning business speeches and introduction of bills and resolutions out of the way early tomorrow and then hopefully we can get on with other business.

Several Senators have indicated a need to speak on tomorrow. This will give them an opportunity early in the day.

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

The PRESIDING OFFICER. Without objection it is so ordered.

OLDER AMERICANS ACT AUTHORIZATION

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the 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 a third time, the question is, Shall it pass?

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

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—98

Adams	Garn	Murkowski
Armstrong	Glenn	Nickles
Baucus	Graham	Nunn
Bentsen	Gramm	Packwood
Biden	Grassley	Pell
Bingaman	Harkin	Pressler
Bond	Hatch	Proxmire
Boren	Hecht	Pryor
Boschwitz	Heflin	Quayle
Bradley	Heinz	Reid
Breaux	Helms	Riegle
Bumpers	Hollings	Rockefeller
Burdick	Humphrey	Roth
Byrd	Inouye	Rudman
Chafee	Johnston	Sanford
Chiles	Karnes	Sarbanes
Cochran	Kassebaum	Sasser
Cohen	Kasten	Shelby
Conrad	Kennedy	Simon
Cranston	Kerry	Simpson
D'Amato	Lautenberg	Specter
Danforth	Leahy	Stafford
Daschle	Levin	Stennis
DeConcini	Lugar	Stevens
Dixon	Matsunaga	Symms
Dodd	McCain	Thurmond
Dole	McClure	Trible
Domenici	McConnell	Wallop
Durenberger	Melcher	Warner
Evans	Metzenbaum	Weicker
Exon	Mikulski	Wilson
Ford	Mitchell	Wirth
Fowler	Moynihan	

NOT VOTING—2

Gore Hatfield

So the bill (H.R. 1451), as amended, was passed, as follows:

H.R. 1451

Strike out all after the enacting clause and insert:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Older Americans Act Amendments of 1987".

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.

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PART B—GRANTS FOR SUPPORTIVE SERVICES, NUTRITION, AND OTHER ACTIVITIES

Sec. 121. Purpose.
Sec. 122. Administration of State grants program.
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Sec. 127. Daycare and respite services provided by volunteers.
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Sec. 129. Ombudsman office and program.
Sec. 130. Flexibility of services; legal assistance.
Sec. 131. Documentation regarding minority participation.
Sec. 132. Targeting of services.
Sec. 133. Coordination relating to mental health services.
Sec. 134. Services to older Native Americans.
Sec. 135. Services to individuals with disabilities.
Sec. 136. Confidentiality of information relating to legal assistance provided.
Sec. 137. Coordination of community-based services.
Sec. 138. Payments.
Sec. 139. In-home services for frail older individuals.
Sec. 140. State plan information regarding services to older individuals residing in rural areas.
Sec. 141. Health education and promotion for older Americans.
Sec. 142. Prevention of abuse of older individuals.
Sec. 143. Assistive technology services.

PART C—DEMONSTRATION GRANTS

Sec. 151. Demonstration projects; purpose.
Sec. 152. Multidisciplinary centers.
Sec. 153. Volunteer opportunities.
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Sec. 155. Demonstration program of outreach to elderly SSI, medicaid, and food stamp eligibles.
Sec. 156. Demonstration grants for individuals with disabilities.
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Sec. 158. Authorization of appropriations for training, research, and discretionary projects and programs.

PART D—COMMUNITY SERVICE EMPLOYMENT

Sec. 161. Administrative costs of employment projects.
Sec. 162. Community service employment for older Indians.
Sec. 163. Information on age discrimination prohibitions.
Sec. 164. Definition of community services.
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PART E—NATIVE AMERICAN PROGRAMS

Sec. 171. Native American programs.

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Sec. 181. Personal health education and training programs.
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PART G—CONSUMER PRICE INDEX FOR OLDER AMERICANS

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TITLE II—1991 WHITE HOUSE CONFERENCE ON AGING

Sec. 201. White House Conference authorized.
Sec. 202. Authorization of the Conference.
Sec. 203. Conference administration.
Sec. 204. Conference committees.
Sec. 205. Report of the Conference.
Sec. 206. Definitions.
Sec. 207. Authorization of appropriations.

TITLE III—ALZHEIMER'S DISEASE RESEARCH

Sec. 301. Requirement for clinical trials.
Sec. 302. Authorization of appropriations.

TITLE IV—NATIONAL SCHOOL LUNCH ACT AMENDMENT

Sec. 401. Participation of older persons and chronically impaired disabled persons in child care food program.

TITLE V—NATIVE AMERICAN PROGRAMS

Sec. 501. Short title.
Sec. 502. Review of applications for assistance.
Sec. 503. Procedural requirements.
Sec. 504. Inclusion of Native American Pacific Islanders.
Sec. 505. Authorization of appropriations.
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Sec. 507. Effective date.

TITLE VI—HEALTH CARE SERVICES IN THE HOME

Sec. 601. Short title.
Sec. 602. Program authorized.
Sec. 603. Effective date.

TITLE VII—GENERAL PROVISIONS

Sec. 701. Effective date; application of amendments.

TITLE I—AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

PART A—OBJECTIVES AND ADMINISTRATION

OBJECTIVES

SEC. 101. Section 101 of the Older Americans Act of 1965 (42 U.S.C. 3001) (hereafter in this title referred to as "the Act") is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "United States and" and inserting "United States,", and

(B) by inserting ", and of Indian tribes" after "subdivisions",

(2) in paragraph (3)—

(A) by striking "Suitable" and inserting "Obtaining and maintaining suitable", and

(B) by inserting "and functional limitations" after "special needs",

(3) in paragraph (7) by striking "Pursuit of" and inserting "Participating in and contributing to", and

(4) in paragraph (10)—

(A) by striking "lives and" and inserting "lives,", and

(B) by inserting ", and protection against abuse, neglect, and exploitation" before the period at the end.

ESTABLISHMENT OF ADMINISTRATION ON AGING

SEC. 102. Section 201(a) of the Act (42 U.S.C. 3011(a)) is amended in the third and fourth sentences by striking "the Office of".

DATA COLLECTION; REPORTS

SEC. 103. (a) COLLECTION REQUIRED.—Section 202(a) of the Act (42 U.S.C. 3012(a)) is amended—

(1) by striking "and" in paragraph (17) at the end,

(2) by striking out the period at the end of paragraph (18) and inserting a semicolon, and

(3) by adding at the end the following:

"(19) collect for each fiscal year for fiscal years beginning after September 30, 1988, directly or by contract, statistical data regarding programs and activities carried out with funds provided under this Act, including—

"(A) with respect to each type of service provided with such funds—

"(i) the aggregate amount of such funds expended to provide such service;

"(ii) the number of individuals who received such service; and

"(iii) the number of units of such service provided;

"(B) the number of senior centers which received such funds; and

"(C) the extent to which each area agency on aging designated under section 305(a) satisfied the requirements of paragraphs (2) and (5)(A) of section 306(a).".

(b) REPORTS.—The last sentence of section 207(a) of the Act is amended to read as follows: "Such annual reports shall include—

"(1) statistical data reflecting services and activities provided to individuals during the preceding fiscal year;

"(2) statistical data collected under section 202(a)(19);

"(3) statistical data on legal services collected pursuant to section 202(a)(19) and an analysis of the information received under section 307(a)(15)(E) by the Commissioner; and

"(4) statistical data and an analysis of information regarding the effectiveness of the State agency and area agencies on aging in targeting services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals, low-income individuals, and frail individuals (including individuals with any physical or mental functional impairment).".

(c) REPORT ON OMBUDSMAN PROGRAM TO CONGRESS.—Section 207 of the Act is amended by adding at the end the following:

"(c)(1) Not later than January 15 of each year, the Commissioner shall compile a report—

"(A) summarizing and analyzing the data collected under section 307(a)(12)(C) for the then most recently concluded fiscal year;

"(B) identifying significant problems and issues revealed by such data (with special emphasis on problems relating to quality of care and residents' rights);

"(C) discussing current issues concerning the long-term care ombudsman programs of the States; and

"(D) making recommendations regarding legislation and administrative actions to resolve such problems.

"(2) The Commissioner shall submit the report required by paragraph (1) to—

"(A) the Select Committee on Aging of the House of Representatives;

"(B) the Special Committee on Aging of the Senate;

"(C) the Committee on Education and Labor of the House of Representatives; and

"(D) the Committee on Labor and Human Resources of the Senate.

"(3) The Commissioner shall provide the report required by paragraph (1), and make the State reports required by section 307(a)(12)(I)(i) available, to—

"(A) the Administrator of the Health Care Finance Administration;

"(B) the Office of the Inspector General of the Department of Health and Human Services;

"(C) the Office of Civil Rights of the Department of Health and Human Services;

"(D) the Administrator of the Veterans' Administration; and

"(E) the public agencies and private organizations designated under section 307(a)(12)(A).".

VETERANS' PROGRAMS

SEC. 104. (a) CONSULTATION.—Section 203(b) of the Act (42 U.S.C. 3013(b)) is amended—

(1) by striking "and" in paragraph (13) at the end,

(2) by striking the period at the end of paragraph (14) and inserting ", and", and

(3) by adding at the end the following:

"(15) parts II and III of title 38, United States Code.".

(b) TECHNICAL ASSISTANCE AND COOPERATION UNDER TITLE III.—Section 301(b)(2) of the Act is amended by inserting ", the Veterans' Administration," after "Office of Community Services".

(c) AREA PLANS.—Section 306(a)(6)(F) of the Act is amended by inserting "providers of veterans' health care (if appropriate)," after "elected officials,".

(d) TECHNICAL ASSISTANCE AND COOPERATION UNDER TITLE IV.—Section 402(b) of the Act is amended by inserting "the Veterans' Administration," after "National Institutes of Health,".

MENTAL HEALTH

SEC. 105. (a) FUNCTIONS OF COMMISSIONER.—Section 202(a)(5) of the Act (42 U.S.C. 3012(a)(5)) is amended by inserting "(including mental health)" after "health".

(b) FEDERAL AGENCY CONSULTATION.—Section 203(b)(10) of the Act is amended by inserting ", including block grants under title XIX of such Act" before the comma.

(c) ADMINISTRATION OF TITLE III.—Section 301(b)(2) of the Act, as amended by section 104(b), is amended by inserting ", the Alcohol, Drug Abuse, and Mental Health Administration," after "Veterans' Administration,".

(d) ADMINISTRATION OF TITLE IV.—Section 402(b) of the Act, as amended by section 104(d), is amended by inserting "Alcohol, Drug Abuse, and Mental Health Administration," after "Veterans' Administration,".

(e) EDUCATION AND TRAINING.—(1) Section 411(a)(1) of the Act is amended by inserting "(including mental health)" after "health".

(2) The first sentence of section 412(a) of the Act is amended by inserting "(including mental health)" after "health".

(f) SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE.—The second sentence of section 423(a)(3) of the Act is amended by inserting "mental health services;" after "in-home services;".

OLDER INDIVIDUALS WITH DISABILITIES

SEC. 106. (a) CONSULTATION FUNCTION.—Section 202(a) of the Act (42 U.S.C. 3012(a)), as amended by section 103(a), is amended—

(1) by striking "and" at the end of paragraph (18);

(2) by striking out the period at the end of paragraph (19) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new paragraph:

"(20) consult with national organizations representing the interests of individuals with severe disabilities (A) to develop and disseminate information on population characteristics and needs, and training of personnel; and (B) to provide technical assistance designed to assist State and area agencies to provide services in collaboration with other State agencies to older individuals with disabilities and severely impairing conditions.".

(b) PLANNING.—Section 202(b)(1) of the Act is amended—

(1) by striking "and" and inserting a comma; and

(2) by inserting after "Act" at the end thereof a comma and the following: "with the Alcohol, Drug Abuse, and Mental Health Administration and the Administration on Developmental Disabilities".

(c) AGENCY CONSULTATION.—(1) Section 203(b) of the Act, as amended by section 104(a), is amended—

(A) by striking out "and" at the end of paragraph (14);

(B) by striking out the period at the end of paragraph (15) and inserting in lieu thereof a comma; and

(C) by adding after paragraph (15) the following new paragraphs:

"(16) the Rehabilitation Act of 1973, and

"(17) the Developmental Disabilities and Bill of Rights Act.".

(2) Section 203 of the Act is amended by adding at the end thereof the following:

"(c) In carrying out section 341, the Commissioner shall consult with the National Advisory Panel on Alzheimer's Disease established under section 921 of the Alzheimer's Disease and Related Dementias Services Research Act of 1986.".

(d) EVALUATION.—The second sentence of section 206(c) of the Act is amended by inserting before the period the following: "and older individuals with disabilities".

OLDER NATIVE AMERICANS

SEC. 107. (a) IMPROVED ADMINISTRATION FOR NATIVE AMERICAN PROGRAMS.—Section 201 of the Act (42 U.S.C. 3011) is amended by adding at the end the following:

"(c)(1) There is established in the Administration on Aging an Office for Native American Programs.

"(2) The Office shall be headed by an Associate Commissioner on Native American Aging appointed by the Commissioner.

"(3) The Associate Commissioner on Native American Aging shall—

"(A)(i) evaluate the adequacy of outreach under title III and title VI for older Native Americans and recommend to the Commissioner necessary action to improve service delivery, outreach, coordination between title III and title VI services, and particular problems faced by older Indians and Hawaiian Natives; and

"(ii) include a description of the results of such evaluation and recommendations in the annual report required by section 207(a) to be submitted by the Commissioner;

"(B) serve as the effective and visible advocate in behalf of older Native Americans within the Department of Health and Human Services and with other departments and agencies of the Federal Government regarding all Federal policies affecting older Native Americans;

"(C) coordinate activities between other Federal departments and agencies to assure a continuum of improved services through memoranda of agreements or through other appropriate means of coordination;

"(D) administer and evaluate the grants provided under this Act to Indian tribes, public agencies and nonprofit private organizations serving Hawaiian Natives;

"(E) recommend to the Commissioner policies and priorities with respect to the development and operation of programs and activities conducted under the Act relating to older Native Americans;

"(F) collect and disseminate information related to problems experienced by older Native Americans;

"(G) develop research plans, and conduct and arrange for research, in the field of American Native aging with a special emphasis on the gathering of statistics on the status of older Native Americans; and

"(H) develop and provide technical assistance and training programs to grantees under title VI.".

(b) FEDERAL COUNCIL ON AGING.—The third sentence of section 204(a)(1) of the Act (42 U.S.C. 3015(a)(1)) is amended by inserting "Indian tribes" after "minorities".

(c) CONTRACTING AUTHORITY.—Section 212 of the Act (42 U.S.C. 3020c) is amended by inserting after "State agency" the following: "(or in the case of a grantee under title VI, subject to the recommendation of the Associate Commissioner on Native American Aging and the approval of the Commissioner)".

FEDERAL COUNCIL ON AGING

SEC. 108. (a) MEMBERSHIP.—The fourth sentence of section 204(a)(1) of the Act (42 U.S.C. 3015(a)(1)) is amended by striking out "two" and inserting in lieu thereof "three".

(b) REAUTHORIZATION.—Section 204(g) of the Act (42 U.S.C. 3015) is amended to read as follows:

"(g) There are authorized to be appropriated to carry out the provisions of this section $210,000 for the fiscal year 1988, $221,000 for the fiscal year 1989, $232,000 for the fiscal year 1990, $243,000 for the fiscal year 1991, and $255,000 for the fiscal year 1992.".

REGULATIONS

SEC. 109. Section 205(c) of the Act (42 U.S.C. 3016(c)) is amended by striking "1984" and inserting "1987".

PUBLICATION OF GOALS

SEC. 110. Section 205 of the Act (42 U.S.C. 3016) is amended—

(1) by redesignating subsection (d) as subsection (e), and

(2) by inserting after subsection (c) the following:

"(d) Not later than September 1 of each fiscal year, the Commissioner shall publish in the Federal Register, for the purpose of facilitating informed public comment, proposed specific goals to be achieved by implementing this Act in the first fiscal year beginning after the date of such publication.".

PART B—GRANTS FOR SUPPORTIVE SERVICES, NUTRITION, AND OTHER ACTIVITIES

PURPOSE

SEC. 121. Section 301(a) of the Act (42 U.S.C. 3021(a)) is amended by inserting "with Indian tribes, tribal organizations, and Hawaiian Native organizations," after "agencies," the second place it appears.

ADMINISTRATION OF STATE GRANTS PROGRAM

SEC. 122. Section 301(b)(2) of the Act is amended—

(1) by inserting "(a)" after the paragraph designation; and

(2) by adding at the end thereof the following new subparagraph:

"(b) In carrying out the provisions of this title, the Commissioner may request technical assistance and cooperation of other agencies and units of the Department of Health and Human Services, including the National Institute on Aging, the Health Care Financing Administration, and the Social Security Administration.".

REAUTHORIZATION FOR STATE AND COMMUNITY PROGRAMS ON AGING

SEC. 123. (a) SUPPORTIVE SERVICES AND SENIOR CENTERS.—Section 303(a) of the Act is amended to read as follows:

"(a) There are authorized to be appropriated $379,575,000 for the fiscal year 1988, $398,554,000 for the fiscal year 1989, $418,481,000 for the fiscal year 1990, $439,406,000 for the fiscal year 1991, and $461,376,000 for the fiscal year 1992 for the purpose of making grants under part B of this title (relating to supportive services and senior centers).".

(b) NUTRITION SERVICES.—Section 303(b) of the Act is amended to read as follows:

"(b)(1) There are authorized to be appropriated $414,750,000 for the fiscal year 1988, $435,488,000 for the fiscal year 1989, $457,262,000 for the fiscal year 1990, $480,125,000 for the fiscal year 1991, and $504,131,000 for the fiscal year 1992 for the purpose of making grants under subpart 1 of part C of this title (relating to congregate nutrition services).

"(2) There are authorized to be appropriated $79,380,000 for the fiscal year 1988, $83,349,000 for the fiscal year 1989, $87,516,000 for the fiscal year 1990, $91,892,000 for the fiscal year 1991, and $96,487,000 for the fiscal year 1992 for the purpose of making grants under subpart 2 of part C of this title (relating to home delivered nutrition services).".

(c) SURPLUS COMMODITIES PROGRAM.—(1) Section 311(a)(4) of the Act is amended—

(A) by striking "fiscal year 1986 and during each fiscal year thereafter" and inserting "fiscal years 1986 through 1992", and

(B) by striking the second and third sentences.

(2) The matter preceding the parenthetical in section 311(c)(1)(A)(i) of the Act is amended to read as follows:

"(c)(1)(A)(i) There are authorized to be appropriated $151,000,000 for the fiscal year 1988, $166,000,000 for the fiscal year 1989, $183,000,000 for the fiscal year 1990, $201,000,000 for the fiscal year 1991, and $221,100,000 for the fiscal year 1992 to carry out the provisions of this section.".

ADMINISTRATIVE EXPENSES OF AREA AGENCIES ON AGING

SEC. 124. Section 304(d)(1)(A) of the Act (42 U.S.C. 3024(d)(1)(A)) is amended by striking "8.5" and inserting "10".

AREA AGENCIES ON AGING AS SEPARATE UNITS

SEC. 125. Section 305(c) of the Act (42 U.S.C. 3025(c)) is amended—

(1) in paragraph (2) by inserting "to function only" after "designated",

(2) in paragraph (3) by inserting "only" after "act", and

(3) in paragraph (4)—

(A) by inserting ", or any separate organizational unit within such agency," after "area" the first place it appears, and

(B) by striking "engage" and inserting "and will engage only".

AREA PLANS

SEC. 126. Section 306(a)(6)(A) of the Act (42 U.S.C. 3026(a)(6)(A)) is amended by inserting ", and public hearings on," after "evaluations of".

DAYCARE AND RESPITE SERVICES PROVIDED BY VOLUNTEERS

SEC. 127. Section 306(a)(6)(E) of the Act (42 U.S.C. 3026(a)(6)(E)) is amended—

(1) by inserting "or adults, and respite for families," after "for children", and

(2) by inserting ", adults, and families" after "to children".

COORDINATION OF CERTAIN PROGRAMS RELATING TO OLDER VICTIMS OF ALZHEIMER'S DISEASE

SEC. 128. Section 306(a)(6) of the Act (42 U.S.C. 3026(a)(6)) is amended—

(1) in subparagraph (J) by striking "and" at the end;

(2) in subparagraph (K) by striking out the period at the end and insert a semicolon and "and"; and

(3) by adding at the end the following:

"(L) coordinate the categories of services specified in paragraph (2) for which the area agency on aging is required to expend funds under part B, with activities of community-based organizations established for the benefit of victims of Alzheimer's disease and the families of such victims.".

OMBUDSMAN OFFICE AND PROGRAM

SEC. 129. (a) TECHNICAL ASSISTANCE.—Section 301 of the Act (42 U.S.C. 3021) is amended by adding at the end the following:

"(c) The Commissioner shall provide technical assistance and training (by contract, grant, or otherwise) to State long-term care ombudsman programs established under section 307(a)(12), and to individuals designated under such section to be representatives of a long-term care ombudsman, in order to enable such ombudsmen and such representatives to carry out the ombudsman program effectively.".

(b) STUDY OF OMBUDSMAN PROGRAM.—(1) The Commissioner shall conduct a study concerning involvement in the ombudsman program established under section 307(a)(12) and its impact upon issues and problems affecting—

(A) residents of board and care facilities and other similar adult care homes who are older individuals (as defined in section 302(10)), including recommendations for expanding and improving ombudsman services in such facilities; and

(B) the effectiveness of recruiting, supervising and retaining volunteer ombudsmen.

(2) The Commissioner shall prepare and submit a report to the Congress on the findings and recommendations of the study described in paragraph (1) not later than December 31, 1989.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 303(a) of the Act (42 U.S.C. 3023), as amended by section 123, is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following:

"(2) There are authorized to be appropriated an additional $20,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, 1991, and 1992 for such part B to be available for section 307(a)(12).".

(d) STATE PLANS.—Section 307(a)(12) of the Act (42 U.S.C. 3027(a)(12)) is amended to read as follows:

"(12) The plan shall provide assurances, with respect to a long-term care ombudsman program, that—

"(A) the State agency will establish and operate, either directly or by contract or other arrangement with any public agency or other appropriate private nonprofit organization, other than an agency or organization which is responsible for licensing or certifying long-term care services in the State or which is an association (or an affiliate of such an association) of long-term care facilities (including any other residential facility for older individuals), an Office of the State Long-Term Care Ombudsman (in this paragraph referred to as the 'Office') and shall carry out through the Office a long-term care ombudsman program which provides an individual who will, on a full-time basis—

"(i) investigate and resolve complaints made by or on behalf of older individuals who are residents of long-term care facilities relating to action, inaction, or decisions of providers, or their representatives, of long-term care services, of public agencies, or of social service agencies, which may adversely affect the health, safety, welfare, or rights of such residents;

"(ii) provide for training staff and volunteers and promote the development of citizen organizations to participate in the ombudsman program; and

"(iii) carry out such other activities as the Commissioner deems appropriate;

"(B) the State agency will establish procedures for appropriate access by the ombudsman to long-term care facilities and patients' records, including procedures to protect the confidentiality of such records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of such complainant or resident, or upon court order;

"(C) the State agency will establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the agency of the State responsible for licensing or certifying long-term care facilities in the State and to the Commissioner on a regular basis;

"(D) the State agency will establish procedures to assure that any files maintained by the ombudsman program shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless—

"(i) such complainant or resident, or his legal representative, consents in writing to such disclosure; or

"(ii) such disclosure is required by court order;

"(E) the State agency will establish a statewide toll-free hotline to facilitate communication of complaints to the ombudsman by residents of long-term care facilities, by any person on behalf of such residents and recipients, and by any other person;

"(F) in planning and operating the ombudsman program, the State agency will consider the views of area agencies on aging, older individuals, and provider agencies;

"(G) the State agency will—

"(i) ensure that no individual involved in the designation of the long-term care ombudsman (whether by appointment or otherwise) or the designation of the head of any subdivision of the Office is subject to a conflict of interest;

"(ii) ensure that no officer, employee, or other representative of the Office is subject to a conflict of interest; and

"(iii) ensure that mechanisms are in place to identify and remedy any such or other similar conflicts;

"(H) the State agency will—

"(i) ensure that adequate legal counsel is available to the Office for advice and consultation and that legal representation is provided to any representative of the Office against whom suit or other legal action is brought in connection with the performance of such representative's official duties; and

"(ii) ensure that the Office has the ability to pursue administrative, legal, and other appropriate remedies on behalf of residents of long-term care facilities;

"(I) the State agency will require the Office to—

"(i) prepare an annual report containing data and findings regarding the types of problems experienced and complaints received by or on behalf of individuals residing in long-term care facilities, and to provide policy, regulatory, and legislative recommendations to solve such problems and resolve such complaints and improve the quality of care and life in long-term care facilities;

"(ii) analyze and monitor the development and implementation of Federal, State, and local laws, regulations, and policies with respect to long-term care facilities and services in that State, and recommend any changes in such laws, regulations, and policies deemed by the Office to be appropriate;

"(iii) provide information to public agencies, legislators, and others, as deemed necessary by the Office, regarding the problems and concerns, including recommendations related to such problems and concerns, of older individuals residing in long-term care facilities;

"(iv) provide for the training of the Office staff, including volunteers and other representatives of the Office, in—

"(I) Federal, State, and local laws, regulations, and policies with respect to long-term care facilities in the State;

"(II) investigative techniques; and

"(III) such other matters as the State deems appropriate;

"(v) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illness established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.) and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99-319); and

"(vi) include any area or local ombudsman entity designated by the State Long-Term Care Ombudsman as a subdivision of the Office. Any representative of an entity designated in accordance with the preceding sentence (whether an employee or an unpaid volunteer) shall be treated as a representative of the Office for purposes of this paragraph;

"(J) the State will ensure that no representative of the Office will be liable under State law for the good faith performance of official duties;

"(K) the State will—

"(i) ensure that willful interference with representatives of the Office in the performance of their official duties (as defined by the Commissioner) shall be unlawful;

"(ii) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident or employee for having filed a complaint with, or providing information to, the Office; and

"(iii) provide for appropriate sanctions with respect to such interference, retaliation, and reprisals; and

"(iv) ensure that representatives of the Office shall have—

"(I) access to long-term care facilities and their residents; and

"(II) with the permission of a resident or resident's legal guardian, have access to review the resident's medical and social records or, if a resident is unable to consent to such review and has no legal guardian, appropriate access to the resident's medical and social records;

"(L) the State agency will prohibit any officer, employee, or other representative of the Office to investigate any complaint filed with the Office unless the individual has received such training as may be required under subparagraph (H)(iv) and has been approved by the long-term care ombudsman as qualified to investigate such complaints; and

"(M) the State agency will carry out the provisions of section 308(d);".

(e) ADMINISTRATION.—Section 308 of the Act (42 U.S.C. 2028) is amended by inserting at the end thereof the following new subsection:

"(d)(1) Each State agency shall, in any fiscal year in which amounts appropriated for part B of this title is equal to or less than the amount appropriated for such part in fiscal year 1987, carry out the requirement of sections 307(a)(12) and 307(a)(21) as in effect prior to the date of enactment of the Older Americans Act Amendments of 1987.

"(2) In any fiscal year in which the appropriations for part B of this title are greater than the appropriations for such part for fiscal year 1987, the State agency shall carry out the provisions of section 307(a)(12), as amended by the Older Americans Act Amendments of 1987. In any such fiscal year, the provisions of section 307(a)(21) shall not apply.

"(3) Amounts appropriated and available under part B of this title for ombudsman services under section 307(a)(12) may not be used to supplant State or local funds available for that purpose.".

FLEXIBILITY OF SERVICES; LEGAL ASSISTANCE

SEC. 130. (a) AREA PLANS.—(1) Section 306(a)(2) of the Act (42 U.S.C. 3026(a)(2)) is amended to read as follows:

"(2)(A) provide assurances that adequate services associated with access to services (transportation, outreach, information, and referral) are provided in the planning and service delivery area; and

"(B) provide assurances that an adequate proportion (as described in section 307(a)(22)) of the amount allotted for part B to the planning and service area will be expended for the delivery of legal assistance for older individuals;".

(2) Section 306(b)(1) of the Act is amended to read as follows:

"(b)(1) Each State, in approving area agency plans under this section, shall waive the requirement described in clause (2)(B) of subsection (a) if the area agency has demonstrated that the legal assistance services being furnished to older individuals are sufficient to meet the need for such services after taking into account services provided by the Legal Services Corporation, the private bar or groups within the private bar furnishing services to older individuals on a pro bono and established reduced fee basis in that planning and service delivery area.".

(3) Section 306(b)(2) of the Act is amended by adding at the end the following:

"(C) Whenever the State agency proposes to grant a waiver to an area agency under this subsection, the State agency shall publish the intention to grant such a waiver together with the justification for the waiver at least 30 days prior to the effective date of the decision to grant the waiver. An individual or a service provider from the area with respect to which the proposed waiver applies is entitled to request a hearing before the State agency on the request to grant such waiver. If, within the 30-day period described in the first sentence of this subparagraph, an individual or service provider requests a hearing under this subparagraph, the State agency shall afford such individual or provider an opportunity for a hearing.".

(b) STATE PLAN.—Section 307(a)(15) of the Act (42 U.S.C. 3027(a)(15)) is amended—

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

(2) by inserting "and" after the semicolon in subparagraph (D), and

(3) by adding at the end the following:

"(E) the plan contains assurances that if the State agency waives the requirement described in section 307(a)(22), the State agency will provide to the Commissioner—

"(i) a report regarding such waiver that details the demonstration made by the area agency on aging to obtain such waiver;

"(ii) a copy of the record of the public hearing conducted pursuant to section 306(b)(2)(A); and

"(iii) a copy of the record of any public hearing conducted pursuant to section 306(b)(2)(C).".

(c) MINIMUM EXPENDITURE OF FUNDS.—Section 307(a) of the Act (42 U.S.C. 3027(a)) is amended by adding at the end the following:

"(22) The plan shall specify a minimum percentage of the funds received by each area agency for part B that will be expended, in the absence of the waiver granted under section 306(b)(1), by such area agency to provide legal assistance.".

DOCUMENTATION REGARDING MINORITY PARTICIPATION

SEC. 131. (a) AREA PLANS.—Section 306(a)(5) of the Act (42 U.S.C. 3026(a)(5)) is amended—

(1) by inserting "(i)" after "(5)(A)", and

(2) in subparagraph (A)(i), as so redesignated—

(A) by striking out "and" at the end, and

(B) by inserting after clause (i) the following:

"(ii) provide assurances that the area agency will include in each agreement made with a provider of any service under this title, a requirement that such provider will—

"(I) specify how the provider intends to satisfy the service needs of low-income minority individuals in the area served by the provider; and

"(II) will attempt to provide services to low-income minority individuals in at least the same proportion as the population of low-income minority older individuals bears to the population of older individuals of the area served by such provider; and

"(iii) with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

"(I) identify the number of low-income minority older individuals in the planning and service area; and

"(II) describe the methods used to satisfy the service needs of such minority older individuals; and".

(b) STATE PLAN.—Section 307(a) of the Act (42 U.S.C. 3027(a)), as amended by section 130(c), is amended by adding at the end the following:

"(23) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

"(A) identify the number of low-income minority older individuals in the State; and

"(B) describe the methods used to satisfy the service needs of such minority older individuals.".

TARGETING OF SERVICES

SEC. 132. (a) ORGANIZATION.—(1) Section 305(a)(1)(E) of the Act (42 U.S.C. 3025(a)(1)(E)) is amended—

(A) by striking "the distribution of older individuals who have low incomes residing in such areas", and

(B) by inserting after "legal services," the following: "the distribution of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such areas, the distribution of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such areas,".

(2) Section 305(a)(2) of the Act is amended—

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

(B) by striking the period in subparagraph (E) and inserting a semicolon and "and", and

(C) by inserting after subparagraph (E) the following:

"(F) assure the use of outreach efforts that will identify individuals eligible for assistance under this Act, with special emphasis on older individuals with the greatest economic or social needs (with particular attention to low-income minority individuals) and inform such individuals of the availability of such assistance.".

(b) AREA PLANS.—Section 306(a) of the Act (42 U.S.C. 3026(a)) is amended—

(1) by inserting after "residing in such area" in paragraph (1) the following: ", the number of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such area, the number of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such area,",

(2) by inserting after "rural elderly," in paragraph (5)(B) the following: "older individuals who have greatest economic need (with particular attention to low-income minority individuals), and older individuals who have greatest social need (with particular attention to low-income minority individuals),", and

(3) by inserting before the semicolon at the end of paragraph (6)(A) the following: "and an annual evaluation of the effectiveness of outreach conducted under paragraph (5)(B)".

(c) STATE PLAN.—Section 307(a) of the Act (42 U.S.C. 3027(a)), as amended by sections 130(c) and 131(b), is amended—

(1) by inserting before the semicolon in paragraph (8) a comma and the following: "including an evaluation of the effectiveness of the State agency in reaching older

individuals with the greatest economic or social needs, with particular attention to low-income minority individuals", and

(2) by adding at the end the following:

"(24) The plan shall provide assurances that the State agency will require outreach efforts that will—

"(A) identify older individuals who are eligible for assistance under this title, with special emphasis on older individuals with greatest economic need (with particular attention to low-income minority individuals), older individuals with greatest social need (with particular attention to low-income minority individuals), and older individuals who reside in rural areas; and

"(B) inform such individuals of the availability of such assistance.".

COORDINATION RELATING TO MENTAL HEALTH SERVICES

SEC. 133. Section 306(a)(6) of the Act (42 U.S.C. 3026(a)(6)), as amended by section 128, is amended—

(1) by striking out "and" in subparagraph (K); and

(2) by striking out the period at the end of subparagraph (L) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end the following:

"(M) coordinate any mental health services provided with funds expended by the area agency on aging for part B with the mental health services provided by community health centers and by other public agencies and nonprofit private organizations.".

SERVICES TO OLDER NATIVE AMERICANS

SEC. 134. (a) ORGANIZATION.—(1) Section 305(a)(1)(E) of the Act (42 U.S.C. 3025(a)(1)(E)), as amended by section 132(a), is amended by inserting "the distribution of older Indians residing in such areas," after "such areas," the second place it appears.

(2) Section 306(a)(1) of the Act, as amended by section 132(b), is amended by inserting ", and the number of older Indians," before "and" the last time it appears in the parenthetical.

(b) AREA PLANS.—Section 306(a)(6) of the Act (42 U.S.C. 2026(a)(6)), as amended by sections 128 and 133, is amended—

(1) by striking out "and" at the end of subparagraph (L);

(2) by striking out the period at the end of subparagraph (M) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end the following:

"(N) if there is a significant population of older Indians in the planning and service area of the area agency, the area agency shall conduct outreach activities to identify older Indians in such area and shall inform such older Indians of the availability of assistance under this Act.".

(c) EDUCATION AND TRAINING.—(1) Section 402 of the Act (42 U.S.C. 3030bb) is amended by adding at the end the following:

"(c) The Commissioner shall ensure that grants and contracts under this title are equitably awarded to agencies, organizations, and institutions representing minorities.".

(2) Section 410(5) of the Act is amended by inserting "(including centers of gerontology to improve, enhance, and expand minority personnel and training programs)" after "gerontology".

(3) Section 411(a) of the Act is amended by adding at the end the following:

"(4) To provide in-service training opportunities and courses of instruction on aging to Indian tribes through public and nonprofit Indian aging organizations.".

(4) The matter in parentheses in the first sentence of section 412(a) of the Act is amended by striking out "and" and inserting "and minority populations" after "services".

(5) Section 423(a) of the Act is amended by adding at the end the following:

"(4) The Commissioner shall ensure that grants and contracts under this section are equitably awarded to agencies, organizations, and institutions representing minorities.".

(6) Section 425(a) of the Act is amended—

(A) by striking "(1)" and "(2)" and inserting "(A)" and "(B)", respectively,

(B) by inserting "(1)" after "(a)", and

(C) by adding at the end the following:

"(2) The Commissioner shall carry out, directly or through grants or contracts, special training programs and technical assistance designed to improve services to minorities.".

(d) TASK FORCE.—(1) The Commissioner on Aging shall establish a permanent interagency task force that is representative of departments and agencies of the Federal Government with an interest in older Indians and their welfare and is designed to make recommendations with respect to facilitating the coordinations of services and the improvement of services to older Indians.

(2) The task force shall be chaired by the Associate Commissioner on Native American Aging and shall submit its findings and recommendations to the Commissioner at 6-month intervals beginning after the date of the enactment of this Act. Such findings and recommendations shall be included in the annual report required by section 207(a) to be submitted by the Commissioner.

(e) SPECIAL REPORT ON SERVICES FOR OLDER INDIANS.—(1) The Commissioner on Aging shall enter into a contract with a public agency or nonprofit private organization, to conduct a thorough study of the availability and quality of services under the Act to older Indians. The study shall include—

(A) an analysis of how many Indians now participate in programs under titles III and VI of such Act as compared to how many older Indians are eligible to participate in such programs,

(B) a description of how grants under titles III and VI of such Act are made to Indian tribes and how services are made available to older Indians, and

(C) a determination of what services are currently provided through title VI of such Act to older Indians and how well the Administration on Aging assures that supportive services under title VI of such Act to Indians are commensurate with supportive services under title III of such Act with special consideration to information and referral services, legal services, transportation services, and the ombudsman services.

(2) Not later than December 31, 1988, the Commissioner on Aging shall prepare and submit to the Congress a report on the study required by this subsection, together with such recommendations, including recommendations for legislation, as the Commissioner considers to be appropriate.

SERVICES TO INDIVIDUALS WITH DISABILITIES

SEC. 135. (a) DEFINITIONS.—(1) Section 302(11) of the Act (42 U.S.C. 3022) is amended by inserting after "health" the following: "(including mental health)".

(2) Section 302 of the Act is amended by adding at the end thereof the following:

"(13) The term 'individual with disabilities' means an individual—

"(A) who has a disability attributable to mental or physical impairment or a combination of mental and physical impairments that result in substantial functional limitations in one or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, (vii) economic self-sufficiency, (viii) cognitive functioning, and (ix) emotional adjustment; and

"(B) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke, epilepsy, Parkinson's disease, Alzheimer's disease and related dementia), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined to cause comparable substantial functional limitation.

"(14) The term 'severe disability' means a severe, chronic disability of an individual that—

"(A) is likely to continue indefinitely;

"(B) results in substantial functional limitation in three or more of the major life activities specified in paragraph (13)(A) (i) through (vii); and

"(C) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.".

(b) ORGANIZATION.—Section 305(a)(2) of the Act, as amended by section 132(a)(2), is amended—

(1) by striking out "and" at the end of subparagraph (E);

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new subparagraph:

"(G) provide assurances that the State agency will consult with State and area agencies with primary responsibility for individuals with disabilities, including severe disabilities, and develop collaborative programs, where appropriate, to meet the needs of older individuals with disabilities.".

(c) AREA PLANS.—Section 306(a)(5)(B) of the Act, as amended by section 132(b)(2), is amended by inserting after "individuals)," the second time it appears the following: "elderly with severe disabilities,".

(d) STATE PLANS.—(1) Section 307(a)(3)(A) of the Act is amended by inserting after "legal assistance" in the parenthetical the following: "and mental health services".

(2) Section 307(a)(13)(I) of the Act is amended by inserting before the semicolon at the end thereof a comma and the following: "and to individuals with disabilities who reside with and accompany older individuals who are eligible under this Act".

(3) Section 307(a) of the Act, as amended by sections 130(c), 131(b), and 132(c), is amended by adding after paragraph (24) the following new paragraph:

"(25) The plan shall provide, with respect to the needs of older individuals with severe disabilities, assurances that the State will—

"(A) coordinate planning, identification, assessment of needs, and service for older individuals with disabilities with particular attention to individuals with severe disabilities with the State agencies with primary responsibility for individuals with disabil-

ities, including severe disabilities, and develop collaborative programs, where appropriate, to meet the needs of older individuals with disabilities; and

"(B) with respect to the needs of older individuals with developmental disabilities, coordinate planning with the State developmental disabilities planning council designated under section 124(a)(1) of the Developmental Disabilities Act.".

(e) SUPPORTIVE SERVICES.—(1) Section 321(a)(1) of the Act is amended by inserting after "health" the following: "(including mental health)".

(2) Section 321(a)(4)(B) of the Act is amended by striking out "suffering from physical disabilities" and inserting in lieu thereof "who have physical disabilities".

(3) Section 321 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) The Commissioner shall encourage area agencies on aging to enter into interagency or other formal agreements with public agencies or private organizations furnishing mental health services to ensure a coordinated approach in meeting the mental health and psychosocial needs of older individuals.".

CONFIDENTIALITY OF INFORMATION RELATING TO LEGAL ASSISTANCE PROVIDED

SEC. 136. (a) AREA AGENCY ON AGING.—Section 306 of the Act (42 U.S.C. 3026), as amended by section 130(b), is amended by adding at the end the following:

"(d) An area agency on aging may not require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.".

(b) STATE AND STATE AGENCY.—Section 307 of the Act (42 U.S.C. 3027) is amended by adding at the end the following:

"(g) Neither a State, nor a State agency, may require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.".

COORDINATION OF COMMUNITY-BASED SERVICES

SEC. 137. Section 307(a) of the Act (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), and 135(d), is amended by inserting after paragraph (25) the following:

"(26) The plan shall provide assurances that area agencies on aging will conduct efforts to facilitate the coordination of community-based, long-term care services, pursuant to section 306(a)(6)(I), for older individuals who—

"(A) reside at home and are at risk of institutionalization because of limitations on their ability to function independently;

"(B) are patients in hospitals and are at risk of prolonged institutionalization; or

"(C) are patients in long-term care facilities, but who can return to their homes if community-based services are provided to them.".

PAYMENTS

SEC. 138. Section 309(c) of the Act (42 U.S.C. 3029(c)) is amended—

(1) by inserting "average annual" after "less than its", and

(2) by striking "preceding fiscal year" and inserting "period of 3 fiscal years preceding such year".

IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS

SEC. 139. (a) AUTHORIZATION OF APPROPRIATIONS.—Section 303 of the Act (42 U.S.C. 3023), as amended by section 123, is amended by adding at the end the following:

"(d) There are authorized to be appropriated $25,000,000 for fiscal year 1988, $26,250,000 for fiscal year 1989, $27,563,000 for fiscal year 1990, $28,941,000 for fiscal year 1991, and $30,388,000 for fiscal year 1992 for the purpose of making grants under part D of this title (relating to in-home services).".

(b) AREA PLANS.—Section 306(a) of the Act (42 U.S.C. 3026(a)) is amended—

(1) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon and "and"; and

(2) by inserting after paragraph (6) the following:

"(7) provide assurances that any amount received under part D will be expended in accordance with such part.".

(c) STATE PLANS.—(1) Section 307(a)(10) of the Act (42 U.S.C. 3027(a)(10)) is amended by inserting "and in-home services (as defined in section 342(1))" after "nutrition services".

(2) Section 307(a) of the Act (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), 135(d), and 137, is amended by inserting after paragraph (26) the following:

"(27) Each such plan shall provide assurances of consultation and coordination in planning and provision of in-home services under section 341 with State and local agencies and private nonprofit organizations which administer and provide services relating to health, social services, rehabilitation, and mental health services.".

(d) PROGRAM.—Title III of the Act is amended by adding at the end the following:

"PART D—IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS

"PROGRAM AUTHORIZED

"SEC. 341. (a) With funds appropriated to carry out this part, the Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to provide in-home services to frail older individuals, relating to the individual's environment and functional support needs, including in-home supportive services for older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and to the families of such victims.

"(b) In carrying out the provisions of this part, each area agency shall coordinate with other community agencies and voluntary organizations providing counseling and training for family caregivers and support service personnel in management of care, functional and needs assessment services, assistance with locating, arranging for, and coordinating services, case management, and counseling prior to admission to nursing home to prevent premature institutionalization.

"DEFINITIONS

"SEC. 342. For purposes of this part—

"(1) the term 'in-home service' includes—

"(A) homemaker and home health aides;

"(B) visiting, telephone reassurance, and personal emergency response;

"(C) chore maintenance;

"(D) respite care for families, including adult day care; or

"(E) minor remodeling of homes necessary to facilitate the ability of older individuals to remain at home, and not covered by other programs; and

"(2) the term 'frail' means having a physical or mental disability, including having Alzheimer's disease or related disorders with neurological or organic brain dysfunction, that restricts the ability of an individual to perform normal daily tasks or which threatens the capacity of an individual to live independently.

"STATE CRITERIA

"SEC. 343. The State agency shall develop eligibility criteria for providing in-home services to frail older individuals which shall take into account—

"(1) age;

"(2) greatest economic need;

"(3) noneconomic factors contributing to the frail condition; and

"(4) noneconomic and nonhealth factors contributing to the need for such services.

"MAINTENANCE OF EFFORT

"SEC. 344. Funds made available under this part shall be in addition to, and may not be used to supplant, any funds that are or would otherwise be expended under any Federal, State, or local law by a State or unit of general purpose local government (including area agencies on aging which have in their planning and services areas existing services which primarily serve older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and the families of such victims).".

STATE PLAN INFORMATION REGARDING SERVICES TO OLDER INDIVIDUALS RESIDING IN RURAL AREAS

SEC. 140. Section 307(a) of the Act (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), 135(d), 137, and 139(c)(2), is amended by adding after paragraph (27) the following:

"(28) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared, describe the methods used to satisfy the service needs of older individuals who reside in rural areas.".

HEALTH EDUCATION AND PROMOTION FOR OLDER AMERICANS

SEC. 141. (a) AUTHORIZATION OF APPROPRIATIONS.—Section 303 of the Act (42 U.S.C. 3023), as amended by sections 123 and 139(a), is amended by adding at the end thereof the following:

"(e) There are authorized to be appropriated $5,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, 1991, and 1992 for the purpose of making grants under part E of this title (relating to periodic preventive health, health education, and promotion services).".

(b) AREA PLANS.—Section 306(a) of the Act, as amended by section 139, is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and "and"; and

(3) by inserting after paragraph (7) the following:

"(8) provide assurances that any amount received under part E will be expended in accordance with such part; and".

(c) PROGRAM.—Title III of the Act, as amended by section 139, is further amended by adding at the end thereof the following:

"PART E—PREVENTIVE HEALTH SERVICES

"PROGRAM AUTHORIZED

"SEC. 351. (a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for periodic preventive health services to be provided at senior centers or alternative sites as appropriate.

"(b) Preventive health services under this part may not include services eligible for reimbursement under Medicare.

"(c) The Commissioner shall, to the extent possible, assure that services provided by

other community organizations and agencies are used to carry out the provisions of this part.

"DISTRIBUTION TO AREA AGENCIES

"SEC. 352. The State agency shall give priority, in carrying out this part, to areas of the State—

"(1) which are medically underserved; and

"(2) in which there are a large number of other individuals who have the greatest economic need for such services.

"DEFINITIONS

"SEC. 353. For the purpose of this part and section 307 the term 'preventive health services' means—

"(1) routine health screening, which may include hypertension, glaucoma, cholesterol, cancer, vision and hearing screening;

"(2) group exercise programs;

"(3) home injury control services, including screening of high-risk home environments and educational programs on injury protection in the home environment;

"(4) nutritional counseling and educational services;

"(5) screening for the prevention of depression, coordination of community mental health services, educational activities, and referral to psychiatric and psychological services;

"(6) educational programs on the benefits and limitations of Medicare and various supplemental insurance coverage, including individual policy screening and health insurance-needs counseling; and

"(7) counseling regarding followup health services based on any of the services provided for above.".

PREVENTION OF ABUSE OF OLDER INDIVIDUALS

SEC. 142. (a) DEFINITIONS.—Section 302 of the Act (42 U.S.C. 3022), as amended by section 135(a), is amended by adding at the end the following:

"(15) The term 'abuse' means the willful—

"(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm or pain or mental anguish; or

"(B) deprivation by a caretaker of goods or services which are necessary to avoid physical harm, mental anguish, or mental illness.

"(16) The term 'elder abuse' means abuse of an older individual.

"(17) The term 'caretaker' means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, receipt of payment for care, as a result of family relationship, or by order of a court of competent jurisdiction.

"(18) The term 'exploitation' means the illegal or improper act or process of a caretaker using the resources of an older individual for monetary or personal benefit, profit, or gain.

"(19) The term 'neglect' means the failure to provide for oneself the goods or services which are necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

"(20) The term 'physical harm' means bodily pain, injury, impairment, or disease.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 303 of the Act, as amended by sections 123, 139(a), and 141(a), is amended by adding at the end the following:

"(f) There are authorized to be appropriated $5,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, 1991, and 1992 to carry out part F (relating to abuse, neglect, and exploitation of older individuals)."

(c) AREA PLANS.—Section 306(a) of the Act, as amended by section 139(b) and 141(b), is amended—

(1) by striking out "and" at the end of paragraph (7);

(2) by striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and "and", and

(3) by inserting after paragraph (8) the following:

"(9) provide assurances that any amount received under part F will be expended in accordance with such part.".

(d) STATE PLAN.—(1) Section 307(a)(16) of the Act is amended by striking "provide" the second time it appears and inserting ", if funds are not appropriated under section 303(f) for a fiscal year, provide that for such fiscal year".

(2) Section 307(a) of the Act, as amended by sections 130(c), 131(b), 132(c), 135(d), 137, 139(c)(2), and 140, is amended by adding at the end the following:

"(29) The plan shall provide assurances that if the State receives funds appropriated under section 303(f), the State agency and area agencies on aging will expend such funds to carry out part F.".

(e) ABUSE, NEGLECT, AND EXPLOITATION OF OLDER INDIVIDUALS.—Title III of the Act is amended by adding at the end the following:

"PART F—ABUSE, NEGLECT, AND EXPLOITATION OF OLDER INDIVIDUALS

"PROGRAM AUTHORIZED

"SEC. 361. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to carry out a program with respect to the prevention of abuse, neglect, and exploitation of older individuals. The program shall—

"(1) be consistent with relevant State law and coordinated with State adult protective service activities and other State and local elder abuse prevention and protection;

"(2) provide for—

"(A) public education and outreach services to identify and prevent abuse, neglect, and exploitation of older individuals;

"(B) receipt of reports of such abuse, neglect, and exploitation;

"(C) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance if appropriate and with the consent of the older individuals to be referred; and

"(D) the referral of complaints and other reports of abuse, neglect, or exploitation of older individuals to law enforcement agencies, public protective service agencies, licensing and certification agencies, ombudsman programs, or protection and advocacy system if appropriate;

"(3) not permit involuntary or coerced participation in such program by alleged victims, abusers, or their households; and

"(4) require that all information gathered in the course of receiving such a complaint or report, and making such a referral, shall remain confidential unless—

"(A) all parties to such complaint or report consent in writing to the release of such information; or

"(B) the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system.".

ASSISTIVE TECHNOLOGY SERVICES

SEC. 143. (a) FUNCTIONS OF THE COMMISSIONER.—Section 202(a)(5) of the Act (42 U.S.C. 3012(a)(5)) is amended by inserting after "supportive services" the following: "(including assistive technology services)".

(b) GENERAL RULE.—Section 302(a) of the Act, as amended by section 135 and 142, is amended by adding at the end thereof the following:

"(21) The term 'supportive services' includes assistive technology services.

"(22) The term 'assistive technology services' means services designed to apply technology, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with functional limitations.".

PART C—DEMONSTRATION GRANTS

DEMONSTRATION PROJECTS; PURPOSE

SEC. 151. Section 401(1) of the Act (42 U.S.C. 3030aa) is amended by inserting the following before the semicolon a comma and the following: "with special emphasis on minority individuals, low-income individuals, frail individuals, and individuals with disabilities".

MULTIDISCIPLINARY CENTERS

SEC. 152. Section 412(a) of the Act (42 U.S.C. 3032(a)) is amended by striking "may" and inserting "shall".

VOLUNTEER OPPORTUNITIES

SEC. 153. Section 422(b) of the Act (42 U.S.C. 3035a) is amended—

(1) by striking out "and" at the end of paragraph (7);

(2) by striking out the period at the end of paragraph (8) and inserting a semicolon and the word "and"; and

(3) by adding at the end thereof the following:

"(9) provide expanded, innovative volunteer opportunities to older individuals which are designed to fulfill unmet community needs, while at the same time avoiding duplication of existing volunteer programs, which may include—

"(A) projects furnishing intergenerational services by older individuals addressing the needs of children, such as—

"(i) tutorial services in elementary and special schools;

"(ii) after school programs for latch key children;

"(iii) voluntary services for day care center programs; and

"(B) volunteer service credit projects operated in conjunction with ACTION, permitting elderly volunteers to earn credits for services furnished, which may later be redeemed for similar volunteer services.".

SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE

SEC. 154. Section 423(a)(1) of the Act (42 U.S.C. 3035b(a)(1)), as amended by section 134(c)(5), is amended by striking "may" and inserting "shall".

DEMONSTRATION PROGRAM OF OUTREACH TO ELDERLY SSI, MEDICAID, AND FOOD STAMP ELIGIBLES

SEC. 155. (a) DEMONSTRATION PROGRAM AUTHORIZED.—Part B of title IV of the Act is amended by adding at the end thereof the following new section:

"DEMONSTRATION PROGRAM OF OUTREACH TO ELDERLY SSI, MEDICAID, AND FOOD STAMP ELIGIBLES

"SEC. 427. (a) The Commissioner is authorized to make grants to, or enter into contracts with, State agencies on aging and area agencies on aging for the conduct of demonstration projects designed to demonstrate the feasibility of conducting outreach activities for older individuals who are eligible for but not receiving benefits under title XVI of the Social Security Act (or as-

sistance under a State plan program under title XVI of that Act) relating to supplemental security income benefits, under title XVIIII of the Social Security Act, relating to medical assistance benefits, and benefits under the Food Stamp Act of 1977, in order to assist such individuals in applying for such benefits.

"(b) Grants and contracts under this section may be used for—

"(1) identifying older individuals with the greatest economic need who may be eligible for assistance described in subsection (a);

"(2) for outreach activities for planning in service in area agencies on aging for such individuals; and

"(3) for application assistance for such individuals.

"(c) No grant may be made and no contract may be entered into under this section unless an application is made to the Commissioner at such time, in such manner, and containing such information as the Commissioner may reasonably require. Each such application shall—

"(1) describe the activities for which assistance is sought;

"(2) provide for an evaluation of the activities for which assistance is sought; and

"(3) assurances that the applicant will prepare and submit to the Commissioner a report of the activities conducted with assistance under this section and the evaluation of that assistance.

"(d) In approving applications under this section, the Commissioner shall assure a geographic equitable distribution of assistance.

"(e) The Commissioner shall, as part of the annual report submitted under section 207, prepare and submit a report on the evaluations submitted under this section, together with such recommendations as the Commissioner may deem appropriate. In carrying out this section, the Commissioner shall consider—

"(1) the number of older individuals reached through outreach activities supported under this section;

"(2) the dollar amount of benefits to older individuals;

"(3) the cost of the activities in terms of the number of individuals reached and the benefit dollars involved; and

"(4) the effect on supportive services and nutrition services furnished under title III of this Act.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 431(a) of the Act is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by inserting "(other than section 427)" after "title"; and

(3) by adding at the end thereof the following new paragraph:

"(2) There are authorized to be appropriated $3,000,000 for the fiscal year 1988 and such sums for each of the 4 succeeding fiscal years to carry out the provisions of section 427.".

(c) OUTREACH AND APPLICATION ASSISTANCE FUNCTIONS OF ADMINISTRATION ON AGING.—Section 202(a) of the Act, as amended by sections 103(a) and 106(a), is amended—

(1) by striking out "and" at the end of paragraph (19);

(2) by striking out the period at the end of paragraph (20) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end the following:

"(21) obtain from—

"(A) the Department of Agriculture information explaining the requirements for eligibility to receive benefits under the Food Stamp Act of 1977; and

"(B) the Social Security Administration information explaining the requirements for eligibility to receive supplemental security income benefits under title XVI of the Social Security Act (or assistance under a State plan program under title XVI of that Act);

and distribute such information, in written form, to State agencies, for redistribution to area agencies on aging, to carry out outreach activities and application assistance.".

DEMONSTRATION GRANTS FOR INDIVIDUALS WITH DISABILITIES

SEC. 156. (a) TRAINING.—Section 411(c) of the Act (42 U.S.C. 3031(c)) is amended—

(1) by striking out "custodial and skilled care for older individuals who suffer from" and inserting in lieu thereof "services to individuals with disabilities and to individuals with", and

(2) by striking out "other neurological and organic brain disorders of the Alzheimer's type" and inserting in lieu thereof "and related disorders with neurological and organic brain dysfunction".

(b) MULTIDISCIPLINARY CENTERS.—(1) Section 412(a) of the Act, as amended by sections 105(e) and 134(c)(4), is amended by inserting before "income maintenance" the following: "disabilities (including severe disabilities),".

(2) Section 412(a) of the Act, as amended by sections 105(e) and 134(c) in paragraph (1) of this subsection is further amended by inserting after "supportive services" the following: "(including assistive technology services),".

(c) SPECIAL PROJECT.—Part A of title IV of the Act is amended by adding at the end thereof the following new section:

"SPECIAL DISABILITIES TRAINING PROJECT

"SEC. 413. The Commissioner is authorized to make grants to any public agency or private nonprofit organization and may enter into contracts with any public agency or private nonprofit organization to develop and provide training programs to service providers under title III of this Act and nursing home care providers to meet the special service needs of older individuals with disabilities and who are residing either in the community or in nursing care facilities.".

(d) DEMONSTRATION GRANTS.—(1) Section 422(b)(2)(A) of the Act is amended by inserting after "mental health services" the following: "or who have severe disabilities".

(2) Section 422(b)(2) of the Act is amended—

(A) by striking out "and" at the end of subclause (C); and

(B) by adding after subclause (D) the following new subclauses:

"(E) the identification and provision of services to elderly individuals with severe disabilities; and

"(F) the provision of rehabilitation services, and communication aids and devices to assist older individuals with severe disabilities.".

(3) Section 422(b) of the Act, as amended by section 153, is amended—

(A) by striking out the "and" at the end of paragraph (8),

(B) by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and "and", and

(C) by adding after paragraph (9) the following new paragraph:

"(10) address the needs of older individuals through the use of assistive technology services by studying and demonstrating methods of increasing the awareness of, the access to, and the use of assistive technology services for older individuals designed to increase their functional independence;".

(e) LONG-TERM CARE SPECIAL PROJECTS.—Section 423(a)(3) of the Act is amended by inserting after "geriatric health maintenance organizations" a semicolon and the following: "services to older individuals with severe disabilities residing in nursing homes".

(f) ADDITIONAL SPECIAL PROJECTS.—(1) Part B of title IV of the Act, as amended by section 155, is further amended by adding at the end thereof the following:

"OMBUDSMAN AND ADVOCACY DEMONSTRATION PROJECTS

"SEC. 428. (a) The Commissioner is authorized to make grants to not less than three nor more than ten States to demonstrate and evaluate cooperative projects between the State long-term care ombudsman program and the State protection and advocacy systems for developmental disabilities and mental illness, established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.) and under the protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99-319).

"(b) The Commissioner on Aging shall prepare and submit to the Congress after each fiscal year a report of the study and evaluation required by paragraph (1) of this section. Each such report shall contain such recommendations as the Commissioner on Aging deems appropriate.".

(2) Section 431(a) of the Act, as amended by section 155(b), is amended by—

(A) by striking out "section 427" in the parenthetical and inserting in lieu thereof "sections 427 and 428"; and

(B) by adding at the end thereof the following:

"(3) There are authorized to be appropriated $1,000,000 for each of the fiscal years 1988 and 1989 to carry out the provisions of section 428. The funds appropriated pursuant to this subsection shall remain available for expenditure for the succeeding fiscal year.".

HOME-CARE QUALITY ASSURANCE DEMONSTRATION PROJECTS

SEC. 157. (a) DEMONSTRATION PROGRAM AUTHORIZED.—Part B of title IV of the Act, as amended by sections 155 and 156, is further amended by adding at the end thereof the following:

"HOME-CARE QUALITY ASSURANCE DEMONSTRATION PROJECTS

"SEC. 429. (a)(1) The Commissioner is authorized to make grants to not less than six nor more than ten States to demonstrate and evaluate the effectiveness of a home-care quality assurance program for in-home care services for older individuals furnished under this Act.

"(2) For the purposes of this section 'quality assurance program' includes quality assurances with respect to in-home care services and may include the availability of consumer education services, services involving the use of consumer hotlines, ombudsman services, legal assistance services, protection and advocacy services, and the use of community service agencies.

"(b) No grant may be made and no contract may be entered into under this section unless an application is made to the Commissioner at such time, in such manner, and containing such information as the Commissioner may reasonably require. Each such application shall—

"(1) describe activities for which assistance is sought;

"(2) provide for an evaluation of the activities for which assistance is sought; and

"(3) provide assurances that the applicant will prepare and submit a report to the Commissioner on the activities conducted with assistance under this section and the evaluation of that assistance.

"(c) In approving applications under this section, the Commissioner shall assure equitable geographic distribution of assistance.

"(d) The Commissioner shall, as part of the annual report submitted under section 207, prepare and submit a report on the evaluation submitted under this section together with such recommendations as the Commissioner may deem appropriate. In carrying out this section, the Commissioner shall include in the report—

"(1) a description of the demonstration projects assisted under this section;

"(2) an evaluation of the effectiveness of each such project; and

"(3) recommendations of the Commissioner with respect to the desirability and feasibility of carrying out on a nation-wide basis the home-care consumer quality assurance program.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 431(a) of the Act, as amended by sections 154(b) and 155(f)(2), is amended—

(1) by striking out "sections 427 and 428" in the parenthetical and inserting in lieu thereof "section 427, 428, and 429"; and

(2) by adding at the end thereof the following:

"(4) There are authorized to be appropriated $2,000,000 for each of the fiscal years 1989 and 1990 to carry out the provisions of section 429.".

AUTHORIZATION OF APPROPRIATIONS FOR TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS

SEC. 158. Section 431(a)(1) of the Act, as amended by sections 154(b), 155(f)(2), and 156(b), is amended to read as follows:

"SEC. 431. (a)(1) There are authorized to be appropriated to carry out the provisions of this title $32,970,000 for the fiscal year 1988, $34,619,000 for the fiscal year 1989, $36,349,000 for the fiscal year 1990, $38,167,000 for the fiscal year 1991, and $40,075,000 for the fiscal year 1992.".

PART D—COMMUNITY SERVICE EMPLOYMENT

ADMINISTRATIVE COSTS OF EMPLOYMENT PROJECTS

SEC. 161. Paragraph (3) of section 502(c) of the Act (42 U.S.C. 3056(c)(3)) is amended to read as follows:

"(3) Of the amount for any project to be paid by the Secretary under this subsection, not more than 13.5 percent for fiscal year 1987 and each fiscal year thereafter shall be available for paying the costs of administration for such project, except that—

"(A) whenever the Secretary determines that it is necessary to carry out the project assisted under this title, based on information submitted by the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b), the Secretary may increase the amount available for paying the cost of administration to an amount not more than 15 percent of the cost of such project; and

"(B) whenever the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b) demonstrates to the Secretary that—

"(i) major administrative cost increases are being incurred in necessary program components, including liability insurance, payments for workmen's compensation, costs associated with achieving unsubsidized placement goals, and other operation requirements imposed by the Secretary;

"(ii) the number of employment positions in the project or the number of minority eligible individuals participating in the project will decline if the amount available for paying the cost of administration is not increased; or

"(iii) the size of the project is so small that the amount of administrative expenses incurred to carry out the project necessarily exceed 13.5 percent of the amount for such project;

the Secretary shall increase the amount available for the fiscal year for paying the cost of administration to an amount not more than 15 percent of the cost of such project.".

COMMUNITY SERVICE EMPLOYMENT FOR OLDER INDIANS

SEC. 162. (a) PROGRAM ASSURANCE.—Section 502(b)(1)(M) of the Act (42 U.S.C. 3056) is amended to read as follows:

"(M) will assure, that to the extent feasible, such project will serve the needs of minority, limited English-speaking, and Indian eligible individuals in proportion to their numbers in the State and take into consideration their rates of poverty and unemployment;".

(b) RESERVATION OF FUNDS.—Section 506(a)(1)(A) of the Act is amended by inserting after the first sentence the following: "The Secretary shall next reserve such sums as may be necessary for national grants or contracts with public or nonprofit national Indian aging organizations with the ability to provide employment services to older Indians and with national public or nonprofit Pacific/Asian organizations, but only in a fiscal year in which the amount available under this title exceeds the amount appropriated for fiscal year 1987.".

INFORMATION ON AGE DISCRIMINATION PROHIBITIONS

Sec. 163. Section 503(b) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by inserting at the end thereof the following:

"(2) The Secretary shall distribute to grantees under this title, for distribution to program enrollees, and at no cost to grantees or enrollees, informational materials developed and supplied by the Equal Employment Opportunity Commission and other appropriate Federal agencies which the Secretary determines are designed to help enrollees identify age discrimination and understand their rights under the Age Discrimination in Employment Act.".

DEFINITION OF COMMUNITY SERVICES

SEC. 164. Section 507(3) of the Act (42 U.S.C. 3056e(3)) is amended by inserting "(particularly literacy tutoring)" after "educational services".

AUTHORIZATION OF APPROPRIATIONS FOR COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

SEC. 165. Section 508(a)(1) of the Act (42 U.S.C. 3056f(a)(1)) is amended to read as follows:

"(1) $386,715,000 for the fiscal year 1988, $406,051,000 for the fiscal year 1989, $426,353,000 for the fiscal year 1990, $447,671,000 for the fiscal year 1991, and $470,055,000 for the fiscal year 1992; and".

EMPLOYMENT ASSISTANCE AND OTHER PROGRAMS

SEC. 166. Title V of the Act (42 U.S.C. 3056-3056f) is amended by adding at the end the following:

"EMPLOYMENT ASSISTANCE AND FEDERAL HOUSING AND FOOD STAMP PROGRAMS

"SEC. 509. Funds received by eligible individuals from projects carried out under the program established in this title shall not be considered to be income of such individuals for purposes of determining the eligibility of such individuals, or of any other persons, to participate in any housing program for which Federal funds may be available or for any income determination under the Food Stamp Act of 1977.".

PART E—NATIVE AMERICAN PROGRAMS

NATIVE AMERICAN PROGRAMS

SEC. 171. Title VI of the Act (42 U.S.C. 3057-3057g) is amended to read as follows:

"TITLE VI—GRANTS FOR NATIVE AMERICANS

"STATEMENT OF PURPOSE

"SEC. 601. It is the purpose of this title to promote the delivery of supportive services, including nutrition services to American Indians, Alaskan Natives, and Hawaiian Natives that are comparable to services provided under title III.

"FINDINGS; SENSE OF CONGRESS

"SEC. 602. (a) The Congress finds that the older Indians of the United States—

"(1) are a rapidly increasing population;

"(2) suffer from high unemployment;

"(3) live in poverty at a rate estimated to be as high as 61 percent;

"(4) have a life expectancy between 3 and 4 years less than the general population;

"(5) lack sufficient nursing homes, other long-term care facilities, and other health care facilities;

"(6) lack sufficient Indian area agencies on aging;

"(7) frequently live in substandard and over-crowded housing;

"(8) receive less than adequate health care;

"(9) are served under this title at a rate of less than 19 percent of the total national Indian elderly population living on Indian reservations; and

"(10) are served under title III of this Act at a rate of less than 1 percent of the total participants under that title.

"(b) The Congress finds the elderly Hawaiian Natives—

"(1) have a life expectancy 10 years less than any other ethnic group in the State of Hawaii;

"(2) rank lowest on 9 of 11 standard health indicies for all ethnic groups in Hawaii;

"(3) are often unaware of social services and do not know how to go about seeking such assistance; and

"(4) live in poverty at a rate of 34 percent.

"(c) It is the sense of the Congress that older Indians, older Alaskan Natives, and older Hawaiian Natives are a vital resource entitled to all benefits and services available and that such services and benefits should be provided in a manner that preserves and restores their respective dignity, self-respect, and cultural identities.

"PART A—INDIAN PROGRAM

"ELIGIBILITY

"SEC. 611. (a) A tribal organization of an Indian tribe is eligible for assistance under this part only if—

"(1) the tribal organization represents at least 50 individuals who have attained 60 years of age or older; and

"(2) the tribal organization demonstrates the ability to deliver supportive services, including nutritional services.

"(b) For the purposes of this part the terms 'Indian tribe' and 'tribal organization' have

the same meaning as in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"GRANTS AUTHORIZED

"SEC. 612. The Commissioner may make grants to eligible tribal organizations to pay all of the costs for delivery of supportive services and nutrition services for older Indians.

"APPLICATIONS

"SEC. 613. (a) No grant may be made under this part unless the eligible tribal organization submits an application to the Commissioner which meets such criteria as the Commissioner may by regulation prescribe. Each such application shall—

"(1) provide that the eligible tribal organization will evaluate the need for supportive and nutrition services among older Indians to be represented by the tribal organization;

"(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

"(3) provide that the tribal organization will make such reports in such form and containing such information, as the Commissioner may reasonably require, and comply with such requirements as the Commissioner may impose to assure the correctness of such reports;

"(4) provide for periodic evaluation of activities and projects carried out under the application;

"(5) establish objectives consistent with the purposes of this part toward which activities under the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the tribal organization proposes to overcome such obstacles;

"(6) provide for establishing and maintaining information and referral services to assure that older Indians to be served by the assistance made available under this part will have reasonably convenient access to such services;

"(7) provide a preference for Indians aged 60 and older for full or part-time staff positions wherever feasible;

"(8) provide assurances that either directly or by way of grant or contract with appropriate entities nutrition services will be delivered to older Indians represented by the tribal organization substantially in compliance with the provisions of part C of title III, except that in any case in which the need for nutritional services for older Indians represented by the tribal organization is already met from other sources, the tribal organization may use the funds otherwise required to be expended under this clause for supportive services;

"(9) contain assurances that the provisions of sections 307(a)(14)(A) (i) and (iii), 307(a)(14)(B), and 307(a)(14)(C) will be complied with whenever the application contains provisions for the acquisition, alteration, or renovation of facilities to serve as multipurpose senior centers;

"(10) provide that any legal or ombudsman services made available to older Indians represented by the tribal organization will be substantially in compliance with the provisions of title III relating to the furnishing of similar services; and

"(11) provide satisfactory assurance that fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the tribal organization, including any funds paid by the tribal organization to a recipient of a grant or contract.

"(b) For the purpose of any application submitted under this part, the tribal organization may develop its own population statistics, with certification from the Bureau of Indian Affairs, in order to establish eligibility.

"(c) The Commission shall approve any application which complies with the provisions of subsection (a).

"(d) Whenever the Commissioner determines not to approve an application submitted under subsection (a) the Commission shall—

"(1) state objections in writing to the tribal organization within 60 days after such decision;

"(2) provide to the extent practicable technical assistance to the tribal organization to overcome such stated objections; and

"(3) provide the tribal organization with a hearing, under such rules and regulations as the Commissioner may prescribe.

"(e) Whenever the Commissioner approves an application of a tribal organization under this part, funds shall be awarded for not less than 12 months.

"SURPLUS EDUCATIONAL FACILITIES

"SEC. 614. (a) Notwithstanding any other provision of law, the Secretary of the Interior through the Bureau of Indian Affairs shall make available surplus Indian educational facilities to tribal organizations, and nonprofit organizations with tribal approval, for use as multipurpose senior centers. Such centers may be altered so as to provide extended care facilities, community center facilities, nutrition services, child care services, and other supportive services.

"(b) Each eligible tribal organization desiring to take advantage of such surplus facilities shall submit an application to the Secretary of the Interior at such time and in such manner, and containing or accompanied by such information, as the Secretary of the Interior determines to be necessary to carry out the provisions of this section.

"PART B—HAWAIIAN NATIVES PROGRAM

"ELIGIBILITY

"SEC. 621. A public or nonprofit private organization having the capacity to provide services under this part for Hawaiian Natives is eligible for assistance under this part only if—

"(1) the organization will serve at least 50 individuals who have attained 60 years of age or older; and

"(2) the organization demonstrates the ability to deliver supportive services, including nutrition services.

"GRANTS AUTHORIZED

"SEC. 622. The Commissioner may make grants to public and nonprofit private organizations to pay all of the costs for the delivery of supportive services and nutrition services to older Hawaiian Natives.

"APPLICATION

"SEC. 623. (a) No grant may be made under this part unless the public or nonprofit private organization submits an application to the Commissioner which meets such criteria as the Commissioner may by regulation prescribe. Each such application shall—

"(1) provide that the organization will evaluate the need for supportive and nutrition services among older Hawaiian Natives to be represented by the organization;

"(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

"(3) provide assurances that the organization will coordinate its activities with the State agency on aging;

"(4) provide that the organization will make such reports in such form and containing such information as the Commissioner may reasonably require, and comply with such requirements as the Commissioner may impose to ensure the correctness of such reports;

"(5) provide for periodic evaluation of activities and projects carried out under the application;

"(6) establish objectives, consistent with the purpose of this title, toward which activities described in the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the organization proposes to overcome such obstacles;

"(7) provide for establishing and maintaining information and referral services to assure that older Hawaiian Natives to be served by the assistance made available under this part will have reasonably convenient access to such services;

"(8) provide a preference for Hawaiian Natives age 60 and older for full or part-time staff positions wherever feasible;

"(9) provide that any legal or ombudsman services made available to older Hawaiian Natives represented by the nonprofit private organization will be substantially in compliance with the provisions of title III relating to the furnishing and similar services; and

"(10) provide satisfactory assurances that the fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the nonprofit private organization, including any funds paid by the organization to a recipient of a grant or contract.

"(b) The Commissioner shall approve any application which complies with the provisions of subsection (a).

"(c) Whenever the Commissioner determines not to approve an application submitted under subsection (a) the Commissioner shall—

"(1) state objections in writing to the nonprofit private organization within 60 days after such decision;

"(2) provide to the extent practicable technical assistance to the nonprofit private organization to overcome such stated objections; and

"(3) provide the organization with a hearing under such rules and regulations as the Commissioner may prescribe.

"(d) Whenever the Commissioner approves an application of a nonprofit private or public organization under this part funds shall be awarded for not less than 12 months.

"DEFINITION

"SEC. 624. For the purpose of this part, the term 'Hawaiian Native' means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.

"PART C—GENERAL PROVISIONS

"ADMINISTRATION

"SEC. 631. In establishing regulations for the purpose of part A the Commissioner shall consult with the Secretary of the Interior.

"PAYMENTS

"SEC. 632. Payments may be made under this title (after necessary adjustments, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement in such

installments and on such conditions, as the Commissioner may determine.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 633. (a) There are authorized to be appropriated $13,000,000 for the fiscal year 1988, $15,600,000 for the fiscal year 1989, $18,720,000 for the fiscal year 1990, $22,464,000 for the fiscal year 1991, and $26,956,800 for the fiscal year 1992 to carry out the provisions of this title other than section 614.

"(b) Whenever the amount appropriated for subsection (a) is equal to or more than 110 percent of the amount appropriated for this title in fiscal year 1987, not more than 10 percent of the amount appropriated for such fiscal year shall be available for part B.".

PART F—MISCELLANEOUS AND TECHNICAL AMENDMENTS

PERSONAL HEALTH EDUCATION AND TRAINING PROGRAMS

SEC. 181. Section 706(a) of the Act is amended to read as follows:

"(a) There are authorized to be appropriated to carry out this title, such sums as may be necessary for each of the fiscal years 1988 through 1992.".

TECHNICAL AMENDMENTS

SEC. 182. (a) Section 102(1) of the Act (42 U.S.C. 3002(1)) is amended by striking "other than for purposes of title V" and inserting "except that for purposes of title V such term means the Secretary of Labor".

(b)(1) Section 102 of the Act (42 U.S.C. 3002) is amended—

(A) in paragraph (3)—

(i) by striking "includes" and inserting "means any of the several States,", and

(ii) by striking "Puerto Rico" and inserting "the Commonwealth of Puerto Rico", and

(B) by adding at the end the following:

"(8) The term 'Trust Territory of the Pacific Islands' includes the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.".

(2) Section 302 of the Act (42 U.S.C. 3022), as amended by section 135(a), is amended—

(A) by striking paragraph (6), and

(B) by redesignating paragraphs (7) through (20) as paragraphs (6) through (19), respectively.

(3) Section 506(a)(4)(A) of the Act (42 U.S.C. 3056d(a)(4)(A)) is amended by striking "Puerto Rico" and inserting "the Commonwealth of Puerto Rico".

(4) Section 507 of the Act (42 U.S.C. 3056e) is amended—

(A) by striking paragraph (1), and

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(c) Section 201(a) of the Act (42 U.S.C. 3011(a)) is amended by striking "his functions" and inserting "the functions of the Commissioner".

(d) Section 204(d)(3) of the Act (42 U.S.C. 3015(d)(3)) is amended by inserting "to" after "Secretary,".

(e)(1) Section 302 of the Act (42 U.S.C. 3022), as amended by subsection (b)(2) and sections 135 and 143, is amended by adding at the end the following:

"(23) The term 'greatest economic need' means the need resulting from an income level at or below the poverty levels established by the Office of Management and Budget.

"(24) The term 'greatest social need' means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, and cultural, social, or geographical isolation including that caused by racial or ethnic status which restricts an individual's ability to perform normal daily tasks or which threatens such individual's capacity to live independently.".

(2) Section 305(d) of the Act (42 U.S.C. 3025(d)) is amended—

(A) by striking "(d)(1)" and inserting "(d)", and

(B) by striking paragraph (2).

(3) Section 306(a) of the Act (42 U.S.C. 3026(a)) is amended by striking the last sentence.

(f) Section 304(c) of the Act is amended to read as follows:

"(c) The provisions of section 307(d) shall apply to a State's failure to qualify under the State planning requirements of section 307.".

(g) Section 304(d)(1) of the Act (42 U.S.C. 3024(d)(1)) is amended in the matter preceding subparagraph (A) by inserting a comma after "section 308(b)".

(h) Section 305(a)(1)(E) of the Act (42 U.S.C. 3025(a)(1)(E)) is amended by striking "legal services" and inserting "legal assistance".

(i) Section 305(a)(2)(C) of the Act (42 U.S.C. 3025(a)(2)(C)) is amended by inserting "in accordance with subsection (d)" before the semicolon at the end.

(j) Section 306(a)(5)(B) of the Act (42 U.S.C. 3016(a)(5)(B)) is amended by inserting "and" at the end.

(k) Section 306(a)(6)(G) of the Act (42 U.S.C. 3026(a)(6)(G)), as amended by section 137(b), is amended by striking "and" at the end.

(l) Section 307(a) of the Act (42 U.S.C. 3027(a)) is amended—

(1) by striking "Each such plan shall—" and inserting "Each such plan shall comply with all of the following requirements:",

(2) in paragraph (1)—

(A) by inserting "The plan shall" after "(1)", and

(B) by striking the semicolon at the end and inserting a period,

(3) in paragraph (2)—

(A) by inserting "The plan shall" after "(2)", and

(B) by striking the semicolon at the end and inserting a period,

(4) in paragraph (3)—

(A) in subparagraph (A) by inserting "The plan shall" after "(3)(A)", and

(B) in subparagraph (B)—

(i) by inserting "The plan shall" after "(B)", and

(ii) by striking the semicolon at the end and inserting a period,

(5) in paragraph (4)—

(A) by inserting "The plan shall" after "(4)", and

(B) by striking the semicolon at the end and inserting a period,

(6) in paragraph (5)—

(A) by inserting "The plan shall" after "(5)", and

(B) by striking the semicolon at the end and inserting a period,

(7) in paragraph (6)—

(A) by inserting "The plan shall" after "(6)", and

(B) by striking the semicolon at the end and inserting a period,

(8) in paragraph (7)—

(A) by inserting "The plan shall" after "(7)", and

(B) by striking the semicolon at the end and inserting a period,

(9) in paragraph (8)—

(A) by inserting "The plan shall" after "(8)", and

(B) by striking the semicolon at the end and inserting a period,

(10) in paragraph (9)—

(A) by inserting "The plan shall" after "(9)", and

(B) by striking the semicolon at the end and inserting a period,

(11) in paragraph (10)—

(A) by inserting "The plan shall" after "(10)", and

(B) by striking the semicolon at the end and inserting a period,

(12) in paragraph (11)—

(A) by inserting "The plan shall" after "(11)", and

(B) by striking the semicolon at the end and inserting a period,

(13) in paragraph (13)—

(A) by inserting "The plan shall" after "(13)", and

(B) in subparagraph (I) by striking the semicolon at the end and inserting a period,

(14) in paragraph (14)—

(A) by inserting "The plan shall" after "(14)", and

(B) in subparagraph (E) by striking the semicolon at the end and inserting a period,

(15) in paragraph (15) by inserting "The plan shall" after "(15)",

(16) in paragraph (16)—

(A) by inserting "The plan shall" after "(16)", and

(B) in subparagraph (C) by striking the semicolon at the end and inserting a period,

(17) in paragraph (17)—

(A) by inserting "The plan shall" after "(17)", and

(B) by striking the semicolon at the end and inserting a period,

(18) in paragraph (18)—

(A) by inserting "The plan shall" after "(18)", and

(B) by striking the semicolon at the end and inserting a period,

(19) in paragraph (19)—

(A) by inserting "The plan shall" after "(19)", and

(B) by striking the semicolon at the end and inserting a period,

(20) in paragraph (20)—

(A) by inserting "The plan shall" after "(20)", and

(B) in subparagraph (B)(ii) by striking "; and" at the end and inserting a period, and

(21) in paragraph (21)—

(A) by inserting "The plan shall" after "(21)", and

(B) by striking "an amount equal to an amount".

(m) Section 308(b) of the Act (42 U.S.C. 3028(b)) is amended—

(1) by striking "(b)(1)(A)" and inserting "(b)(1)",

(2) in paragraph (1)—

(A) by striking "(i)" and inserting "(A)", and

(B) by striking "(ii)" the second place it appears and inserting "(B)",

(3) in paragraph (2)—

(A) by striking "(2)(A)" and inserting "(2)",

(B) by striking "(i)" and inserting "(A)", and

(C) by striking "(ii)" the second place it appears and inserting "(B)",

(4) in paragraph (3)(C) by striking "he" and inserting "the Commissioner",

(5) in subparagraphs (A) and (B) of paragraph (5) by striking "appropriated" each place it appears and inserting "allotted", and

(6) in paragraph (5)(B) beginning with the dash strike out all through the period and insert in lieu thereof: "not more than 30 per-

cent of the funds allotted for any fiscal year.".

(n) Section 321(a)(10) of the Act is amended by inserting "for" after "advocate".

(o) Section 337 of the Act (42 U.S.C. 3030g) is amended by striking "Association of Area Agencies on Aging" and inserting "National Association of Area Agencies on Aging".

(p) Section 507(2) of the Act is amended by striking out "the Bureau of Labor Statistics" and inserting in lieu thereof "the Office of Management and Budget".

PART G—CONSUMER PRICE INDEX FOR OLDER AMERICANS

INDEX AUTHORIZED

SEC. 191. The Secretary of Labor shall, through the Bureau of Labor Statistics, develop, from existing data sources, a reweighted index of consumer prices which reflects the expenditures for consumption by retired Americans aged 62 and over. The Secretary shall furnish to the Congress the index within 180 days after the date of enactment of this Act. The Secretary shall include with the index furnished a report which explains the characteristics of the reweighted index, the research necessary to develop and measure accurately the rate of inflation affecting older Americans, and provides estimates of time and cost required for additional activities necessary to carry out the objectives of this section.

TITLE II—1991 WHITE HOUSE CONFERENCE ON AGING

WHITE HOUSE CONFERENCE AUTHORIZED

SEC. 201. (a) FINDINGS.—The Congress finds that—

(1) the number of individuals 55 years of age or older was approximately 51,400,000 in 1986, and will, by the year 2040, be approximately 101,700,000;

(2) more than 1 of every 6 persons age 55 or older will be hospitalized during the next year;

(3) persons 55 years of age or older have a higher average out-of-pocket medical cost burden than younger persons; approximately 17 percent of individuals age 55 to 64 experience out-of-pocket costs in excess of 20 percent of their family income and the average per capita out-of-pocket cost of persons 65 years of age or older is expected to equal 18.5 percent of income by 1991;

(4) there is a great need to ensure access and the quality of affordable health care to all older individuals;

(5) the need for a comprehensive and responsive long-term care delivery system is great;

(6) the availability and cost of suitable housing, together with suitable services needed for independent or semi-independent living, still cause concern to older individuals;

(7) the ability to lead an independent or semi-independent life is contingent, in many cases, upon the availability of a comprehensive and effective social service system for older individuals;

(8) the availability and access to opportunities for continued productivity and employment is of great importance to middle-aged and older individuals who want or need to work;

(9) the fulfillment, dignity, and satisfaction of retirees still depend on the continuing development of a consistent national retirement policy;

(10) there is a continuing need to maintain and preserve the national policy with respect to increasing, coordinating, and expediting biomedical and other appropriate research directed at determining the causes and effects of the aging process;

(11) false stereotypes about aging and the process of aging continue to be prevalent throughout the United States and policies should be nurtured to overcome such stereotypes; and

(12) the talents and experience of older individuals represent a valuable community resource which should be developed and more widely shared within the local community.

(b) POLICY.—It is the policy of the Congress that—

(1) the Federal Government should work jointly with the States and their citizens to develop recommendations and plans for action to meet the challenges and needs of older individuals, consistent with the objectives of this section; and

(2) in developing programs for the aging pursuant to this section emphasis should be directed toward individual, private, and public initiatives and resources intended to enhance the economic security and self-sufficiency of elder Americans.

AUTHORIZATION OF THE CONFERENCE

SEC. 202. (a) AUTHORITY TO CALL CONFERENCE.—The President may call a White House Conference on Aging in 1991 in order to develop recommendations for additional research and action in the field of aging which will further the policy set forth in subsection (b).

(b) PLANNING AND DIRECTION.—The Conference shall be planned and conducted under the direction of the Secretary in cooperation with the Commissioner on Aging and the Director of the National Institute on Aging, and the heads of such other Federal departments and agencies as are appropriate. Such assistance may include the assignment of personnel.

(c) PURPOSE OF THE CONFERENCE.—The purpose of the Conference shall be—

(1) to increase the public awareness of the essential contributions of older individuals to society;

(2) to identify the problems of the older individuals;

(3) to develop recommendations for the coordination of Federal policy with State and local needs and the implementation of such recommendations;

(4) to examine the well-being of older individuals;

(5) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and improving the well-being of older individuals; and

(6) to review the status of recommendations adopted at previous White House Conferences on Aging.

(d) CONFERENCE PARTICIPANTS AND DELEGATES.—

(1) PARTICIPANTS.—In order to carry out the purposes of this section, the Conference shall bring together—

(A) representatives of Federal, State, and local governments;

(B) professional and lay people who are working in the field of aging; and

(C) representatives of the general public, particularly older individuals.

(2) SELECTION OF DELEGATES.—The delegates shall be selected without regard to political affiliation or past partisan activity and shall, to the best of the appointing authority's ability, be representative of the spectrum of thought in the field of aging.

CONFERENCE ADMINISTRATION

SEC. 203. (a) ADMINISTRATION.—In administering this section, the Secretary shall—

(1) request the cooperation and assistance of the heads of such other Federal departments and agencies as may be appropriate in the carrying out of this section;

(2) furnish all reasonable assistance, including financial assistance, to State agencies on the aging and to area agencies on the aging, and to other appropriate organizations, to enable them to organize and conduct conferences in conjunction with the Conference;

(3) prepare and make available for public comment a proposed agenda for the Conference which will reflect to the greatest extent possible the major issues facing older individuals consistent with the provisions of subsection (a);

(4) prepare and make available background materials for the use of delegates to the Conference which the Secretary deems necessary; and

(5) engage such additional personnel as may be necessary to carry out the provisions of this section without regard to provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) DUTIES.—The Secretary shall, in carrying out the Secretary's responsibilities and functions under this section, assure that—

(1) the conferences under subsection (a)(2) will—

(A) include a conference on older Indians to identify conditions that adversely affect older Indians, to propose solutions to ameliorate such conditions, and to provide for the exchange of information relating to the delivery of services to older Indians, and

(B) be so conducted as to assure broad participation of older individuals;

(2) the proposed agenda for the Conference under subsection (a)(3) is published in the Federal Register not less than 180 days before the beginning of the Conference and the proposed agenda is open for public comment for a period of not less than 60 days;

(3) the final agenda for the Conference under subsection (a)(3), taking into consideration the comments received under paragraph (2), is published in the Federal Register and transmitted to the chief executive officers of the States not later than 30 days after the close of the public comment period provided for under paragraph (2);

(4) the personnel engaged under subsection (a)(5) shall be fairly balanced in terms of points of views represented and shall be appointed without regard to political affiliation or previous partisan activities;

(5) the recommendations of the Conference are not inappropriately influenced by any appointing authority or by any special interest, but will instead be the result of the independent judgment of the Conference; and

(6) current and adequate statistical data, including decennial census data, and other information on the well-being of older individuals in the United States are readily available, in advance of the Conference, to the delegates of the Conference, together with such information as may be necessary to evaluate Federal programs and policies relating to aging. In carrying out this subparagraph, the Secretary is authorized to make grants to, and enter into cooperative agreements with, public agencies and nonprofit private organizations.

CONFERENCE COMMITTEES

SEC. 204. (a) ADVISORY COMMITTEE.—The Secretary shall establish an advisory committee to the Conference which shall include representation from the Federal Council on

Aging and other public agencies and private nonprofit organizations as appropriate.

(b) OTHER COMMITTEES.—The Secretary may establish such other committees, including technical committees, as may be necessary to assist in the planning, conducting, and reviewing the Conference.

(c) COMPOSITION OF COMMITTEES.—Each such committee shall be composed of professionals and public members, and shall include individuals from low-income families and from minority groups. A majority of the public members of each such committee shall be 55 years of age or older.

(d) COMPENSATION.—Appointed members of any such committee (other than any officers of employees of the Federal Government), while attending conferences or meetings of the committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not to exceed the daily prescribed rate for GS-18 under section 5332 of title 5, United States Code (including travel time). While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of such title for persons employed intermittently in Federal Government service.

REPORT OF THE CONFERENCE

SEC. 205. (a) PROPOSED REPORT.—A proposed report of the Conference, which shall include a statement of comprehensive coherent national policy on aging together with recommendations for the implementation of the policy, shall be published and submitted to the chief executive officers of the States not later than 60 days following the date on which the Conference is adjourned. The findings and recommendations included in the published proposed report shall be immediately available to the public.

(b) RESPONSE TO PROPOSED REPORT.—The chief executive officers of the States, after reviewing and soliciting recommendations and comments on the report of the Conference, shall submit to the Secretary, not later than 180 days after receiving the report, their views and findings on the recommendations of the Conference.

(c) FINAL REPORT.—The Secretary shall, after reviewing the views and recommendations of the chief executive officers of the States, prepare a final report of the Conference, which shall include a compilation of the actions of the chief executive officers of the States and take into consideration the views and findings of such officers.

(d) RECOMMENDATIONS OF SECRETARY.—The Secretary shall, within 90 days after submission of the views of the chief executive officers of the States, publish and transmit to the President and to the Congress recommendations for the administrative action and the legislation necessary to implement the recommendations contained within the report.

DEFINITIONS

SEC. 206. For the purposes of this title—

(1) the term "area agency on aging" means the agency designated under section 305(a)(2)(A) of the Act;

(2) the term "State agency on aging" means the State agency designated under section 305(a)(1) of the Act;

(3) the term "Secretary" means the Secretary of Health and Human Services;

(4) the term "Conference" means the White House Conference on Aging authorized in subsection (b); and

(5) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands.

AUTHORIZATION OF APPROPRIATIONS

SEC. 207. (a) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary, for each of the fiscal years 1989, 1990, and 1991, to carry out this section. Sums appropriated under this paragraph shall remain available until the expiration of the 1-year period beginning on the date the Conference is adjourned. New spending authority or authority to enter into contracts as provided in this section shall be effective only to the extent and in such amounts as are provided in advance in appropriations Acts.

(b) RETURN OF UNEXPENDED FUNDS.—Any funds remaining upon the expiration of such 1-year period shall be returned to the Treasury of the United States and credited as miscellaneous receipts.

TITLE III—ALZHEIMER'S DISEASE RESEARCH

REQUIREMENT FOR CLINICAL TRIALS

SEC. 301. (a) GENERAL AUTHORITY.—(1) The Director of the National Institute on Aging shall provide for the conduct of clinical trials on the efficacy of the use of such promising therapeutic agents as have been or may be discovered and recommended for further scientific analysis by the National Institute on Aging and the Food and Drug Administration, like tetrahydroaminoacridine, to treat individuals with Alzheimer's disease, to retard the progression of symptoms of Alzheimer's disease, or to improve the functioning of individuals with such disease.

(2) Nothing in this title shall be construed to affect adversely any research being conducted as of the date of enactment of this Act.

(b) RULES FOR CONDUCT OF CLINICAL TRIALS.—The clinical trials required by subsection (a) shall be conducted for a period beginning on such date as the Director of the National Institute on Aging considers appropriate and ending on—

(1) September 30, 1990; or

(2) such date as such Director determines that such trials have provided sufficient data to determine the efficacy of the use of such drugs to treat individuals with Alzheimer's disease, to retard the progression of symptoms of Alzheimer's disease, or to improve the functioning of individuals with such disease,

whichever is earlier.

AUTHORIZATION OF APPROPRIATIONS

SEC. 302. There are authorized to be appropriated $2,000,000 for each of the fiscal years 1988, 1989, and 1990 to carry out this title.

TITLE IV—NATIONAL SCHOOL LUNCH ACT AMENDMENT

PARTICIPATION OF OLDER PERSONS AND CHRONICALLY IMPAIRED DISABLED PERSONS IN CHILD CARE FOOD PROGRAM

SEC. 401. Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended by adding at the end the following:

"(p)(1) For purposes of this section, adult day care centers shall be considered eligible institutions for reimbursement for meals or supplements served to persons 60 years of age or older or to chronically impaired disabled persons, including victims of Alzheimer's disease or other neurological and organic brain disorders of the Alzheimer's type. Reimbursement provided to such institutions for such purposes shall supplement, not supplant, funds provided for such purposes on the effective date of this subsection, unless the quality of meals or level of services provided is improved through participation in the program.

"(2) For purposes of this subsection—

"(A) the term 'adult day care center' means any public agency or private nonprofit organization, or any proprietary title XIX or title XX center, which—

"(i) is licensed or approved by Federal, State, or local authorities to provide adult day care services to chronically impaired disabled adults or persons 60 years of age or older in a group setting outside their homes on a less than 24-hour basis; and

"(ii) provides for such care and services directly or under arrangements made by the agency or organization whereby the agency or organization maintains professional management responsibility for all such services; and

"(B) the term 'proprietary title XIX or title XX center' means any private, for-profit center providing adult day care services for which it receives compensation from amounts granted to the States under title XIX or XX of the Social Security Act and which title XIX or title XX beneficiaries were not less than 25 per cent of enrolled eligible participants in a calendar month preceding initial application or annual reapplication for program participation.

"(3)(A) The Secretary of Agriculture, in consultation with the Commissioner on Aging, may establish separate guidelines for reimbursement of institutions described in this subsection.

"(B) The guidelines shall contain provisions designed to assure that reimbursement under this subsection shall not duplicate reimbursement under part C of title III of the Older Americans Act of 1965, for the same meal served.".

TITLE V—NATIVE AMERICAN PROGRAMS

SHORT TITLE

SEC. 501. This title may be cited as the "Native American Programs Amendments Act of 1987".

REVIEW OF APPLICATIONS FOR ASSISTANCE

SEC. 502. The Native American Programs Act of 1974 (42 U.S.C. 2991-2992d) is amended—

(1) in the first sentence of section 803(a) by inserting ", on a single year or multiyear basis," after "financial assistance",

(2) by redesignating sections 813 and 814 as sections 815 and 816, respectively,

(3) by redesignating sections 806 through 812, as sections 807 through 813, respectively, and

(4) by inserting after section 805 the following new section:

"PANEL REVIEW OF APPLICATIONS FOR ASSISTANCE

"SEC. 806. (a)(1) The Secretary shall establish a formal panel review process for purposes of—

"(A) evaluating applications for financial assistance under sections 803 and 805, and

"(B) determining the relative merits of the projects for which such assistance is requested.

"(2) Members of review panels established under paragraph (1) shall be appointed by the Secretary from among individuals who are not officers or employees of the Administration for Native Americans. In making appointments to such panels, the Secretary shall give preference to American Indians, Hawaiian Natives, and Alaskan Natives.

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"(b) Each review panel established under subsection (a)(1) that reviews any application for financial assistance shall—

"(1) determine the merit of each project described in such application;

"(2) rank such application with respect to all other applications it reviews for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

"(3) submit to the Secretary a list that identifies all applications reviewed by such panel and arranges such applications according to rank determined under paragraph (2).

"(c) Upon the request of the chairman of the Select Committee on Indian Affairs of the Senate or of the chairman of the Committee on Education and Labor of the House of Representatives made with respect to any application for financial assistance under section 803 or 805, the Secretary shall transmit to the chairman written notice—

"(1) containing a copy of the list submitted to the Secretary under subsection (b)(3) in which such application is ranked;

"(2) specifying which other applications ranked in such list have been approved by the Secretary under sections 803 and 805; and

"(3) if the Secretary has not approved each application superior in merit, as indicated on such list, to the application with respect to which such notice is transmitted, containing a statement of the reasons relied upon by the Secretary for—

"(A) approving the application with respect to which such notice is transmitted; and

"(B) failing to approve each pending application that is superior in merit, as indicated on such list, to the application described in subparagraph (A).".

PROCEDURAL REQUIREMENTS

SEC. 503. (a) The Native American Programs Act of 1974 (42 U.S.C. 2991-2992d) is amended by inserting after section 813, as so redesignated by section 502, the following new section:

"ADDITIONAL REQUIREMENTS APPLICABLE TO RULE MAKING

"SEC. 814. (a) Notwithstanding subsection (a) of section 553 of title 5, United States Code, and except as otherwise provided in this section, such section 553 shall apply with respect to the establishment and general operation of any program that provides loans, grants, benefits, or contracts authorized by this title.

"(b) The exception provided in subparagraph (A) of the last sentence of section 553(b) of title 5, United States Code, shall not apply with respect to any rule (including any general statement of policy) that is—

"(1) proposed under this title;

"(2) applicable exclusively to any program, project, or activity authorized by, or carried out under, this title; or

"(3) applicable to the organization, procedure, or practice of an agency (as defined in section 551(1) of title 5, United States Code) and that would solely affect the administration of this title.

"(c) The exceptions provided by paragraphs (1) and (2) of section 553(d) of title 5, United States Code, shall not apply to any rule (or general statement of policy) that—

"(1) is issued to carry out this title;

"(2) applies exclusively to any program, project, or activity authorized by, or carried out under, this title; or

"(3) is applicable to the organization, procedure, or practice of an agency (as defined in section 551(1) of title 5, United States Code) and that will solely affect the administration of this title.

"(d) Each rule to which this section applies shall contain after each of its sections, paragraphs, or similar textual units a citation to the particular provision of statutory or other law that is the legal authority for such section, paragraph, or unit.

"(e) Except as provided in subsection (c), if as a result of the enactment of any law affecting the administration of this title it is necessary or appropriate for the Secretary to issue any rule, the Secretary shall issue such rule not later than 180 days after the date of the enactment of such law.

"(f) Whenever an agency publishes in the Federal Register a rule (including a general statement of policy) to which subsection (c) applies, such agency shall transmit a copy of such rule to the Select Committee on Indian Affairs of the Senate and to the Committee on Education and Labor of the House of Representatives.".

(b) Section 815 of the Native American Programs Act of 1974 (42 U.S.C. 2992c), as so redesignated by section 502, is amended—

(1) in paragraph (3) by striking out "and" at the end thereof,

(2) by redesignating paragraph (4) as paragraph (5), and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) the term 'rule' has the meaning given it in section 551(4) of title 5, United States Code, as amended from time to time; and".

INCLUSION OF NATIVE AMERICAN PACIFIC ISLANDERS

SEC. 504. (a) Subsection (a) of section 803 of the Native American Programs Act of 1974 (42 U.S.C. 2991b(a)) is amended by inserting the following sentence after the first sentence thereof: "The Secretary is authorized, subject to the availability of funds appropriated under the authority of section 816(c), to provide financial assistance to public and nonprofit private agencies serving Native American Pacific Islanders (including American Samoan Natives) for projects pertaining to the purposes of this Act.".

(b)(1) Section 802 of the Native American Programs Act of 1974 (42 U.S.C. 2991a) is amended by inserting ", Native American Pacific Islanders (including American Samoan Natives)," after "Hawaiian Natives".

(2) Paragraph (2) of section 806(a) of the Native American Programs Act, as added by section 502(4) of this Act, is amended by inserting "Native American Pacific Islanders (including American Samoan Natives)," after "Hawaiian Natives,".

(3) Section 808 of the Native American Programs Act of 1974 (42 U.S.C. 2991f), as redesignated by section 502, is amended by inserting "or Territory" after "State" each place it appears.

AUTHORIZATION OF APPROPRIATIONS

SEC. 505. Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d(a)), as redesignated by section 502 of this Act, is amended—

(1) by striking out "1979 through 1986" in subsection (a) and inserting in lieu thereof "1987, 1988, 1989, 1990, and 1991", and

(2) by adding at the end thereof the following new subsection:

"(c) There are authorized to be appropriated $500,000 for each of the fiscal years 1987, 1988, 1989, 1990, and 1991 for the purpose of providing financial assistance to Native American Pacific Islanders (including American Samoan Natives) under section 803(a).".

REVOLVING LOAN FUND FOR NATIVE HAWAIIANS

SEC. 506. The Native American Programs Act of 1974 (42 U.S.C. 2991) is amended by inserting immediately after section 803 the following new section:

"LOAN FUND; DEMONSTRATION PROJECT

"SEC. 803A. (a)(1) In order to provide funding that is not available from private sources, the Secretary, acting through an appropriate State agency, or a community-based Native Hawaiian organization whose purpose is economic and social self-sufficiency, shall establish and carry out, in the State of Hawaii, a 60-month demonstration project involving the establishment of a revolving loan fund—

"(A) from which the Secretary, acting through such agency or community-based Native Hawaiian organization, shall make loans to Native Hawaiian organizations and to individual Native Hawaiians for the purpose of promoting economic development,

"(B) into which all payments, interest, charges, and other amounts collected from loans made under subparagraph (A) shall, notwithstanding any other provision of law, be deposited.

"(2) The Secretary may make loans under paragraph (1)(A) only if the Secretary determines that—

"(A) the borrower is unable to obtain financing from other sources on reasonable terms and conditions, and

"(B) there is a reasonable prospect that the borrower will be able to repay the loan.

"(3)(A) Loans made under paragraph (1)(A) shall be—

"(i) for a term that does not exceed 5 years, and

"(ii) at a rate of interest determined by the Secretary of the Treasury on the basis of the market yield on municipal bonds at the time the loan is made.

"(B) Notwithstanding subparagraph (A)(ii), the rate of interest on loans made under paragraph (1)(A) shall not exceed the average yield on marketable obligations of the United States of comparable maturity that are outstanding at the time the loan is made.

"(4) The Secretary is authorized to require any borrower of a loan under paragraph (1)(A) to provide such collateral as the Secretary determines to be necessary to secure the loan.

"(5)(A) The Secretary may cancel, adjust, compromise, or reduce the amount of any loan made under paragraph (1)(A), or release or subordinate any collateral securing payment of such amount, if the Secretary determines that—

"(i) such amount is uncollectable or collectable only at an unreasonable cost, or

"(ii) such action would be in the best interests of the United States.

"(6) The Secretary, out of funds available in the revolving loan fund established under paragraph (1), shall—

"(A) pay expenses incurred by the Secretary in administering the revolving loan fund, and

"(B) provide competent management and technical assistance to borrowers for loans made under paragraph (1)(A) to assist the borrower in meeting the objectives of the loan.

"(7) The Secretary, in consultation with such State agency or community-based Native Hawaiian organization, shall prescribe regulations which set forth the procedures and criteria to be used in making loans under paragraph (1)(A). The Secretary

is authorized to prescribe such other regulations as may be necessary to carry out the purposes of this subsection, including regulations involving reporting and auditing.

"(8) No loan shall be made from the fund upon the expiration of the 60-month period following the date of the enactment of this Act.

"(9)(A) Notwithstanding any other provision of this Act, there is authorized to be appropriated to the fund established pursuant to this section the sum of $3,000,000, to remain available until expended.

"(B) Moneys in the fund shall be available for expenditure by the Secretary without fiscal year limitation for the purpose of carrying out the provisions of this title.

"(10) All moneys in the fund following the termination of the demonstration project under this section, not otherwise needed, as determined by the Secretary, to carry out this section, shall be deposited in the Treasury of the United States as miscellaneous receipts. All amounts thereafter deposited in the fund pursuant to subsection (a)(1)(B) of this section following such termination shall be transferred to the Treasury as miscellaneous receipts.

"(b) On or before the expiration of the 48-month period following the date of the enactment of this section, the Secretary, in consultation with the State agency or contracting community-based Native Hawaiian organization referred to in paragraph (1) of subsection (a) of this section, shall report to the Congress concerning the administration of this section, together with the views and recommendations of the Secretary as to the effectiveness of the demonstration program, and whether it should be expanded to other groups eligible for assistance under this section, and extended.".

EFFECTIVE DATE

SEC. 507. Notwithstanding the provisions of section 401 of this Act, the amendment made by section 506 of this Act shall take effect upon the expiration of the 90-day period following the date of the enactment of this Act.

TITLE VI—HEALTH CARE SERVICES IN THE HOME

SHORT TITLE

SEC. 601. This title may be cited as the "Health Care Services in the Home Act of 1987".

PROGRAM AUTHORIZED

SEC. 602. (a) IN GENERAL.—Part A of title XIX of the Public Health Service Act is amended by adding at the end thereof the following:

"SUBPART 2—HEALTH CARE SERVICES IN THE HOME

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 1910C. For the purpose of allotments to States to carry out the activities described in section 1910F, there are authorized to be appropriated $100,000,000 for fiscal year 1988, $100,000,000 for fiscal year 1989, and $100,000,000 for fiscal year 1990.

"ALLOTMENTS

"SEC. 1910D. (a)(1) Except as provided in paragraph (2), the Secretary shall allot to each State for each fiscal year from the amounts appropriated under section 1910C for such fiscal year an amount equal to the product of—

"(A) the population of the State, multiplied by

"(B) the relative per capita income of the State.

For purposes of subparagraph (B), the term 'relative per capita income' has the same meaning as in the last sentence of section 1913(a)(1).

"(2) Notwithstanding paragraph (1)—

"(A) the total amount of the allotment for each of the several States, the District of Columbia, and Puerto Rico for each fiscal year shall not be less than one-half of 1 percent of the total amount appropriated under section 1910C for such fiscal year;

"(B) the total amount of the allotment for each of the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands for each fiscal year shall not be less than one-fourth of 1 percent of the total amount appropriated under section 1910C for such fiscal year; and

"(C) the total amount of the allotment for each of American Samoa and the Commonwealth of the Northern Mariana Islands for each fiscal year shall not be less than one-sixteenth of 1 percent of the total amount appropriated under section 1910C for such fiscal year.

"(b) To the extent that all the funds appropriated under section 1910C for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

"(1) one or more States have not submitted an application or description of activities in accordance with section 1910G for such fiscal year;

"(2) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) some State allotments are offset or repaid under section 1906(b)(3) (as such section applies to this subpart pursuant to section 1910G(d)),

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for such fiscal year without regard to this subsection.

"(c)(1) If the Secretary—

"(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this subpart be provided directly by the Secretary to such tribe or organization, and

"(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this subpart,

the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (a) for a fiscal year the amount determined under paragraph (2).

"(2) The Secretary shall reserve for the purpose of paragraph (1) from amounts that would otherwise be allotted to such State under subsection (a) an amount equal to the amount which bears the same ratio to the State's allotment for the fiscal year involved under subsection (a) as the population of the Indian tribe or tribal organization bears to the population of the State.

"(3) The amount reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(4) In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe.

"PAYMENTS UNDER ALLOTMENTS TO STATES

"SEC. 1910E. (a) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under section 1910D (other than any amount reserved under subsection (c) of such section) from amounts appropriated for that fiscal year.

"(b) Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

"USE OF ALLOTMENTS

"SEC. 1910F. (a)(1) Except as provided in subsections (b), (c), and (d), amounts paid to a State under section 1910E from its allotment under section 1910D for any fiscal year may be used to provide health care services in the home for eligible individuals. Such amounts may be used to—

"(A) pay compensation for the services of physicians, nurses, and social workers who plan, manage or provide or arrange for the provision of, health care services in the home for eligible individuals;

"(B) identify and locate eligible individuals needing the provision of health care services in the home;

"(C) develop proper standards and quality assurance mechanisms for the provision of health care services in the home for eligible individuals;

"(D) coordinate health care services provided in the home for eligible individuals under this subpart with other supportive social services provided for such individuals;

"(E) coordinate other long-term care services provided for eligible individuals by public and private institutions and voluntary organizations in order to ensure the provision of such services and to maximize the use of funds provided under this subpart and under other Federal laws; and

"(F) provide training to health professionals (other than physicians, nurses, and social workers), particularly training for health professionals who work within hospitals to educate individuals who may benefit from the provision of health care services in the home, and training in advanced discharge planning.

"(2) A State may use amounts paid to it under section 1910E to provide health care services in the home for eligible individuals through grants to health care organizations. In making such grants, a State shall give priority to home care programs, including home care programs based in hospitals. As a condition of receipt of a grant under this paragraph, a State shall require a health care organization to use amounts provided under such grant only for the provision of health care services in the home for eligible individuals.

"(b) Of the total amount paid to a State under section 1910E for a fiscal year—

"(1) at least 85 percent of such total amount shall, in the case of fiscal year 1988, be used by the State to pay compensation under subsection (a)(1)(A);

"(2) not more than 10 percent of such total amount may, in the case of fiscal year 1988, be used by the State for activities under this subpart other than the payment of compensation under subsection (a)(1)(A); and

"(3) not more than 5 percent may, in the case of a fiscal year beginning after September 30, 1988, be used by the State for activities under this subpart other than the payment of compensation under subsection (a)(1)(A).

"(c) Not more than $2,500 per year may be used by a State, with respect to any eligible individual, to pay compensation for the

services of physicians, nurses, and social workers under subsection (a)(1)(A).

"(d) A State may not use amounts paid to it under section 1910E to—

"(1) provide inpatient services, except services involving advanced discharge planning;

"(2) make cash payments to intended recipients of services;

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) satisfy and requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds;

"(5) provide services under this subpart to an individual if the total cost to the Federal Government of providing such services would exceed the total cost of institutionalization of such individual;

"(6) provide reimbursement for services performed by any individual other than a physician, nurse, or social worker; or

"(7) provide supportive social services for which planning and management is conducted under subsection (a)(1)(D).

"(e) The Secretary, if requested by a State, shall provide technical assistance to the State in planning and operating activities to be carried out under this subpart.

"APPLICATION AND DESCRIPTION OF ACTIVITIES; REQUIREMENTS

"SEC. 1910G. (a)(1) In order to receive an allotment for a fiscal year under section 1910D, each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require.

"(2) Each application required under paragraph (1) for an allotment under section 1910D for a fiscal year shall contain assurances that the State will meet the requirements of subsection (b).

"(b) As part of the annual application required by subsection (a) for an allotment for any fiscal year, the chief executive officer of each State shall—

"(1) certify that the State agrees to use the funds allotted to it under section 1910D in accordance with the requirements of this subpart;

"(2) provide assurances that such chief executive officer will designate or establish a State agency to administer funds provided under this subpart;

"(3) certify that the State will coordinate the provision of health care services in the home with funds provided under this subpart with activities conducted to provide such services by voluntary, religious, and community organizations and local governments;

"(4) provide assurances that the State will make reasonable efforts to provide health care services in the home under this subpart through home care programs in the State, including home care programs based in hospitals; and

"(5) provide assurances that the State will, to the maximum extent feasible, provide health care services in the home under this subpart to individuals who are low income individuals and who are not receiving equivalent home health care services under the State's medicaid plan approved under title XIX of the Social Security Act.

"(c) The chief executive officer of a State shall, as part of the application required by subsection (a) for any fiscal year, also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State will receive under section 1910E for the fiscal year for which the application is submitted, including information on the programs and activities to be supported and services to be provided. The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal. The description shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this subpart, and any revision shall be subject to the requirements of the preceding sentence.

"(d) Except where inconsistent with the provisions of this subpart, the provisions of section 1903(b), section 1906(a), paragraphs (1) through (5) of section 1906(b), and sections 1907, 1908, and 1909 shall apply to this subpart in the same manner as such provisions apply to subpart 1 of this part.

"(e) Each report submitted by a State to the Secretary under section 1906(a)(1) (as such section applies to this subpart pursuant to subsection (d) of this section) shall include an analysis of the cost effectiveness of providing health care services in the home for eligible individuals under this subpart.

"EVALUATIONS

"SEC. 1910H. The Secretary shall conduct, or arrange for the conduct of, evaluations of services provided and activities carried out with payments to States under this subpart.

"DEFINITIONS

"SEC. 1910I. For purposes of this subpart—

"(1) The term 'eligible individual' means an individual who—

"(A) resides at home and is at risk of institutionalization because of medical limitations on the ability of such individual to function independently;

"(B) is a patient in a hospital who is at risk of prolonged hospitalization, and who could be cared for in a long-term care institution or who could return to the community if health care services in the home are available; or

"(C) is a patient in a skilled nursing facility or an intermediate care facility who could return to the community if health care services in the home are available.

"(2) The terms 'Indian tribe' and 'tribal organization' have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.".

(b) TECHNICAL AMENDMENTS.—Such part is further amended—

(1) by striking out the heading of such part and inserting in lieu thereof the following:

"PART A—PREVENTIVE HEALTH SERVICES, HEALTH SERVICES, AND HEALTH SERVICES IN THE HOME";

(2) by inserting after the heading of such part the following:

"Subpart 1—Preventive Health and Health Services"; and

(3) by striking out "this part" and inserting in lieu thereof "this subpart" each place it appears in sections 1902(d)(1)(A), 1902(d)(1)(B), 1904(a)(1), 1904(a)(3), 1904(b), 1905(c)(1), 1905(c)(3), 1905(c)(2), 1905(c)(4), 1905(c)(6), and 1905(d).

EFFECTIVE DATE

SEC. 603. This title and the amendments made by this title shall take effect on October 1, 1988.

TITLE VII—GENERAL PROVISIONS

EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 701. (a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on October 1, 1987.

(b) APPLICATION OF AMENDMENTS.—The amendments made by title I of this Act shall not apply with respect to—

(1) any area plan submitted under section 306(a) of the Older Americans Act of 1965, or

(2) any State plan submitted under section 307(a) of such Act,

and approved for any fiscal year beginning before the date of the enactment of this Act.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes, if we may have order.

Mr. MATSUNAGA. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. Senators will please clear the well. The Senate will be in order.

The majority leader is recognized.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, there will shortly be another rollcall vote, and I am sure that some Senators who are talking right now will ask later what is going to happen later in the day and tomorrow.

May we have order, so that we might answer the question once?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, it is my understanding that the conferees on the debt limit extension are making progress. They are continuing to work.

As I have indicated all along, the Senate might have to be in session on Saturday. This being late Thursday, I thought we should renew that indication, so that Senators would schedule their own daily programs accordingly.

I hope we can complete action on this debt limit by Saturday. Otherwise, there will have to be another extension, or the August break will suffer an erosion.

So I would urge all conferees to proceed as they have been doing. They are working hard. But I think that other Senators ought to know that there is a fairly good prospect that action will be taken on that debt limit, if not tomorrow, then on Saturday. I have heard that the House is putting out the same word and that there is a good indication over there that House Members might have to stay around

Saturday to vote on the debt limit extension.

Does the distinguished Republican leader have anything he wishes to add?

Mr. DOLE. I inquire of the distinguished majority leader: After the vote on the McPherson nomination, is it the intention of the majority leader to wait to see if there might be some final conference action? Are there any plans for additional votes after the next vote?

Mr. BYRD. Mr. President, I have conferred with the distinguished Senator from Texas, Mr. BENTSEN. There is no indication from him that the Senate will be acting this evening on the debt limit extension. It will go back to the House first. There are still some problems to be resolved in the conference; and I think it would be well, inasmuch as there are no more rollcall votes today, to free the conferees to talk among themselves.

I thank all Senators for their patience and courtesy. I thought this might be the best opportunity, while we had a great number of Senators on the floor, to renew to them the indications that there very likely will be a Saturday session. If it requires a Saturday session to complete action on the debt limit extension, there will be a Saturday session; and if it means that we will have to be in session on Monday in order to complete it and then go out for the break, there will be a Monday session.

I hope we will be able to continue on tomorrow to do the business of the Senate and make progress. We have made considerable progress in the last day or so, perhaps to the surprise of some Senators. I think there were over 20 bills passed yesterday, and these have taken a good many hours and days on the part of our floor staffs.

The next rollcall vote will be on the nomination of Mr. McPherson, and that will be the last rollcall vote today.

The Senate will come in at 8 o'clock a.m. for morning business, and Senators who have morning business can be ready early to make their speeches and transact morning business.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to vote on the nomination of M. Peter McPherson.

The clerk will report the nomination.

DEPARTMENT OF THE TREASURY

The assistant legislative clerk read the nomination of M. Peter McPherson, of Virginia, to be Deputy Secretary of the Treasury.

Mr. BENTSEN. Mr. President, I rise in support of the nomination of Peter McPherson to be Deputy Secretary of the Treasury.

Let me report to the Senate the procedures taken by the Committee on Finance to report this nomination to the full Senate.

First, Mr. McPherson was appointed on April 22 of this year. The appointment would fill a vacancy created by the April 10 resignation of Richard Darman.

Following receipt of the nominee's answers to our standard committee questionnaire, the committee held a hearing on the nomination on May 20. Following that hearing, the nominee provided responses to written questons submitted by several committee members.

On June 16, the committee met off the Senate floor following a rollcall vote, and approved the nomination by voice vote. However, a request for unanimous consent to authorize that afternoon meeting was denied.

Accordingly, the nomination was returned to the committee for further action. In a morning session on Wednesday, August 5, the committee again approved the nomination by voice vote. This meeting took place in the morning, prior to the beginning of the Senate session; accordingly, this action of the committee is fully authorized by the rules of the Senate.

Mr. President, Secretary Baker has had to operate without a deputy for almost 4 months. Mr. McPherson is a qualified nominee with a long history of valuable public service, and I urge the Senate to confirm his nomination so that he can begin his work in this important position.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of M. Peter McPherson, of Virginia, to be Deputy Secretary of the Treasury? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

The PRESIDING OFFICER (Mr. REID). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 2, as follows:

[Rollcall Vote No. 230 Ex.]

YEAS—95

Adams	Boren	Chiles
Armstrong	Boschwitz	Cochran
Baucus	Breaux	Cohen
Bentsen	Bumpers	Conrad
Biden	Burdick	Cranston
Bingaman	Byrd	D'Amato
Bond	Chafee	Danforth
Daschle	Karnes	Pryor
DeConcini	Kassebaum	Quayle
Dixon	Kasten	Reid
Dodd	Kennedy	Riegle
Dole	Kerry	Rockefeller
Domenici	Lautenberg	Roth
Durenberger	Leahy	Rudman
Evans	Levin	Sanford
Exon	Lugar	Sarbanes
Ford	Matsunaga	Sasser
Fowler	McCain	Shelby
Garn	McClure	Simpson
Glenn	McConnell	Specter
Graham	Melcher	Stafford
Gramm	Metzenbaum	Stennis
Grassley	Mikulski	Stevens
Harkin	Mitchell	Symms
Hatch	Moynihan	Thurmond
Hecht	Murkowski	Trible
Heflin	Nickles	Wallop
Heinz	Nunn	Warner
Hollings	Packwood	Weicker
Humphrey	Pell	Wilson
Inouye	Pressler	Wirth
Johnston	Proxmire	

NAYS—2

Bradley	Helms

NOT VOTING—3

Gore	Hatfield	Simon

So the nomination was confirmed.

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

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

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

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

NOMINATION OF MELISSA WELLS

Mr. BYRD. Mr. President, if the Chair will indulge me momentarily.

Mr. President, while the Senate is in executive session, I have discussed with the distinguished Senator from North Carolina [Mr. HELMS] the cloture motion that I want to send to the desk on the nomination of Melissa Wells.

I do not want the vote on this cloture motion until the day the Senate returns following the holiday.

I think there may be a good chance that the Senate will still be in session Saturday on the debt limit extension. I would not want to vote on the cloture motion on Saturday. But if the Senate completes its business tomorrow on the debt limit and we go out, the Senate would then be in position to vote on the cloture motion when we return, and the distinguished Senator from North Carolina has very kindly and graciously suggested that I ask unanimous consent that the vote occur on Wednesday when the Senate comes back following the recess; if the Senate is indeed in session on this coming Saturday, that vote would not occur on this Saturday.

I thank the able Senator, Mr. HELMS, for his courtesy in that regard.

So, Mr. President, before I send a cloture motion to the desk, I ask unanimous consent that the vote on the cloture motion occur on the first day of the return of the Senate following the recess.

Mr. President, I ask unanimous consent that even though the Senate is not presently on the nomination of Melissa Wells, I be permitted to offer the cloture motion thereon notwithstanding, and that notwithstanding the requirements of rule XXII, the vote occur on the first day of the return of the Senate following the break. It will occur on that day in the event the Senate is not in this Saturday. But if the Senate is in Saturday in any event, then rule XXII would be waived to that extent and that the Senate would not vote on the cloture motion until Wednesday, September 9.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator from North Carolina, Mr. HELMS.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The clerk will report the cloture motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Melissa Foelsch Wells, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Mozambique.

Senators Wyche Fowler, Jr., Tom Daschle, Dennis DeConcini, David Boren, Frank Lautenberg, Jeff Bingaman, Howard M. Metzenbaum, Timothy Wirth, Wendell Ford, Christopher Dodd, Spark Matsunaga, Jim Sasser, J.J. Exon, John F. Kerry, Kent Conrad, and Claiborne Pell.

Mr. BYRD. Mr. President, again I thank the able Senator from North Carolina, Mr. HELMS.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I should ask the distinguished Republican leader if he would feel that overnight it might be possible to call upon tomorrow the prompt payment bill, the State Department authorization bill, and the catastrophic illness bill.

Mr. DOLE. If the majority leader will yield, as I understand there is one holdout on this side on prompt payment. Everything else has been resolved. As the majority leader knows, earlier there was a suggestion that that Senator would agree that it be brought upon September 10, but as you indicated quite properly there might be 10 other things they want to bring up on September 10.

There is still some discussion going on between the Senator on your side and the Senator on my side.

The reference to the State Department authorization, I guess there is still discussion between two Senators on this side, one Senator wanting to bring the bill up, trying to urge the other Senator to remove his hold.

If that were done that could be brought up for, as I understand it, two amendments. Then it would go back on the calendar—one relating to Cuba, one relating to Panama.

I think that discussion is to take place between the Senator from New York, Senator D'AMATO, and the Senator from Utah, Senator GARN.

On the catastrophic, I just have too many. We were down to one, now it is back up to three.

Mr. BYRD. Well, I thank my colleague.

Mr. DOLE. We will do what we can to find some other business if we are going to be waiting tomorrow for the conference report, hopefully. There are probably other things that may be disposed of.

I know there is at least one AIDS bill we are trying to get some agreement on.

Mr. BYRD. I thank the Republican leader for his very conscientious and sincere efforts to be helpful. He has been helpful in securing clearance of a good many bills on yesterday and today.

I think I should say in all sobriety and seriousness to Senators who may be holding up measures thinking that by waiting until after the break that they may be able to resolve an amendment here or there, they are taking a chance. They are running a risk that the legislation will not be called up at all this year because as soon as we get back I am going to talk to the Republican leader and we are going to take a good look and decide on what measures we think this Senate can dispose of. There may be one or two or three that the distinguished Republican leader and I cannot agree on, by virtue of problems on our respectives sides, in which case we may just have to go at it and try for cloture.

I hope there will not even be bills of that kind, but if there are, that is in the normal course of things. We can expect those moments to come.

But other than those, I want to see if the Republican leader and I cannot sit down and agree that there are certain measures we are going to try to pass. Appropriation bills, for example. And some others. We will go at them and we are going to try to get those done.

If it is October, mid-October, or the end of October, or mid-November, whatever it is, that is it.

When those are done, we are going out. We are going out.

So a lot of the little bills that have been on this calendar for 2 months, 2½ months or longer, have had plenty of time to be worked out. Those bills may still be on the calendar next year when we return.

Senators who are holding up these bills run the risk of bearing the onus for not having action taken on them.

Let me ask the distinguished acting Republican leader, Mr. WILSON, if the nomination of Sherman M. Funk, of Maryland, to be inspector general, Department of State, Calendar Order No. 245, page 2 of the Executive Calendar, has been cleared.

Mr WILSON. Yes, it has, Mr. President, there is no objection on the Republican side.

DEPARTMENT OF STATE

Mr. BYRD. Mr. President, I thank the acting leader. I ask unanimous consent that the Senate proceed to the consideration of Sherman M. Funk.

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

The legislative clerk read the nomination of Sherman M. Funk, of Maryland, to be inspector general, Department of State.

The Senate proceeded to consider the nomination.

The PRESIDING OFFICER. Is there further debate on the nomination? If not, the question is on the nomination.

The nomination was confirmed.

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

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

The motion to lay on the table was agreed to.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the acting leader if the following nominees have been cleared on his side of the aisle.

The following nominations under Air Force: Calendar No. 291; on page 5, Calendar Order No. 293 and Calendar Order No. 294; and on page 7, under Navy, Calendar Order No. 303; and Calendar Order No. 303 on page 8.

On page 9, under Postal Rate Commission, Calendar Order No. 315; under Fededral Labor Relations Authority, Calendar 316; under National Science Foundation, Calendar 319; under National Council on Educational Research and Improvement, page 10, Calender Order No. 320; and under National Advisory Council on Educational Research and Improvement, Calendar Order No. 321.

Mr. WILSON. Mr. President, all of the nominations read by the majority leader have been cleared on the Republican side.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. President, I ask unanimous consent that all the nominations enumerated be considered en bloc and confirmed en bloc; a motion to reconsider be laid on the table; the President to be immediately notified that all nominations have been confirmed today; and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

IN THE AIR FORCE

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

Lt. Gen. Philip C. Gast, [redacted] FR, U.S Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Hansford T. Johnson, [redacted] FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be reassigned in his current grade to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Harry A. Goodall, [redacted] FR, U.S. Air Force.

IN THE NAVY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be vice admiral

Vice Adm. James E. Service, [redacted] 1310, U.S. Navy.

POSTAL RATE COMMISSION

John W. Crutcher, of Kansas, to be a commissioner of the Postal Rate Commission for the term expiring October 16, 1992, reappointment.

FEDERAL LABOR RELATIONS AUTHORITY

Jerry Lee Calhoun, of Washington, to be a member of the Federal Labor Relations Authority for a term of 5 years expiring July 29, 1992, reappointment.

NATIONAL SCIENCE FOUNDATION

Kenneth Leon Nordtvedt, Jr., of Montana, to be a member of the National Science Board, National Science Foundation, for the remainder of the term expiring May 10, 1990, vice Simon Ramo, resigned.

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT

James L. Usry, of New Jersey, to be a member of the National Council on Educational Research and improvement for a term expiring September 30, 1989, vice J. Floyd Hall, term expired.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT

Ruth Reeve Jenson, of Arizona, to be a member of the National Advisory Council on Educational Research and Improvement for the term expiring September 30, 1989, vice Donna Helene Hearne, resigned.

LEGISLATIVE SESSION

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

BILL INDEFINITELY POSTPONED—S. 887

Mr. BYRD. Mr. President, I ask unanimous consent that S. 887 be indefinitely postponed.

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

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the acting Republican leader, have the following Calendar Order Nos. 272, 275, 277, and 282 been cleared on the Republican side?

Mr. WILSON. Mr. President, they have been cleared.

Mr. BYRD. Mr. President, I ask unanimous consent that the calendar orders which I have read be considered en bloc and that where amendments to measures or to preambles are shown they be considered and agreed to, and that the measures be agreed to en bloc, that a motion to reconsider en bloc be laid on the table.

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

SETTLEMENT OF INDIAN LAND CLAIMS IN GAY HEAD, MA

The Senate proceeded to consider the bill (H.R. 2855) to settle Indian land claims in the town of Gay Head, MA, and for other purposes.

Mr. KENNEDY. Mr. President, I rise in support of H.R. 2855, the Wampanoag Tribal Council of Gay Head, Inc., Indian Claims Settlement Act of 1987 and ask for its immediate consideration.

This bill is the culmination of nearly 15 years of negotiation between the Wampanoag Tribal Council of Gay Head, Inc., the Town of Gay Head, the Gay Head Taxpayers Association and the Commonwealth of Massachusetts.

It will extinguish a claim brought by the Wampanoag Tribal Council in 1974, against the Town of Gay Head in Federal district court seeking to recover land in this small community on Martha's Vineyard. The claim was based on the Non-Intercourse Act, which prohibits the alienation of tribal lands without congressional consent. In an effort to avoid costly, time-consuming litigation, and alleviate the financial burdens of clouded property title on Gay Head, the parties entered into extensive negotiations which resulted in the adoption of a settlement agreement in November 1983. This legislation would carry out the terms of the agreement.

Congressman GERRY STUDDS is the sponsor of this bill and it is similar to the legislation that I introduced earlier this year with my colleague Senator KERRY. The only difference between the two bills are minor, technical amendments that were added during the markup by the House Interior and Insular Affairs Committee.

There are several unique features of this bill that deserve special recognition.

Last year, the bill that I introduced made the transfer of property contingent on the recognition of the tribe. That provision is no longer necessary because on February 4, 1987, the Secretary of Interior recognized the Wampanoag Indians of Gay Head as a tribe.

Second, this bill calls for 418 acres of land to be held in trust for the benefit and use of the tribe for housing and business enterprises. Under the agreement, the Commonwealth of Massachusetts will transfer 238 acres of public land to the tribe. The authority for the transfer of the property has already been approved by the State legislature. The remaining 180 acres of land will be purchased jointly by the Federal Government and the State of Massachusetts—each will finance one-half of the $4.5 million land cost. This bill establishes a $2.25 million Gay Head Indian Claims Settlement Fund representing the Federal share of the land purchase.

The most important reason for expeditious action on this bill is the problem of escalating land prices on Martha's Vineyard. This beautiful island off the coast of Massachusetts—longtime home to the Wampanoag Gay Head Indians—is also one of the most popular vacation spots on the east coast. The availability of affordable property on Martha's Vineyard is diminishing. Through this unique arrangement, the parties to this settlement have had access to a block of land that would accommodate the Indians' needs. But the longer we delay, the price of the land increases and we potentially jeopardize subdivision of the private property by its current owners into smaller lots for sale.

This legislation recognizes that in a time of fiscal restraint it is important for Congress to ensure that Indian land claims settlements meet certain broadly applicable standards.

The Wampanoag Tribe of Gay Head Indians has persevered to meet these standards, which include: Federal recognition of the tribe, which the Gay Head Indians achieved February 4, 1987; payment by Massachusetts of 50 percent of the settlement costs; and

documentation of the validity of the land claim, which the Gay Head Indians have produced. Furthermore, the current value of the settlement property is based on an independent appraisal.

I ask my colleagues in the Senate to act favorably and finalize this agreement which represents the final step in a long, arduous negotiation process.

It is time to conclude an issue that has finally reached an amicable resolution and allow the Wampanoag Indian Tribe of Gay Head to provide long overdue opportunities for their members.

The bill (H.R. 2855) was ordered to a third reading, read the third time, and passed.

CREATION OF "SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT"

The Senate proceeded to consider the bill (S. 1574) to combine the Senator's Clerk Hire Allowance Account and the Senator's Official Office Expense Account into a combined single account to be known as the Senators' Official Personnel and Office Expense Account, and for other purposes.

Mr. D'AMATO. Mr. President, would the chairman of the Senate Rules and Administration Committee respond to a question? In section 1(b)(1) of S. 1574, does expense category 3, "costs incurred in the preparation of required official reports, and the acquisition of mailing lists to be used for official purposes, and in the mailing, delivery, or transmitting of matters relating to official business," authorize a Member to be reimbursed for expenses incurred for any official Senate mailing which is in excess of authorized allocations that limit the amount of appropriated funds available in the appropriation—official mailing costs?

Mr. FORD. I would be happy to respond to my good friend from New York. The answer is yes! Expense category 3 could be used to reimburse the costs incurred for any official Senate mailing which is in excess of authorized allocations that limit the amount of appropriated funds available to the appropriations—official mailing costs. I would like to confirm with the ranking member of our committee, TED STEVENS, that my response is consistent with his understanding.

Mr. STEVENS. Yes! Absolutely! The whole point of this legislation consolidating office accounts is to allow Members more control and flexibility on how they can allocate the resources the Senate provide to meet their individual office needs so they can best respond to the residents in their States. The chairman's answer to my friend from New York's question is how I understood the new consolidated account could assist Members in their mailings. In fact, I had ventured that opinion in a private conversation with Senator D'AMATO. I commend the Senator from New York for bringing the question to the floor so the chairman could put to rest, on the record, any doubt that any other Senator may have on that point.

The bill was ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1574

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) effective January 1, 1988, there shall be, within the contingent fund of the Senate, a separate appropriation account to be known as the "Senators' Official Personnel and Office Expense Account" (hereinafter in this section referred to as the "Senators' Account").

(2) The Senators' Account shall be used for the funding of all items, activities, and expenses which, immediately prior to January 1, 1988, were funded under either (A) the Senate appropriation account for "Administrative, Clerical, and Legislative Assistance Allowance to Senators" (hereinafter in this section referred to as the "Senators' Clerk Hire Allowance Account") under the headings "SENATE" and "SALARIES, OFFICERS AND EMPLOYEES", or (B) that part of the account, within the contingent fund of the Senate, for "Miscellaneous Items" (hereinafter in this section referred to as the "Senators' Official Office Expense Account") which is available for allocation to Senatorial Official Office Expense Accounts. In addition, the Senators' Account shall be used for the funding of agency contributions payable with respect to compensation payable by such account, but moneys appropriated to such account for this purpose shall not be available for any other purpose. The account, which in clause (A) of the first sentence of this paragraph is identified as the "Senators' Clerk Hire Allowance Account" and the account, which in clause (B) of such sentence is identified as the "Senators' Official Office Expense Account" shall, when referred to in other law, rule, regulation, or order (whether referred to by such name or any other) shall on and after January 1, 1988, be deemed to refer to the "Senators' Official Personnel and Office Expense Account".

(3)(A) Effective on January 1, 1988, there shall be transferred to the Senators' Account from the Senators' Clerk Hire Allowance Account all funds therein which were available for expenditure or obligation during the fiscal year ending September 30, 1988, and from the Senators' Official Office Expense Account so much of the funds therein as was available for expenditure or obligation for the period commencing January 1, 1988, and ending September 30, 1988; except that the Senators' Official Office Expense Account shall remain in being solely for the purpose of being available to pay for any authorized item, activity, or expense, for which funds therein had been obligated, but not paid, prior to such transfer.

(B) Any of the funds transferred to the Senators' Account from the Senators' Clerk Hire Allowance Account pursuant to subparagraph (A) which, prior to such transfer, had been obligated, but not expended, for any authorized item, activity, or expense, shall be available to pay for such item, activity, or expense in like manner as if such transfer had not been made.

(4) On January 1, 1988, there shall be transferred to the Senators' Account, from the appropriation account for "Agency Contributions", under the headings "SENATE" and "SALARIES, OFFICERS AND EMPLOYEES", so much of the moneys in such account as was appropriated for the purpose of making agency contributions for administrative, clerical, and legislative assistance to Senators with respect to compensation payable for the period commencing January 1, 1988, and ending September 30, 1988; and the moneys so transferred shall be available only for the payment of such agency contributions with respect to such compensation.

(5) Vouchers shall not be required for the disbursement, from the Senators' Account, of salaries of employees in the office of a Senator.

(b)(1) Effective January 1, 1988, section 506(a) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)) is amended to read as follows:

"SEC. 506. (a) The contingent fund of the Senate is made available for payment to or on behalf of each Senator, upon certification of the Senator, for the following expenses incurred by the Senator and his staff:

"(1) telecommunications equipment and services subject to such regulations as may be promulgated by the Committee on Rules and Administration of the Senate;

"(2) stationery and other office supplies procured for use for official business;

"(3) reimbursement to each Senator for costs incurred in the preparation of required official reports, and the acquisition of mailing lists to be used for official purposes, and in the mailing, delivery, or transmitting of matters relating to official business;

"(4) reimbursement to each Senator for official office expenses incurred (other than for equipment and furniture and expenses described in paragraphs (1) through (3)) for an office in his home State;

"(5) reimbursements to each Senator for expenses incurred for publications printed or recorded in any way for auditory and visual use (including subscriptions to books, newspapers, magazines, clipping, and other information services);

"(6) subject to the provisions of subsection (e) of this section, reimbursement of travel expenses incurred by the Senator and employees in his office;

"(7) reimbursement to each Senator for expenses incurred for additional office equipment and services related thereto (but not including personal services), in accordance with regulations promulgated by the Committee on Rules and Administration of the Senate;

"(8) reimbursement to each Senator for charges officially incurred for recording and photographic services and products; and

"(9) reimbursement to each Senator for such other official expenses as the Senator determines to be necessary, but only (A) in the case of expenses for the period commencing January 1, 1988, and ending with the close of September 30, 1988, to the extent that such expenses do not exceed ten percent of the total amount of expenses authorized to be paid to or on behalf of such Senator under this section (excluding any amount so authorized by subsection (b)(2)(A)(iv) of this section), and (B) in the case of expenditures for periods commencing on or after October 1, 1988, to the extent such expenses do not exceed ten percent of the total amount of expenses authorized to be paid to or on behalf of such

Senator under this section (excluding any amount so authorized by subsection (b)(3)(A)(iv) of this section for the fiscal year involved).

Reimbursement to a Senator and his employees under this section shall be made only upon presentation of itemized vouchers for expenses incurred and, in the case of expenses reimbursed under paragraphs (6) and (9), only upon presentation of detailed itemized vouchers for such expenses. Vouchers presented for payment under this section shall be accompanied by such documentation as is required under regulations promulgated by the Committee on Rules and Administration of the Senate. No reimbursement shall be made under paragraph (4) or (9) for any expense incurred for entertainment or meals.".

(2) Effective January 1, 1988, section 506(b) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(b)) is amended—

(A) in paragraph (1), by striking out "Except as otherwise provided in paragraph (2) of this subsection," and inserting in lieu thereof the following: "(A) Except as is otherwise provided in the succeeding paragraphs of this subsection and subject to subparagraph (B) of this paragraph,",

(B) by redesignating paragraph (2) as subparagraph (B) of paragraph (1), and

(C) by adding at the end thereof the following new paragraphs:

"(2)(A) In the case of the period which commences January 1, 1988, and ends September 30, 1988, the total of—

"(i) the expenses paid to or on behalf of a Senator under this section for such period, plus

"(ii) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for such period (as determined for purposes of section 105(d) of the Legislative Branch Appropriation Act, 1968),

shall not exceed the aggregate of—

"(iii) subject to subparagraph (B), an amount equal to 75 percent of the amount of the authorized expenses under this section for the calendar year ending December 31, 1987, as determined in the case of a Senator, who represents the State which such Senator represents, whose term of office included all of such calendar year, plus

"(iv) the amount by which (I) the aggregate of the gross compensation which may be paid to employees in the office of such Senator for the fiscal year ending September 30, 1988, pursuant to the limitations imposed by section 105(d) of the Legislative Branch Appropriation Act, 1968 (as determined without regard to paragraph (1)(B) thereof), exceeds (II) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for that part of such fiscal year which precedes January 1, 1988.

"(B) In the event that the term of office of a Senator begins after the first month of the period which commences January 1, 1988, and ends September 30, 1988, or ends (except by reason of death, resignation, or expulsion) before the last month of such period, the amount computed pursuant to subparagraph (A)(iii) of this paragraph (but before application of this subparagraph) shall be recalculated as follows: such amount, as computed under subparagraph (A)(iii) of this paragraph, shall be divided by 9, and multiplied by the number of months in such period which are included in the Senator's term of office, counting any fraction of a month as a full month.

"(3)(A) In the case of the fiscal year beginning October 1, 1988, or any fiscal year thereafter, the total of—

"(i) the expenses paid to or on behalf of a Senator under this section for such fiscal year, plus

"(ii) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for such fiscal year (as determined for purposes of section 105(d) of the Legislative Branch Appropriation Act, 1968),

shall not exceed the aggregate of—

"(iii) subject to subparagraph (B), in case the Senator represents Alabama, $53,000, Alaska, $137,000, Arizona, $63,000, Arkansas, $54,000, California, $95,000, Colorado, $59,000, Connecticut, $44,000, Delaware, $36,000, Florida, $56,000, Georgia, $53,000, Hawaii, $156,000, Idaho, $62,000, Illinois, $71,000, Indiana, $53,000, Iowa, $55,000, Kansas, $55,000, Kentucky, $52,000, Louisiana, $56,000, Maine, $48,000, Maryland, $40,000, Massachusetts, $51,000, Michigan, $59,000, Minnesota, $56,000, Mississippi, $54,000, Missouri, $57,000, Montana, $62,000, Nebraska, $56,000, Nevada, $64,000, New Hampshire, $45,000, New Jersey, $48,000, New Mexico, $60,000, New York, $76,000, North Carolina, $50,000, North Dakota, $55,000, Ohio, $64,000, Oklahoma, $58,000, Oregon, $66,000, Pennsylvania, $63,000, Rhode Island, $43,000, South Carolina, $48,000, South Dakota, $56,000, Tennessee, $53,000, Texas, $79,000, Utah, $62,000, Vermont, $44,000, Virginia, $45,000, Washington, $68,000, West Virginia $44,000, Wisconsin, $55,000, Wyoming, $58,000, plus

"(iv) the aggregate of the gross compensation which may be paid to employees in the office of such Senator for such fiscal year, under the limitations imposed by section 105(d) of the Legislative Branch Appropriation Act, 1968, but without regard to the provisions of paragraph (1)(C)(iv) thereof.

"(B) In the event that the term of office of a Senator begins after the first month of any such fiscal year or ends (except by reason of death, resignation, or expulsion) before the last month of any such fiscal year, the amount referred to in subparagraph (A)(iii) shall be recalculated as follows: such amount, as computed under subparagraph (iii), shall be divided by 12, and multiplied by the number of months in such year which are included in the Senator's term of office, counting any fraction of a month as a full month.".

(3) Effective January 1, 1988, section 506(h) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(h)) is amended—

(A) by striking out paragraph (2) thereof and by striking out "(1)" where it appears immediately after "(h)"; and

(B) by striking out "(a)(5)" and inserting "(a)(4)".

(4) Effective January 1, 1988, subsection (e) of section 506 of such Act (2 U.S.C. 58e) is amended to read as follows:

"(e) Subject to and in accordance with regulations promulgated by the Committee on Rules and Administration of the Senate, a Senator and the employees in his office shall be reimbursed under this section for travel expenses incurred by the Senator or employee while traveling on official business within the United States. The term 'travel expenses' includes actual transportation expenses, essential travel-related expenses, and, where applicable, per diem expenses (but not in excess of actual expenses). A Senator or an employee of the Senator shall not be reimbursed for any travel expenses (other than actual transportation expenses) for any travel occurring during the sixty days immediately before the date of any primary or general election (whether regular, special, or runoff) in which the Senator is a candidate for public office (within the meaning of section 301(b) of the Federal Election Campaign Act of 1971), unless his candidacy in such election is uncontested. For purposes of this subsection and subsection (a)(6) of this section, an employee in the Office of the President pro tempore, Deputy President pro tempore, Majority Leader, Minority Leader, Majority Whip, Minority Whip, Secretary of the Conference of the Majority, or Secretary of the Conference of the Minority shall be considered to be an employee in the office of the Senator holding such office.".

(5) Effective January 1, 1988, the first sentence of subsection (j) of section 506 (2 U.S.C. 58(j)) of such Act is amended by striking out "(a)(8)" and inserting in lieu thereof "(a)(6)".

(c)(1) Effective January 1, 1988, section 105(d)(1) of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61-1(d)(1)) is amended—

(A) by striking out "The" at the beginning of paragraph (1) and inserting in lieu thereof "(A) Except as is otherwise provided in subparagraphs (B) and (C), the", and

(B) by adding at the end of paragraph (1) the following new subparagraphs:

"(B) In the case of gross compensation paid to employees in the office of a Senator for the period commencing January 1, 1988, and ending September 30, 1988, the total of—

"(i) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for such period, plus

"(ii) the expenses paid to or on behalf of such Senator under authority of section 506 of the Supplemental Appropriations Act, 1973 (as determined after application of subsection (b) of such section, but without regard to paragraph (2)(A)(iv) thereof),

shall not exceed the aggregate of—

"(iii) subject to the next sentence, the amount by which (I) the aggregate of the gross compensation which may be paid to employees in the office of such Senator for the fiscal year ending September 30, 1988, as determined under this subsection (but without regard to this subparagraph), exceeds (II) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for that part of such fiscal year which precedes January 1, 1988, plus

"(iv) the amount described in section 506(b)(2)(A)(iii) of the Supplemental Appropriations Act, 1973.

In the event that the term of office of a Senator begins after the first month of the period which commences January 1, 1988, and ends September 30, 1988, or ends (except by reason of death, resignation, or expulsion) before the last month of such period, the amount computed pursuant to clause (iii) of this subparagraph (but before application of this sentence) shall be recalculated as follows: such amount, as so computed, shall be divided by 9, and multiplied by the number of months in such period which are included in the Senator's term of office, counting any fraction of a month as a full month.

"(C) In the case of gross compensation paid to employees in the office of a Senator for the fiscal year beginning October 1, 1988, or any fiscal year thereafter, the total of—

"(i) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for such year, plus

"(ii) the expenses paid to or on behalf of such Senator under authority of section 506 of the Supplemental Appropriations Act, 1973 (as determined after application of subsection (b) of such section, but without regard to paragraph (3)(A)(ii) and (iv) thereof),

shall not exceed the aggregate of—

"(iii) the amount determined under subparagraph (A) for such year, plus

"(iv) the amount described in section 506(b)(3) of the Supplemental Appropriations Act, 1973 (as determined without regard to subparagraph (A)(ii) and (iv) thereof).".

SEC. 2. Section 110 of the Supplemental Appropriations and Rescission Act, 1981 (Public Law 97-12; 2 U.S.C. 58b) is repealed effective January 1, 1988.

SEC. 3. Subsection (b) of section 111 of the Legislative Appropriations Act, 1978 (Public Law 95-94) is repealed, effective as of the first day of the 100th Congress.

CORRECTIONS TO THE MILITARY RETIREMENT REFORM ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 277, H.R. 2974.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2974) to amend title 10, United States Code, to make technical corrections in the provisions of law enacted by the Military Retirement Reform Act of 1986.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

AMENDMENT NO. 665

(Purpose: To make a technical correction to H.R. 2974)

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Mr. NUNN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD), for Mr. NUNN, proposes an amendment numbered 665.

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

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

The amendment is as follows:

On page 3, line 9, strike out "1410(a)" and insert in lieu thereof "1410".

Mr. BYRD. Mr. President, this is a technical amendment. I urge that the Senate agree to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 665) was agreed to.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed for a third reading and the bill to be read a third time.

The bill (H.R. 2974) was read the third time and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUBLIC HEALTH SERVICE ACT INFANT MORTALITY AMENDMENTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order 282.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1441) to reduce the incidence of infant mortality.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources with an amendment:

On page 4, line 8, after "303(g)", insert "of such Act".

The PRESIDING OFFICER. The question is on agreeing to the committee-reported amendment.

The committee-reported amendment was agreed to.

AMENDMENT NO. 666

Mr. BYRD. Mr. President, I send an amendment on behalf of Mr. KENNEDY to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. KENNEDY, proposes an amendment numbered 666.

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

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

The amendment is as follows:

On page 5, line 15, insert "in areas of the Pacific Basin Region," before "and in".

On page 7, line 9, insert ", public health, or medicine" before "for the".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 666) was agreed to.

Mr. KENNEDY. Mr. President, I rise to speak on the Public Health Service Act Infant Mortality Amendments of 1987. S. 1441 was introduced in the Senate on June 26, 1987, and reported unanimously by the Committee on Labor and Human Resources on July 1, 1987. This legislation amends titles II, VII, and VIII of the Public Health Service Act, concerning migrant and community health centers, the Area Health Education Centers Program, and training of nurse practitioners and nurse midwives, and authorizes appropriation for fiscal year 1988.

That the United States ranks 17th in the world in infant mortality, behind Singapore and Hong Kong, is an embarrassment. The very large disparities in infant mortality and the incidence of low birth weight infants among subsets of our population is shameful evidence of the need for greater health care resources. Two-thirds of all infant mortality can be attributed to low birth weight. These infants are 40 times more likely to die in the first month of life and 20 times more likely to die in the first year. The relatively high incidence of low birth weight in the United States is especially deplorable because it is largely preventable. Early prenatal care can reduce the number of low birth weight infants by two-thirds. The Institute of Medicine has estimated that $3.38 can be saved in the total cost of caring for low birth weight infants for every $1 spent for prenatal care.

Community and migrant health centers have proven to be a very successful in improving access to high quality health care for many low income families and those living in rural areas. Over the past 20 years the network of centers has grown to nearly 800, caring for nearly 6 million poor and underserved Americans in 50 States, Puerto Rico, and the District of Columbia. Of those served by the community and migrant health centers, 48 percent lack any form of health insurance, over one-third are children below the age of 14, and over one-fourth are women of child-bearing age. Effective, high quality prenatal care is provided in these centers of vital importance.

S. 1441 increases the authorization for community health centers by $35 million, and for migrant health centers by $3 million, for fiscal year 1988. These additional resources are to be directed toward improving maternal and child health services. The bill also requires that fiscal year 1988 appropriations which exceed $418 million for the Community Health Centers Program shall be utilized for grants to support special perinatal coordination projects.

The bill also increases the fiscal year 1988 authorization for the Area Health Education Centers Program by $3 million and requires that, of fiscal year 1988 appropriations, $3 million shall be utilized to support programs that will train health care personnel to offer maternal and child health services in medically underserved areas. Working with Senator BENTSEN, this provision was included to utilize the existing network of AHEC programs to increase the number of health care personnel providing maternal and child health care services. Priority shall be given to programs which will train personnel for areas along the United States-Mexican border, for frontier areas and Southern States, including Florida, and for areas with disproportionately high infant mortality and incidence of low birth weight.

A new program will be established, authorized at $4 million for fiscal year 1988, to support fellowship programs to train nurse practitioners and nurse midwives. Nurse practitioners and nurse midwives have proven to provide high quality health care services, especially in the area of maternal and child health, in a cost efficient manner. Priority must be given to applicants who are employed by community or migrant health centers, or by the Indian Health Service or native Hawaiian migrant health centers.

Even during times of fiscal restraint, the investment of Federal dollars toward the health of mothers and children represents wise economic policy. I would like to thank the members of the Committee on Labor and Human Resources for their support of this legislation, and the many other cosponsors. I urge the House of Representatives to hasten their consideration of this important measure.

Mr. HATCH. Mr. President, I am pleased to join Senator KENNEDY and Senator QUAYLE in supporting S. 1441, the Public Health Service Act Infant Mortality Amendments, in this legislation. Infant mortality continues to be a problem in this country, but it is one that can be prevented if we do a better job of coordinating and providing prenatal and perinatal care to women.

The good news is that the United States is first in the world in birth weight specific infant survival rates yet, at the same time, our Nation ranks behind other western countries in infant mortality rates. How can we explain those two conflicting facts? First, we have the best health-care system in the world. An infant has a better chance of survival if born in a hospital in this country than they would if born anywhere else in the world. Second, we also have, unfortunately, too many babies born at low birth weights. The simple fact is that a baby born at a low birth weight is not as likely to survive as one born at a normal weight.

Low birth weights can be corrected, however, by providing proper nutrition, and prenatal care and, at the same time, decreasing alcohol abuse, drug use, tobacco use, the incidence of AIDS, and the number of teenage pregnancies.

The Public Health Service Act Infant Mortality Amendments of 1987, S. 1441, addresses several of these issues. It establishes a new program to coordinate prevention efforts—prevention efforts which should reduce the number of low birth weight babies in this country.

It provides increased funding for community health centers and migrant health centers which provide prenatal and perinatal care to women. And it also increases funding for area health care and nurse, midwife, and practitioner training.

S. 1441 is especially important to my home State of Utah, which has witnessed an increase in its infant mortality rate. The legislation specifically targets resources for those States which have suffered recent increases.

In addition, the bill recognizes that some areas of our country—frontier areas—have health care problems which are different from urban or rural areas. The bill will increase the availability of health care provided through community health centers for these areas of the United States, where many health needs are being left unaddressed.

I am pleased to have worked with Senator KENNEDY and Senator QUAYLE on this legislation and I look forward to its expeditious enactment. Infant mortality is a health problem that affects our entire Nation but it is one problem for which the cure already exists. It is my hope that S. 1441 will help us achieve an objective we all share—the healthy birth of babies in this country.

The PRESIDING OFFICER. Are there further amendments to the bill? If not, the question is on the engrossment and the third reading of the bill.

The bill (S. 1441) was ordered to be engrossed for a third reading, and to be read the third time.

The bill was read the third time and passed as follows:

S. 1441

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Health Service Act Infant Mortality Amendments of 1987".

FINDINGS

SEC. 2. The Congress finds that—

(1) the United States has made far less progress than other industrialized nations in reducing the infant mortality rate;

(2) the Surgeon General in 1980 established the 1990 Health Objectives for the Nation concerning the provision of prenatal care early in pregnancy and for reducing the incidence of low birthweight babies and infant mortality;

(3) the incidence of low birthweight, which is one leading cause of infant mortality and handicapping conditions (such as retardation, cerebral palsy, epilepsy, and autism) has been reduced only marginally;

(4) insufficient progress has been made in the reduction of the overall infant mortality rate;

(5) despite a declining infant mortality rate, black infants remain twice as likely as white infants to die in the first year of life;

(6) it now appears that the Nation will fail to meet the objectives of the Surgeon General described in paragraph (2);

(7) it is well established that appropriate and timely prenatal care and primary care for infants can reduce infant mortality and improve infant health and are essential if the Nation is to meet objectives of the Surgeon General described in paragraph (2);

(8) it is well established that inadequate prenatal care and infant mortality and disability are highest for those individuals who are poor and are without health insurance;

(9) recent statistics indicate that 1 out of every 3 poor children and 1 out of every 3 women of child bearing age does not have health insurance;

(10) community and migrant health centers were established to provide primary health care to poor individuals and individuals without health insurance;

(11) of the individuals served by such centers, 60 percent are poor, 48 percent lack any form of health insurance, over one-third are children under the age of 14, and over one-fourth are women of child bearing age; and

(12) the services of community and migrant health centers should be expanded to provide increased prenatal care and infant care, including an expansion of the number of health professionals providing such services.

MIGRANT HEALTH CENTERS

SEC. 3. Section 329(h)(1) of the Public Health Service Act is amended by striking out "$45,400,000" the second place it appears and inserting in lieu thereof "$48,400,000".

COMMUNITY HEALTH CENTERS

SEC. 4. (a) Section 330(g)(1) of the Public Health Service Act is amended by striking out "$400,000,000" the second place it appears and inserting in lieu thereof "$435,000,000".

(b) Section 330(c) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) In making grants under this subsection and subsection (d), the Secretary shall give special consideration to the unique needs of frontier areas.".

(c) Section 330(g) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) In any case in which the amounts appropriated under paragraph (1) for fiscal year 1988 exceed $418,000,000, the total amount of any such excess shall be available for grants under subsections (c) and (d) to community health centers to support special prenatal services to decrease infant mortality and special perinatal coordination projects to develop and coordinate referral arrangements between community health centers and other agencies, institutions, and organizations that are crucial to the successful management of pregnant women and infants. In making grants from amounts available under the preceding sentence, the Sec-

retary shall give priority to community health centers in areas in which there is a high incidence of infant mortality or in which there is an increased incidence of infant mortality.".

AREA HEALTH EDUCATION CENTERS

SEC. 5. (a) Section 781(a)(1) of the Public Health Service Act is amended—

(1) by inserting "(A)" before "The"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Under subparagraph (A), the Secretary shall enter into contracts to establish and support area health education center programs which include training of personnel to offer maternal health services and child health services in underserved areas. In entering into contracts under the preceding sentence, the Secretary shall give priority to programs which will train personnel to provide such services in areas along the border between the United States and Mexico, in frontier areas, in areas of the Pacific Basin Region, and in areas in which the rate of infant mortality and low birthweight are disproportionately higher than such rates for the State in which such an area is located.".

(b) Section 781(c)(1) of such Act is amended by inserting before the semicolon a comma and "except that a program described in subsection (a)(1)(B) shall only be required to provide for the active participation in such program of individuals who are associated with the administration of the school and each of the departments (or specialties if the school has no departments) of pediatrics, obstetrics and gynecology, and family medicine".

(c) Section 781(c)(2) of such Act is amended by inserting "except in the case of a program described in subsection (a)(1)(B)," before "provide".

(d) Section 781(d)(2)(C) of such Act is amended—

(1) by inserting "(i) except as provided in clause (ii)," before "provide";

(2) by inserting "or" after the semicolon; and

(3) by adding at the end thereof the following new clause:

"(ii) in the case of a program described in subsection (a)(1)(B), provide for or conduct a medical residency program in obstetrics and gynecology in which no fewer than six individuals are enrolled in first year positions in such program;".

(e) Section 781(d)(2)(F) of such Act is amended by striking out "and nurse practitioners" and inserting in lieu thereof ", nurse practitioners, and nurse midwives".

(f) Section 781(g) of such Act is amended—

(1) by striking out "$18,000,000" the last place it appears and inserting in lieu thereof "$21,000,000"; and

(2) by adding at the end thereof the following new sentence: "Of the amounts appropriated under this subsection for fiscal year 1988, $3,000,000 shall be available for contracts under subsection (a)(1)(B).".

FELLOWSHIPS FOR NURSE PRACTITIONERS AND NURSE MIDWIVES

SEC. 6. Part A of title VIII of the Public Health Service Act is amended by adding at the end thereof the following new section:

"FELLOWSHIPS FOR NURSE PRACTITIONERS AND NURSE MIDWIVES

"SEC. 823. (a) The Secretary shall make grants to public or nonprofit private schools of nursing, public health, or medicine for the establishment and operation of fellowship programs for the education of nurse midwives and pediatric, family, obstetric, and gynecologic nurse practitioners. Such programs shall meet the guidelines prescribed by the Secretary under subsection (b).

"(b) After consultation with appropriate educational organizations and professional nursing and medical organizations, the Secretary shall prescribe guidelines for fellowship programs for the education of nurse midwives and pediatric, family, obstetric, and gynecologic nurse practitioners. Such guidelines shall, as a minimum, require that such a program—

"(1) extend for at least one academic year; and

"(2) consist of—

"(A) supervised clinical practice; and

"(B) at least four months (in the aggregate) of classroom instruction,

directed at preparing nurses to deliver pediatric, family, obstetrical, and gynecological services, particularly prenatal care and other services designed to reduce infant mortality.

"(c) A fellowship funded under this section shall include, for each year for which the fellowship is awarded, 100 percent of the costs of tuition, books, fees, reasonable living expenses (including stipends), reasonable moving expenses, and necessary transportation.

"(d)(1) In order to receive a fellowship funded under this section, an individual must be a registered nurse.

"(2) In awarding fellowships funded under this section, a school of nursing shall give priority to any applicant who—

"(A) is employed by a facility providing health services to medically underserved populations, such as a community health center, a migrant health center, a facility operated by the Indian Health Service, or a Native Hawaiian health center; and

"(B) has been recommended for the fellowship by the facility described in subparagraph (A).

"(e) No grant may be made for the establishment and operation of a fellowship program under this section unless this application for the grant contains assurances satisfactory to the Secretary that the program meets or will meet the guidelines which are in effect under subsection (b).

"(f) For grants under this section, there are authorized to be appropriated $4,000,000 for fiscal year 1988.".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILSON. I move to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

JOINT REFERRAL—S. 1598

Mr. WILSON. Mr. President, I ask unanimous consent that S. 1598, introduced by Senator DOLE and other Senators, be jointly referred to the Committees on Finance and Agriculture.

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

AUTHORIZATION OF TESTIMONY OF SENATE EMPLOYEES AND REPRESENTATION BY SENATE LEGAL COUNSEL IN CRIMINAL PROCEEDING

Mr. BYRD. Mr. President, on behalf of Mr. DOLE and myself, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A Senate resolution (S. Res. 272) authorizing testimony of Senate employees and representation by Senate legal counsel in criminal proceedings.

Mr. BYRD. Mr. President, three employees on Senator BUMPERS' staff have been subpoenaed to testify at a trial in a criminal proceeding currently pending in the Municipal Court, City of Little Rock, AR. The defendants were arrested and charged with disorderly conduct and obstruction of Government operations earlier this year when they refused to leave Senator BUMPERS' Little Rock office at the Federal building's closing time. The subpoenaed employees, Don Floyd, Martha Perry, and Beverly Stover, witnessed the events that led to the prosecutions.

Consistent with Senator BUMPERS' wishes and previous actions on the Senate in similar circumstances, this resolution would authorize Mr. Floyd, Ms. Perry, and Ms. Stover to testify at the trial and authorize the Senate legal counsel to represent them in connection with their testimony. Mr. President, I move adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 272) was agreed to.

The preamble was agreed to.

The resolution with its preamble, is as follows:

S. RES. 272

Whereas, in *State of Arkansas* v. *Christopher Kupper, et al.*, Case Nos. 87-3404 through 87-3413, now pending in the Criminal Division of the Municipal Court, City of Little Rock, Arkansas, three employees of the Senate, Don Floyd, Martha Perry, and Beverly Stover, have been subpoenaed on behalf of the defendants to appear and to testify at the trial;

Whereas, the three employees have information which may be relevant to that trial;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a) (1982), the Senate may direct its counsel to represent employees of the Senate with respect to subpoenas issued to them in their official capacities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that testimony by Senate employees in their official capacities may be needed in any forum for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Don Floyd, Martha Perry, and Beverly Stover in connection with their testimony in *State of Arkansas* v. *Christopher Kupper, et al.*

SEC. 2. That Don Floyd, Martha Perry, and Beverly Stover are authorized to testify at proceedings in *State of Arkansas* v. *Christopher Kupper, et al.*, except concerning matters which are privileged.

Mr. BYRD. I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

RESTRICTIONS ON DOCUMENTATION OF FOREIGN-BUILT FISH PROCESSING VESSELS

Mr. BYRD. Mr. President, is there a message from the House on S. 1591 on the desk?

The PRESIDING OFFICER. The message is at the desk.

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1591.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1591) entitled "An Act to temporarily restrict the ability to document foreign-built fish processing vessels under the laws of the United States", do pass with the following amendment:

Strike out all after the enacting clause, and insert: Notwithstanding chapter 121 of title 46 of the United States Code, the Secretary of the department in which the Coast Guard is operating may not document a foreign-built vessel for which an application for documentation was submitted after July 20, 1987 for use as a fish processing vessel as defined in section 2101(11b) of title 46, United States Code. This prohibition is effective until October 15, 1987. The Secretary may issue regulations to obtain information about the intended use of a vessel for which an application for documentation has been submitted to prevent the documentation of a foreign-built fish processing vessel.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

Mr. BYRD. I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, yesterday the Senate passed S. 1591, legislation designed to prevent the documentation of foreign-built fish processing vessels under the laws of the United States. S. 1591 would prevent foreign control of our domestic offshore fish processing industry.

The House has made some constructive modifications to the Senate version, and S. 1591 as amended is currently pending in the Senate. I would like to stress that this legislation in no way attempts to prejudge the issues currently before the Senate Commerce Committee and the House Merchant Marine and Fisheries Committee. We are merely preserving the status quo until after the August recess, at which time we will seek to resolve the controversy.

UNANIMOUS-CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 216

Mr. BYRD. Mr. President, I ask unanimous consent that on Calendar Order No. 287, House Joint Resolution 216, a joint resolution to support a cease-fire in the Iran-Iraq War and a negotiated solution to the conflict, there be a time limitation of not to exceed 1 hour, to be equally divided and controlled between the two leaders or their designees; that there be no amendments in order thereto; and that there be no motion to recommit, with instructions or without instructions, in relation to that resolution.

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

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order at any time to order the yeas and nays on passage of House Joint Resolution 216.

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

Mr. BYRD. So that when the two leaders are on the floor, that request will be made.

There will be a yea-and-nay vote on that measure, to occur tomorrow. When the Republican leader is on the floor, we will make a decision, after conferring with our colleagues, as to what time the vote should occur on the resolution.

As I understand it, no amendments will be in order; no motion to recommit, with or without instructions, will be in order.

The PRESIDING OFFICER. That is the order.

Mr. BYRD. Time for debate thereon will be limited to 1 hour, equally divided.

The PRESIDING OFFICER. That is the order.

Mr. BYRD. I thank the Chair.

TOSHIBA/KONGSBERG: "A CHAIN OF CONSPIRACY"

Mr. HELMS. Mr. President, the case of treachery, known as the Toshiba/Kongsberg case, was a KGB operation from the beginning and all of the principals knew it.

That is the inescapable conclusion of a stunning Japanese magazine article which has just become available in English. Written by Mr. Hitori Kumagai for the August edition of the highly respected Japanese magazine Bungei Shunju it is entitled, "These Are the Methods for Illegal Trade With the Soviet Union, Confession of a Principal in Toshiba Machine Case, COCOM is Powerless in Face of Japanese Trading Firms' Methods, Exclusive Contribution by Professional Smuggler."

Mr. Kumagai should know his subject well. For 22 years he was in the Japan-Soviet trade field with his last 10 years as Moscow office manager for the Japanese trading firm Wako Koeki. In 1985 he tried, in vain, to warn the west of what Toshiba and the others, including his own company, were engaged but Japanese Government officials did not want to listen.

Mr. Kumagai calls this a "crime." It was a crime.

A CHAIN OF CONSPIRACY

Mr. Kumagai argues that there was a "chain of conspiracy" involving Wako, Toshiba, C. Itoh, Kongsberg and, most importantly, the KGB. Again, his analysis is correct. At the core of this chain of conspiracy lay at least three known KGB officers, all of whom had been publicly expelled from Western countries before this operation began. No one could have been under any illusions. They knew precisely what they were doing and with whom they were dealing. As Mr. Kumagai notes, the KGB officers "can be easily detected" because of their obvious interest in obtaining forbidden Western strategic technology.

It is worth noting that the KGB has had a long, and unfortunately successful, link with Japan. Even before World War II, Stalin's agent Richard Sorge directed a net of agents who had sources and influence in the Japanese Government.

Nor was the propeller milling equipment sale a one-time error for Wako. According to Mr. Kumagai, his firm began its association with the KGB at least 22 years ago with the illegal export of a large instrument to artificially create the vacuum of deep space in laboratory conditions. He says that even today that device is still being used at a Moscow physics lab.

It is difficult to say which is the most important element of this extraordinary confession. Perhaps its most significant contribution is the description, in sickening detail, of just how easy it is to ship illegally Western strategic technology out of Japan. He explains eight methods of diversion from phoney contracts to technology transfers at the Moscow trade fairs.

The most controversial element of the piece is his assertion that the Toshiba/Kongsberg case in essence was part of the normal business practice in East-West trade. He claims this case is

just "the tip of the iceberg" and of Japan's 50 or so firms trading with the Soviets, "There is probably not a single company among them which has never violated the Japanese Government authorities' laws and ordinances pertaining to restrictions on exports." If he is correct, he will have confirmed the suspicions a lot of us have harbored about East-West trade for years.

Mr. President, the Congress and the Japanese Government are going to have to address the challenge posed by Mr. Kumagai. His statements to the English-language press and his Japanese magazine article raise a series of questions for which answers must be sought. These questions are long and detailed, and I will state them here for the record:

KUMAGAI QUESTIONS

First. In late 1985 Mr. Hitori Kumagai, then Moscow office manager for the Japanese firm Wako Koeki wrote a letter to Cocom warning of what Toshiba, Kongsberg, Wako, C. Itoh, and the KGB were intending. What precisely happened to that letter? Was it passed to the Japanese Ministry of International Trade and Industry [MITI]? Did MITI officials investigate? What were the results of their investigation? Which MITI officials handled that investigation? Where are they now? Have they been retained? Has MITI investigated its own handling of the Kumagai letter? If so, why have the results not been made public? If not, why not? If not, how can the United States trust MITI to keep United States strategic defense initiative technology out of Soviet hands? What new procedures has MITI instituted to respond to other unsolicited information similar to the Kumagai letter?

Second. Mr. Kumagai asserts that he and his colleagues were engaged in a "chain of conspiracy" with the KGB and he identifies at least three known KGB officers who had been previously expelled. He also claims that his firm has had an association with the KGB for 22 years. Is the Japanese National Police Agency interviewing Wako officials to see what other deals they were engaged in with the KGB? Why is the Japanese Government not treating this case as an espionage case? Does this not argue persuasively for the need for an espionage law in Japan?

Third. The United States has in place a program of education for American businessmen who wish to deal with the Soviets. Does the Japanese Government contemplate a similar program? If not, why not?

Fourth. Mr. Kumagai claims that of Japan's 50 or so trading firms which trade with the Soviets, "There is probably not a single company among them which has never violated the Japanese Government authorities' laws and ordinances pertaining to restrictions on exports." Is the Japanese Government investigating these charges? If not, why not?

Fifth. Mr. Kumagai describes the method of diversion known as "secret contracts and side letters." What changes are the Japanese Government considering to deal with this threat?

Sixth. Is the Japanese Government considering changes to its customs procedures to allow performance checks on high technology exports? Is the Japanese Customs Service being retrained to check for export control diversions?

Seventh. Mr. Kumagai charges that small and medium Japanese enterprises in the metal plate business have been "cultivated" through lucrative contracts to get them to manufacture panels for disguise. Is the Japanese Government investigating this charge? If so, when do they intend to issue their report? If not, why not?

Eighth. Mr. Kumagai states that "There is absolutely no case of the—Japanese—customs officials removing the outside cover and inspecting all the component units inside it." Is this true? If it is even partially correct, what new procedures does the Japanese Government contemplate to deal with this problem?

Ninth. Mr. Kumagai states that Japanese Customs officials do not check hand baggage for export control violations. Does the Japanese Customs intend to remedy this defect?

Tenth. Mr. Kumagai states that on some occasions delivery of forbidden technology has been made to the Soviet Trade Representative's Office and the goods exported under diplomatic cover. What new procedures does the Japanese Government intend to take to tighten up on this practice?

Eleventh. Mr. Kumagai states that sometimes strategic goods are broken down into small parts and exported under the "pretext" of spare parts for goods which have already been shipped. What plans does MITI have to discourage this practice?

Twelfth. Mr. Kumagai states that diverters aim at local Japanese Customs offices such as Niigata. What plans does the Japanese Customs Service have to improve its training for customs officials in local ports?

Thirteenth. Mr. Kumagai states that the inspectors of air cargo are experienced at looking for certain kinds of contraband but not export control violations. What charges in procedures does the Japanese Govenment contemplate to correct this problem?

Fourteenth. Mr. Kumagai describes shipments through third countries. When does the Japanese Government intend to begin requiring delivery verification for East-West deliveries of controlled items?

Fifteenth. Mr. Kumagai charged that Switzerland, Austria, Hong Kong, and Singapore are used as transhipment points for illegal diversions. Are officials of those countries investigating this charge? If not, why not?

Sixteenth. Mr. Kumagai indicates that samples sent to trade fairs in Moscow are dismantled and analyzed. What new procedures does MITI propose to deal with this threat?

Seventeenth. Mr. Kumagai charges that the Soviets are totally dependent upon compact, high performance air conditions manufactured by Hitachi, Sanyo, Toshiba, Daikin, et cetera, to keep critical electronic warfare equipment in Soviet tanks functioning. Are these manufacturers aware of this? What do they intend to do about it?

Eighteenth. Mr. Kumagai charges that "a major Japanese manufacturer" of antirust paper knowingly exported an entire manufacturing plant for Soviet military use. Is this true? Which firm engaged in this practice? Are Japanese authorities investigating? If not, why not? Is the firm cooperating with Japanese authorities? In what other trade with the Soviets is this firm engaged? What plans does this firm have to make redress? Are the officials of this firm who knew about the sale still employed by the firm?

Ninteenth. What did officials of the Japanese trading firm C. Itoh know about this case and when did they know it? Which C. Itoh officials were assigned to C. Itoh's Moscow branch office on April 24, 1981? Are they still employed by the firm? Have they been disciplined? If not, why not? Has C. Itoh considered an outside audit of its export control procedures and history of dealing with the Soviets? If not, why not? What actions does C. Itoh plan to take to make up for this failing?

Twentieth. According to Mr. Kumagia, Toshiba Machine's export department chief, project manager, export section chief, and designing section chief were present at the Moscow signing ceremony on April 24, 1981. In its full page advertisement in American newspapers at the end of July 1987 Toshiba Corp. pledged to the American people that "We will discharge all officers and employees found to have knowingly participated in this wrongful export sale." Have the above named officials been discharged? Why not? If they have been discharged, does Toshiba intend to pay their complete pension? If so, why? What is the status of other officials who participated?

Twenty-first. According to Mr. Kumagai a number of Wako officials knew about this illegal sale. Have they been disciplined? If not, why not? Does Wako still have a Moscow office? What business is it now doing with the Soviets? What Japanese or other Western firms are customers of or suppliers to Wako? What does Wako

intend to do to make up for this failing? Is the Japanese Government investigating Wako's alleged 22 years of dealing with the KGB? If not, why not? How do Japanese firms explain their continued dealings with an alleged KGB conduit?

Twenty-second. Mr. Kumagai has charged that the Toshiba/Kongsberg case was only the "tip of the iceberg." Of what other Japanese or Western cases is he aware?

Twenty-third. Mr. Kumagai charges that "in the long history of trade with the Soviet Union, there is not a single case of a banned item being discovered through papers sent through the mail." Is this true? Even if it is only partly true, what does the Japanese Ministry of Posts and Telecommunications intend to do to close this avenue of diversion?

CONCLUSION

Mr. President, Mr. Kumagai has asked to testify before the Congress. Based on his articles and interviews, he may be able to make a valuable contribution to our understanding of the problem of strategic technology diversion to the Soviets. Should we decide to grant his request to testify, ex-KGB Maj. Stanislav Levchenko would make an excellent cowitness to explain how strategic technology diversion works from the Soviet angle. Mr. Levchenko has been invaluable in our efforts to alert American businessmen to the dangers of trade with the Soviets.

Mr. President, I ask unanimous consent that the following materials be printed in the RECORD at the conclusion of my remarks: An article in the August 1987 edition of the Japanese magazine Bungei Shunju by Mr. Hitori Kumagai; a page 1 article of August 4, 1987, from the Wall Street Journal; and a page 28 article from the July 22, 1987, Christian Science Monitor.

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

THESE ARE THE METHODS FOR ILLEGAL TRADE WITH THE SOVIET UNION, CONFESSION OF A PRINCIPAL IN TOSHIBA MACHINE CASE, COCOM IS POWERLESS IN FACE OF JAPANESE TRADING FIRM'S METHODS, EXCLUSIVE CONTRIBUTION BY PROFESSIONAL SMUGGLER

(Full Translation)

[From Bungei Shunju]

(By Hitori Kumagai)

Shibaura Pier, surrounded by huge container yards. The machine is packed in sturdy wooden boxes, which are placed on trucks and are carried into the ship, one after another. The machine which surprised me by its huge size, when I saw it close at hand, at the time of the first-hand inspection by a Soviet inspector, its dismantling and its crating, did not appear so big, when placed in the midst of the surrounding mammoth loading facilities.

The "Stariy Bolshevik," a more than 10,000-ton ro-ro [TN: phonetic] ship of Soviet registration, swallowed up the propeller milling machine, dismantled and packed into several dozen boxes, in its hold, and the loading work was over very quickly. This was how the "case of illegal exports in violation of the COCOM Rules" by Toshiba Machine, which are now causing a big public uproar, came to take shape, right in front of my eyes.

Almost two years had passed since the contract was concluded in Moscow.

The "Old Communist Party Member" (Stariy Bolshevik), the newest and best Soviet freighter, cast off its moorings as soon as the propeller milling machine was taken on board, and slipping away from the pier, it started on its long voyage to the naval port of Leningrad in the land of the midnight sun.

It was around the early spring of 1983.

When the ship left port, a "crime" had been committed.

As you know through newspaper reports, etc., it was I who brought the charge against the case this time to COCOM. Why did I come to wish to confess my own "crime"? It will probably be difficult for the people in general, who do not know Moscow, to understand.

In Japan, the "bringing of a charge" is apt to be taken as "secretly informing on others in a betrayal of trust." It tends to be taken as an act stemming from low-down motives or stemming from the person's own character. In actual fact, the persons who were arrested or were questioned are ordinary salaried workers, who were merely working for their families, following company orders. All the more for this reason, I feel deeply pained. I do not wish to give excuses about my own sentiments, pretending to be a man with a strong sense of justice.

PERFORMANCE OF A MONSTER ROBOT

On the other hand, however, to look at the records of the case, they are too wide of the mark. They are full of mistakes, as to the motives for my turning informant, the actual substance of the "banned item trade," etc. If I do not set forth the whole picture, my informing against the case will lose meaning. What the Soviet Union is doing, and what the Soviet Union is doing in Japan, are too horrifying. After much agonizing, I made up my mind. I decided to set forth in writing, for the time being, the entire picture of the case and all its factual relations, and leave the judgment to the readers.

A propeller milling machine for the processing of large-size propellers for ship use, capable of nine-axis simultaneous control. This is the name of the machine which was exported to the Soviet Union in violation of the Foreign Exchange Control Law, in the case of Toshiba Machine's violation of the COCOM Rules.

The specifications for the propellers for ship use (screws, to use a more generally used term), which can be processed with this machine, are roughly as follows:

Maximum diameter of the propeller which it can process: 11 meters;

Maximum weight of the propeller: 130 tons;

Number of blades: Maximum of 11.

As to how big this is, its size can be understood if one brings to mind a three-room plus a dining-kitchen (3DK) apartment.

We will consider that the average size of a 3DK apartment is 11 meters by 7 meters, or a floor space of 77 square meters. The diameter of the propeller is a maximum of 11 meters. Therefore, in order to process both sides of the blades, the size will be equivalent to several 3DK apartments, in the case of an 11-blade propeller. The surface of these blades will be milled by an average of 10 millimeters and they are made into a smooth-surface propeller. A rough idea can be obtained as to how great a task this will be if carried out by human beings.

If this machine, which is capable of simultaneously controlling nine axes, is used, a propeller which has the most ideal curve, which comes infinitely close to the logical value, can be made, based on data obtained from the computer.

The size of the machine itself is about 10 meters high, and about 22 meters wide, and it weighs 250 tons. It means that a giant, which has a width of 20 meters, when it spreads out its arms, carries out a super-precise milling of screw propellers, with a maximum diameter of 11 meters, at very high speed, working with both its hands at the same time. it is exactly what one can call a monster robot. It was the power of the Japanese which gave birth to this "Frankenstein monster" in a Soviet munitions plant, and I also helped to create it.

The violation of COCOM was touched off by a cold-wave in the Soviet Union. From the end of 1978 to early 1979, the Soviet Union was visited by an unprecedented cold-wave. It was at this time that the temperature of minus 40 degrees was recorded in the suburbs of Moscow. Pravda reported that "Pear trees have cracked, and apple trees have died." This cold-wave also became the cause of a food shortage in the Soviet Union, which later became chronic. For many years after this, the Soviet Union had no choice but to import grain, and it came to suffer from a shortage of foreign currencies. Soviet imports came to be limited to items which were urgently needed and were indispensable, and in order to save foreign currencies, inquiries with Japanese enterprises, especially inquiries on machine facilities, etc., came to show a strong tendency of being limited to very limited products in limited fields. The amount of business decreased, and the scramble for the "pie" among the various firms became extremely severe, and it also resulted in spurring on the tendency to even dare the risk of exporting contraband goods.

It was exactly at such a time, when the contracts for trade concluded with the Soviet Union were steadily decreasing, that Wako Koeki secured an inquiry for propeller milling machines.

There are a little over 50 firms among our country's trading firms, which engage in trade with the Soviet Union. They range from big firms, like Mitsui and Mitsubishi, to very small firms with only two or three staff members. All kinds of trading firms take part in trade with the Soviet Union, and most of them have branch offices or resident staff members in Moscow. There is probably not a single company among them which has never violated the Japanese Government authorities' laws and ordinances pertaining to restrictions on exports. It is not that I have any definite evidence, but this is the actual feeling, close to a conviction, of a person who has been in the actual field of trade with the Soviet Union for many years. According to the U.S. Defense Department's report, titled "Outflow of Military Technology to the Soviet Union—1985 Edition," about 5,000 items a year among the military research programs being pushed by the Soviet Union, are based on technology developed by the Western side, and this Report points out implicitly that Japan is becoming the window for the outflow of high technology, saying that the

Soviet Union "is showing the tendency of gradually attaching greater importance to Asia," as the foothold for the Soviet acquisition of these technologies.

It is Japanese MITI's Export Trade Control Ordinance which binds the Japanese people, engaging in trade with the Soviet Union. Under this "Trade Control Ordinance," exports to socialist nations, including the Soviet Union, must obtain the required approval and authorization. Especially in regard to manufactured products which come under the category of high technology, the prescribed application papers must be presented, in accordance with the provisions of "Item 44 of Paragraph 33 of Matters Requiring Attention in Regard to Exports," etc., of the "Outline for the Administrative Handling of Export Approval, Etc., for Strategic Goods," and obtain MITI's approval. After this, they must receive the inspection of Customs in charge. If these provisions are violated, it becomes a violation of the Foreign Exchange Law, as a matter of course.

The probability is extremely small for items which are listed under the "Strategic Goods Provisions" or Items on the Attached List No. 1 of the Trade Control Ordinance (which trading firms call "Attachment 1 Items" and which correspond to the items of the so-called COCOM List), to pass the screening of MITI's International Trade Bureau Exports Division and to be given approval. There are cases where special permission is given for incorporating some restricted items into facilities, such as a continuous production facility for the production of goods for civilian use, which will not be operable unless those restricted items are used. However, even in this kind of case, an "application for special approval in regard to these parts, must be presented to the COCOM Headquarters in France, through MITI, and its approval obtained. This screening by COCOM, which is called "transmission to Paris" in the circles concerned, takes time, and there are even cases where permission is refused, after being made to wait for as much as half a year.

COCOM is the Co-ordinating Committee for Export Control (to the Soviet bloc) and it is made up of 15 nations, including the NATO member nations (excepting Iceland) and Japan. The Committee Headquarters is located in the annex of the US Embassy in Paris. The list drawn up by this Committee under its secret agreement is the so-called COCOM List, and its details have not been made public. 178 items, including machines, chemicals and metals, which have the danger of being diverted to military use, besides weapons and atomic energy-related facilities and equipment, are generally known as items restricted by the COCOM List. However, they are, to the last, nothing more than a list, drawn up with the Security Export Control List, which was carried by the British Business Journal, and our country's Items on the Attached List No. 1 of the Trade Control Ordinance, as reference. Consequently, the so-called COCOM List does not officially exist.

The Attachment 1 Items List of the Trade Control Ordinance sets forth in extremely great detail provisions concerning strategic goods. The persons in charge of enterprises, engaging in trade with the Soviet Union, read these provisions very carefully and carry out thorough studies and research in advance as to what high-technology products that they wish to export to the Soviet Union infringe on the COCOM Rules in what points and in what way. Among technologies which are possible of conversion to military use and which the Soviet Union especially desires, there are semi-conductors, such as IC's and LSI's, computers and software, memory devices, sensors, fine ceramics, robots, hyper-vacuum technology, biotechnology, compound materials, aviation- and navigation-connected instruments and equipment and propulsion technology, etc. The various enterprises' staff members in charge of the Soviet Union are racking their brains as to how to export these high-technology products to the Soviet Union, and what they must do to survive in this fiercely competitive world of trade with the Soviet Union, and are contriving to work out every possible method.

BUSINESS TALKS PROPOSED BY KGB

"We want a robot which manufactures large-size screws for ship use. Japan, which is a shipbuilding kingdom, should be making this kind of robots."

This is what Technological Machinery Import Corporation Vice President Igor Aleksandrovich Oshipov asked of a Wako Koeki leader who happened to be visiting Moscow on business at the time, and who was present at a drinking party to entertain the Soviet Corporation side. I was also present, as a matter of course.

"If an estimate can be formulated on the robot desired by the Soviet Union, we would like to start business talks quickly."

Incidentally, the name Oshipov is listed in the list, titled "Soviet citizens who are engaging in secret activities," attached to the end of "KGB," written by American writer John Baron, who has deep knowledge of the Soviet secret police.

This secret police is the KGB, which is at times called "the next-door neighbor" or simply the "Komitet," which means committee, or by the nickname "Komitechik." It is a fact well known by all the resident staff members in Moscow that KGB members are taking part in foreign trade as members of the Soviet Trade Corporation. They do not wear their KGB ID cards on their breast, but if one watches their words and actions carefully, they can easily be detected by persons who have been working for many years in Moscow. This is because the objects toward which they show interest are completely removed from those of ordinary business.

This Vice President Oshipov is also a typical example of a Komitechik, who can be detected even at a glance. To use the code word among the trading firms' resident staff members in Moscow, he was a member of the "K group."

He was one of the Vice Presidents of the Soviet Trade Corporation, which deals with enterprises of various nations of the world, and also a high-ranking official who is vested with the right to sign official papers, such as contracts. It was proper to think that this inquiry from this Vice President was business material, which had a high degree of realizability, even though mentioned orally at a drinking party.

A telex message was sent immediately to the head office in Tokyo, saying "Find screw robots."

Based on this one telex message, Toshiba Machine staff members in charge of exports came to Moscow and presenting catalog data, started concrete technical negotiations. This was in the middle of December of 1980, at a time when preparations for the winter festival, which corresponds to Christmas in West Europe, were seen on the streets of Moscow.

Through the course of technical negotiations, it gradually became clear that the model, demanded by the Soviet Union, was a nine-axis simultaneous-control milling machine, that the object to be processed by this machine would have a diameter of 11 meters, and that the purpose was the milling of large-size propellers for ship use.

From the first round of the business talks in the technical negotiations, the official in charge from the Soviet Corporation was changed to Anatoliy Petrovich Troyitsky (also a member of the KGB), and from the user side, Propeller Manufacturing Plant Manager Filskov, Chief Engineer Gusev and program engineer Suichov from the "Sergo (TN: sic) Orzhanikidze Memorial Baltic Shipyard" took part in the talks.

The "Baltic Shipyard" which bore the name of the Georgian hero Sergo Orzhanikidze, is a famous munitions plant with a long history, and it built the main naval ships which were sent to the naval Battle of the Sea of Japan; and it is one of the leading shipbuilding yards of the Soviet Union, which built the nuclear-powered ice-breakers "Arctika" and the "Sivilia," nuclear-powered crusiers and electronic trawlers for ELINT use. However, in the course of the business negotiations, they of the user side only introduced themselves as "coming from Leningrad," and they completely refrained from making known their identity or status. It was only through our later visiting Leningrad for the installment of the machines that the location of the plant, its name, the official titles of the users, etc., became known.

The business talks proceeded smoothly, and the stage of signing the contract was reached in April of the following year.

There was a reason for Wako Koeki's being unable to turn down the business proposal. In order to open a branch office or a resident staff office in Moscow for the conducting of business activities in the Soviet Union, it is necessary to obtain the approval of the Soviet Foreign Trade Ministry. Permission for the opening of an office is granted only after passing a very strict screening of documents.

It is not that major trading firms are necessarily permitted to have a large number of resident staff members. Also, the increase or the reduction of the number of personnel is all decided by the judgment of the Soviet officials concerned.

Basically, based on the principle of reciprocity, the same number as that of the staff members of the Office of the Soviet Trade Representative in Japan, is approved as resident staff members of Japanese enterprises. However, if a member of the Office of the Soviet Trade Representative in Japan is ordered out of the country by the Japanese Government "as persona non grata," there are cases where the same number of the Japanese side's resident staff members is reduced in retaliation. Also, in the case of companies which are viewed as not friendly by the Soviet side, the number of their personnel may be reduced, or in some cases, they may be notified that the approval for the opening of the branch office has been cancelled.

The losing of a branch or an office which had finally been approved after repeatedly filing applications and after waiting for three years, or at times even five years, would mean the complete withdrawal from trade with the Soviet Union. This approval system, which is called the "accreditatia," is voiceless coercion toward all companies which have branches or offices in Moscow.

The business inquiry came from the Vice President directly, and furthermore, for Wako Koeki, which had only obtained official approval for its Moscow Branch about two years before then, it was absolutely impossible to decline the business proposal at that stage, even after it became known that the machine demanded by the Soviet Union was a nine-axis simultaneous-control machine, which was a COCOM banned item. Rather, it decided to devote its entire efforts to tackling this business offer, in cooperation with the manufacturer side, as a business proposition which had the smell of huge profits.

PLAN FOR "USING" NORWAY

As the business talks proceeded, we came face to face frontally with the big problem of how to export these machines, which infringed on the COCOM Rules, to the Soviet Union. It was at this stage that "Kongsberg" came into the picture.

The "Kongsberg Vaapenfabrikk Corporation," which is located in the city of Kongsberg in Norway, is a prestigious State-operated munitions enterprise, which adopts as its company name the Norwegian term Vaapenfabrikk, which means weapons fabrication in English (TN: sic), or in other words, weapons manufacture. Besides weapons, it also manufactures computers, automatic designing machines, numerical control equipment, etc., and it had the actual record of delivering about 100 PC150 programming centers to "Elektronorgteknika"—the Soviet Union's Electronics Technology Import Corporation.

The exporting of metal-processing machine tools, which are capable of more than two-axis simultaneous control, to the Soviet Union is banned by the COCOM Rules, and also by our country's Trade Control Ordinance, and there was absolutely no possibility at all for the exporting of nine-axis simultaneous-control propeller milling machines being approved. Therefore, approval will be obtained as two-axis control machines, and importing numerical controls (NC's) for two-axis use from Norway, a third country, to Japan, and installing them into the machine, they will be exported to the Soviet Union. The machines naturally had nine-axis simultaneous-control capability, but even if the crates were opened at Customs, it would not be possible to assemble a machine, which weighs as much as 250 tons, and to check its performance.

On the other hand, a program for nine-axis simultaneous control will be exported to a third nation, or in other words, to Kongsberg, and it will be exported to the Soviet Union from Norway, where control is lenient, as a part of the documents for other machines. Kongsberg was pushing business negotiations for the exporting of programming centers to the Technological Machinery Corporation and the Baltic Shipyard, which made it even a still more desirable partner. This programming center was for the purpose of analyzing the data of the original design of a propeller and for its input into the NC equipment of a nine-axis control propeller milling machine.

The NC equipment for two-axis use can easily be re-modelled into NC equipment for nine-axis control. The work, which consists of the changing of wiring and the number of print discs, can be completed easily in one hour. At the point of the completion of this complicated pattern of from "Japan" to "Norway" to the "Soviet Union," and from "Norway" to "Japan" to the "Soviet Union," prospects for the signing of the contract were secured.

At this point, I will touch upon the methods which trading firms resort to. There are several methods for exporting strategic goods to the COMECON nations, including the Soviet Union, evading the COCOM Rules and the Trade Control Ordinance. I will describe some typical methods which are used by trading circles engaging in trade with the Soviet Union. There are other variations, but basically, they can be classified into the following eight patterns. If the readers look at these patterns, they will be able to see how the vairous companies are endeavoring to "evade the restrictions" in various ways. The case this time is really nothing more than the tip of an iceberg.

1. Secret Contracts and Side-Letters

A contract is signed for machines and facilities, in which the specifications, the performance and capability are made far lower than those for the machines and facilities which are actually to be delivered to the Soviet side, or on a level which will not infringe on the restrictions, for the record, and a secret contract is concluded separately with the Soviet side and products with higher performance and capability are delivered. For this purpose, two contracts, that is, the ostensible contract and the secret contract, are concluded. Only the ostensible contract is shown to third parties, such as the Government offices concerned, Customs, banks, etc., and export approval is obtained and procedures are taken for customs clearance and shipment, and the receiving of payments. The seller and the purchaser each keep one original of the secret contract, and they are kept in utmost secrecy as the original to be used in the case of the arising of a difference in views between the two parties in regard to the quality of the manufactured product, etc., and in the case of joint on-the-spot inspection of the specifications, the quality, etc., of the products by the two parties concerned. This secret contract sets forth clearly and correctly the specifications and the quality of the products agreed upon.

"Secret contracts" and "side-letters" are used mainly in the case of exports of plants and large-size machines. Even if the crates are opened and the contents are checked at the time of customs clearance, there is no danger of its being discovered, as long as the customs clearance documents, such as invoices and packing lists agree with the goods themselves. It is impossible to specifically pinpoint the performance of the plant as a whole from the parts which have been dismantled and packed into several dozens or several hundred cases.

The normal practice is to pack the same kinds of parts together, such as to pack together steel frames in one case, or electric wire and cables in another case, and that is how they are set forth in the customs clearance documents, too. The biggest matter of concern for the Customs officers in charge is the formulation of customs clearance statistics, and their biggest purpose is to classify and enter the kinds and amount, and the monetary value of the export goods correctly into the statistical chart. They have their hands full with this work, and unless there is very special reason, they do not conduct a performance check. It is also physically impossible to assemble and test plants and large-size machines, first hand, at Customs.

2. Masking

The products to be exported are hidden under a cover, which does not infringe on the restrictions. In other words, the products are masked with such outside camouflage as power source panels, etc., which have no problems whatsoever, no matter how one looks at them. The camouflage panel, which has nothing to do with the actual contents, is equipped with signal lights, switches, and various meters, for example, and they are made in such a way that if the switch is turned on, they operate. For this reason, it is necessary to cultivate medium and small enterprises in the metal place business, for example, with a certain amount of knowledge of electrical apparatuses, and after becoming their good customer by purchasing small items of goods, sold on the market, at high prices, form normal times, request them to manufacture panels for disguise.

Even if the Customs official becomes suspicious, opens the crate, and checks the equipment by turning on the switch, the disguised equipment, used as a cover, will operate. There is absolutely no case of the Customs official's removing the outside cover and inspecting all the component units inside it.

This method, called masking, is used as a method for the illegal clearing of Customs for comparatively compact machinery. Facilities for experiments and tests, which are included in the banned list of strategic goods, have flowed out to the Soviet Union almost free of any checks, by this method.

TAKEN IN AS HAND BAGGAGE

In order to avoid disclosure through the checking of documents at Customs inspections, blueprints and explanations on wiring and handling etc., are not put in the crates and they are sent separately by mail.

There have been no cases of the opening and inspection of mail sent to the Soviet Union, and even if they were to be inspected, it is not thought that the Postal Services Ministry has the technological capability to judge whether they concern strategic goods or not. At any rate, in the long history of trade with the Soviet Union, there is not a single case of a banned item being discovered through papers sent through the mail. Even so, however, in order to be doubly secure, top secret documents from which it can be seen immediately that they are high-technology products, are entrusted to staff members who go to Moscow on business, and they are hand-delivered directly to the Soviet side in Moscow.

Products which are exported in this way, include equipment for the testing of integrated circuits, facilities for the testing of magnetic materials, optical instruments, etc., and they are so numerous as to be beyond listing.

3. Hand-Carrying

This is the method of taking them out as the hand baggage of persons going to the Soviet Union.

In the case of using airplanes, Customs inspection at the airports or city terminals is almost nil, even though the security check is strict.

The taking out of small-size high-technology products from this country to other countries is simple, and a considerable number of restricted items have flowed out to the Soviet Union through this channel.

As regards electronic parts, which come under strategic goods, there are detailed provisions in the COCOM List. However, as for electronic parts, which become the objects of restrictions, there is a tendency that the higher the technology, the smaller they become in size. The smaller their size becomes, the easier it is to carry them around.

There are all kinds of small-size electronic parts, which are placed under restriction as strategic goods, and they include semi-conductors, diodes, optic devices, condensers, opto-electronic amplifiers, image amplifiers, print bases, integrated circuits, elastic wave devices, memory devices, etc. These electronic parts are all very small, both in size and weight. Even in one case of hand-carrying, an amount which can meet a considerable amount of demand can be carried in. They differ, according to the kinds of parts, but in the case of integrated circuits, there would still remain considerable room: even several thousand units are put into an ordinary-size suitcase. In weight, too, it would be less than 20 kilograms, for which no excess baggage charge needs to be paid.

If one suitcase full of IC's which are indispensible for missile-guidance devices is carried in, they would be enough to equip all Soviet missiles with them. Furthermore, one can leave the country without any check at all, in the case of adoptng this method.

It is also possible to carry in considerably large-size machines by using this method.

First, the machine is dismantled into parts, as small as possible. Then they are divided up, and taken out as air-travel hand baggage on a number of trips. They are then kept temporarily in the Moscow office.

When the parts have been accumulated to a certain extent, they are handed over to the Soviet side. By repeating this process a number of times, the machine is delivered to the Soviet side as a finished product. The Soviet side will gladly pay the excess baggage charge.

As for the receiving of payment, consultations are held in advance with the Soviet corporation to have the price included in the payments for goods which were exported in the normal way under a separate contract, so that it will not infringe on the Exchange Control Law. The price of the machine will be added on to the payments for regular exports, and it is received formally through regular bank channels. If carried out in this way, there is hardly any possibility of its being discovered.

4. Delivery to Office of the Soviet Trade Representative

The banned goods are carried into the Office of the Soviet Trade Representative in Japan, and payments for the goods are received in cash, in exchange for the goods.

The goods are exempted from customs inspection as diplomatic cargo of the Embassy, and are shipped to the Soviet Union. In this case, the form of transaction is domestic transaction, to the last. There is a possibility of the places where the goods were purchased and to whom they were sold being found out through the tracing of vouchers for the purchase of the goods, documents concerning sales, etc. There is also the problem of taxes, and this is a method which trading firms are not very happy to use.

AIM AT LOCAL CUSTOMS

5. Breakdown

The manufactured product which one aims at exporting to the Soviet Union is broken down into as small units as possible.

It is possible to break down even a plant for the manufacturing of IC's, for example, into such units as measuring instruments, valves, furnaces, conveyor belts, meters, etc., which are much more easily passed by Customs. If they are divided into several batches and are shipped by freighters, separately, a number of times, under separate contracts, approval for exports can be obtained for them, so long as the goods under each contract do not infringe on the restrictions.

In the case of this method, there may be parts, such as the central parts of the facilities, for which approval for exports will not be given, for the reason that they are strategic goods. In such a case, those parts are exported separately by the masking method explained in 2, or by resorting to the methods set forth in 3 and 4.

There is also the method of exporting the various parts, broken down into small units, by obtaining approval under the pretext of spare parts for plants which had been contracted for in the past and which have already been delivered.

The delivering of a huge amount and spare parts items (which are not spare parts but are actually the parts of banned goods, broken down into small units) by obtaining approval officially, the assembling of these parts in the Soviet Union, and delivering them to the Soviet side as manufacturing facilities and testing facilities, which are banned goods, are also being resorted to.

6. Clearing the Goods at Local Customs

Avoiding such Customs as Yokohama or the Kobe Customs, the goods are taken to local Customs, such as Niigata Customs, and are cleared through them. There are shipping services between Niigata and Nakhodka, and export cargo is accepted for inspection at Niigata Customs. Inspection is comparatively simple at local Customs, and it is also easier to camouflage technical explanations. If the documents are in order on the surface, it is easy to obtain Customs clearance approval. As regards important banned goods, which must be handled with still greater care, they are vacuum-packed, and the packing method in which the packing itself will become unusable, once it is opened, is adopted. Generally speaking, there is no local Customs which will forcibly carry out inspection by opening the packed goods, when it is known that re-packing will cost a great deal of money.

If the goods are not heavy-weight goods like machine tools, they are handled as air cargo, and Customs clearance at the bonded warehouses of enterprisers handling air cargo is requested. It seems that the inspectors of air cargo have a sharp instinct for and experience in smuggling in of such goods as narcotics, pistols, rare metals, gems, etc., but that they do not have much interest in whether high-technology products will infringe on the COCOM Rules or not.

7. Shipment Via Third Countries

Goods destined for the Soviet Union are shipped via non-COCOM member nations.

Suitable companies, which will not be averse to taking the risk of selling banned goods to the Soviet Union, if it is for the sake of making a profit, are sought out in advance in countries which are not members of COCOM, such as Switzerland, Austria, Hong Kong and Singapore, or a dummy company is temporarily established in these countries, in advance, and banned goods are exported from Japan to those companies.

8. Sample Fairs in Moscow

As one method for the acquisition of high technology, the method of lending for a certain fixed period of time banned goods which were exhibited at sample fairs in Moscow, to Soviet research institutes and letting Soviet experts thoroughgoingly dismantle and analyze them, and exhaustively study the secrets of high technology, is also resorted to.

AIR-CONDITIONERS ARE ALSO IMPORTED AS WEAPONS

There are cases where MITI approves the exhibiting of COCOM banned goods at sample fairs, on the condition that they will be brought back to Japan, in the name of publicizing Japan's technology. In this case, they are not exports, and therefore, claims will not be raised by COCOM.

The true purpose of the "External Technology Co-operation Corporation," which was established ostensibly for the purpose of testing and evaluating the performance of foreign products, the introducing of other countries' most sophisticated products to Soviet users, and promoting imports, lies precisely in this kind of piracy of other countries of high technology.

Toward trading firms which co-operate in the exhibiting of this kind of products at sample fairs, the Soviet side compensates them by granting them privileges, such as the Soviet side's buying up all other general products which were exhibited, without any discount in prices.

As for Toshiba Machine's exporting propellor milling machines this time, it adopted a method which skillfully combined together the "side-letter" and the "shipment via a third country" method and still another method called "docking."

Even most ordinary goods, which are not entered on the restriction list as strategic goods, can become closely linked with military use, depending on for what purpose they are used.

Several hundred units of wind-type air-conditioners are exported from Japan to the Soviet Union every year. They are the most ordinary export goods, no matter how one looks at them, and they are nothing more than household electric appliances for non-military use. These air-conditioners are high-quality products of high performance, compact in size, and with outstanding cooling capacity.

The Soviet Industrial Machinery Import Corporation imported an air-conditioner manufacturing plant from Toshiba about 10 years ago, and it is domestically manufacturing air-conditioners in Baku City in Azerbaydzhan SSR. Therefore, they are not goods which must be imported, using valuable foreign currencies. Despite this fact, the Soviet Union imports several hundred units every year. Furthermore, the number of units does not show any sharp increase or decrease, and it unfailingly places orders for and imports several hundred units. Moreover, it designates high-performance, small-size models, manufactured by Hitachi, Sanyo, Toshiba, Daikin, etc., for its purchases.

To what purpose are they put to use?

The temperature inside a tank rises, even when running at normal speed. In time of combat, the temperature becomes unbearably high. This has adverse effects, not only on the morale of the soldiers but also on the machines and instruments, which use many electronic parts and which have been highly automatized, and it greatly lessens their combat capability. For this reason, it needs high-performance air-conditioners. The air-conditioners which the Soviet Union manufactures itself are large in size and their performance is also inferior, and they cannot be used for this kind of purpose. To begin with, the Soviet Union, which is a cold country, does not have the basis of air-cooling technology, and it relies entirely on Japan for the imports of these air-conditioners.

Anti-rust paper, in which chemicals for the preventing of the rusting of metals have been soaked, are commonly sold on the market. There was a case of our exporting an "anti-rust paper manufacturing plant" to the Soviet Union, for the production of this kind of paper.

This was still a new technology in those days, and especially, the preparation of anti-rust chemicals was an enterprise secret. The price of the facilities as a whole, including the chemical know-how, was more than four million dollars, even at prices in those days.

The purpose of this plant was not the manufacturing of anti-rust paper for the wrapping of general tools and knives for household use. It was for the manufacture of anti-rust paper for the long-term storing of weapons in peace-time, protecting them from rusting.

If oil and fats, such as grease, are used to prevent the rusting of weapons, it will take time to remove the anti-rust preparation in the case of using the weapons in a time of emergency, and they are unsuited for immediate response in a time of emergency. If they are just wrapped in paper, it only requires the time to tear off the wrapping to become combat-ready.

The view of a major Japanese manufacturer's view is that "To judge from its huge production capacity, it is impossible to consider it as for civilian use. It is for military use, and it is clearly for the purpose of storing weapons."

I personally had the following experience. Soon after the invasion of Afghanistan by Soviet Forces toward the end of 1979, I received a strange inquiry from the Soviet Technology and Machinery Import Corporation.

It was an inquiry concerning "coffins for the refrigerated preservation of corpses." They were probably for shipping back the bodies of the war dead from Afghanistan to the Soviet homeland.

I sent a telex message to the head office. I found out that this kind of coffins was being manufactured in Japan, too, and that they could be exported. In Japan, however, the refrigerated preservation of dead bodies is limited to extremely special cases, and the production amount was also small. Furthermore, they were specially ordered coffins of dignified make and decoration.

However, what the Soviet Union wanted was a low-priced simple wooden box with no unnecessary decoration, but with refrigeration equipment attached to it. The Soviet side's request was that it wanted these coffins quickly in a large amount. The negotiations fell through, in the end, as agreement could not be reached on the price and the time of delivery, but these coffins can also be said to be military goods, in a certain sense. There are also many other cases of business negotiations for goods, which seem to be for civilian use, at first glance, but are actually for military use, in trade with the Soviet Union.

INTERVENTION OF ITO-CHU

At the stage of drawing up a draft contract, with all technical problems settled, Toshiba Machine suddenly made a representation to Wako Koeki, saying that "We wish to appoint Ito-Chu as the seller's representative."

It said as follows: "Toshiba Machine has been using Ito-Chu from a long time ago as the window for exports to the Soviet Union, and if we use Wako Koeki as the window for this case alone, there will be strong complaints from Ito-Chu. Also, Ito-Chu is familiar with the obtaining of export permits, and they can be cleared by Customs in a very normal way as one of Toshiba Machine's products, several dozens of which are exported to the Soviet Union every year. If we were to carry out exports through Wako Koeki for this case alone, all of a sudden, it will draw attention needlessly, not only of the Government offices concerned, but also within Toshiba Machine itself and industrial circles, and there is the danger of various problems arising. We fully appreciate the achievements of Wako Koeki and we will also pay a fully adequate commission, and it is earnestly hoped that you will agree to it."

The participation of Ito-Chu was proposed by the Toshiba Machine side. It seems that the main purpose was to repay its debts to it over the Ataka Case. Consequently, it was not "intervention" in the strict sense of the term. However, whatever the reason, it was intervention, when viewed from the Wako Koeki side, and Wako's Soviet Department Chief made a strong protest. In the end, however, Wako decided to take the substance, and cede the title of the seller's representative to Ito-Chu.

It was also not that the Ito-Chu side snapped up this proposition immediately. It seemed to have had the awareness that there may be some special circumstances, as they were business negotiations which the "Technological Machinery Import Corporation," instead of the Machine Tool Import Corporation," which was the Soviet side's normal window for the imports of Toshiba Machine's machine tools, was pushing with Wako Koeki, which is a company specializing in trade with the Communist bloc and which is strong in the special machine sector. Its reply was that "We cannot say immediately that it is fine and that we will take it up. We will give a reply after consulting with our proper superiors. Please give us two or three days time."

Ito-Chu's conclusion was transmitted to the persons concerned the following day. It was that "It has been decided that Ito-Chu will be glad to accept the offer."

Agreement was reached among the three companies—Toshiba Machine, Wako Koeki and Ito-Chu Shoji—as to their respective roles. In other words, it was agreed that Toshiba Machine will take charge of the manufacture of the goods for the sales-purchase transaction, that Wako Koki will take charge of liaison and interpreting work with the Soviet side, and that Ito-Chu will take charge of the procedures for the export and shipment of the machines.

When the conclusion of the three Japanese companies was transmitted to the Soviet side, we immediately received a stern protest from the "Technological Machinery Import Corporation" Senior Vice President Arabertov [TN: phonetic].

"We will transmit the Corporation's views toward your decision of the Japanese side to appoint Ito-Chu as the seller's representative."

There is an independent sector as the Technological Machinery Import Corporation's special branch, called the "Commercial Department." It is strange that there is a "Commercial Branch" in a trade corporation, but this is a department which engages in the collection of information, the obtaining of samples and other work which is not directly connected with business. This Araberdov had recently been promoted to the post of Senior Vice President all of a sudden, from the post of Director of this Commercial Department.

"We pushed negotiations with Wako Koeki, with which we have been working together as a partner of this Corporation for more than 20-odd years, as the representative of the seller. However, even if you suddenly tell us that you have named Ito-Chu, which we do not know well, as the agent for the seller, it is difficult for us to agree to it easily. Ito-Chu is certainly a big all-round trading company, and we know that it has strength as an enterprise. However, it is not possible for us, the buyer, to agree to having the staff members of Ito-Chu, with whom we are not acquainted, take part in the business negotiations this time, which contain delicate problems. We request your re-consideration."

After much haggling, we finally obtained the consent of Senior Vice President Araberdov, and completed the chain of conspiracy, consisting of five organizations, that is, Toshiba Machine, Wako Koeki, Ito-Chu Shoji, the Soviet Trade Corporation's "Technological Machinery Import Corporation" and the "Kongsberg Corporation."

ASSOCIATION WITH THE KGB FROM 22 YEARS AGO.

The close relationship between Wako Koeki and the Technological Machinery Import Corporation started 22 years ago—from 1965.

In 1969, the "Odantara Case," in which a member of the Office of the Soviet Trade Representative in Japan, who had been collecting technological information, using a student from Indonesia, studying in Japan, was expelled, was brought to light. Four years before this incident, V.A. Sedov, who was the principal in this case, approached Wako Koeki with a "special inquiry."

It was an inquiry on a "large size hyper-vacuum chamber for temperature control." This is a facility for creating a degree of vacuum and temperature which correspond to that in outer space, within a box-shaped facility, for the testing of the properties and durability of the parts and living things within the chamber by controlling it freely. It was installed in the "Physics Research Institute," which is located at a place turning left from Leningrad Boulevard, which leads to Sheremetyevo Airport in a suburb of Moscow, at the subway station of Sokor, and it is being used for research for studying the changes in properties in outer space, even today.

The persons in charge at the Technological Machinery Import Corporation at the time were Sedov of the "Odantara Case" and Anatoly Maksimov, who assumed a post in the Soviet Trade Representative's Office in Japan, as the representative of the Technological Machinery Import Corporation, as Sedov's successor.

These two persons were the sponsors for Wako Koeki in actual substance, and they "took care" of the Wako Koeki staff members in various ways, in regard to visa support for them and assisting them in their business negotiations from the side. It goes without saying that their true aim was to establish a "big pipeline" between the Soviet Union and Wako Koeki.

This relationship continued up to immediately before the starting of the business negotiations with Toshiba Machine. Toward the end of 1978, Sedov was promoted to and assumed the post of the Head of the Soviet Trade Representative's Office in East Germany. With the arising of the Iranian Revolution, just about the same time, Maksimov also left suddenly for Teheran as an agent for the carrying out of local operations. It was Vice President Oshipov and Anatoly Petrovich Troyitsky who were introduced to us

as the succeeding persons to take charge of Wako Koeki, just before Vice President Sedov's departure for East Germany.

Almost all enterprises which have offices or branches in Moscow have these kinds of "pipelines," and it is not that Wako Koeki alone was a special case. So long as there is the Soviet "will" to seek them, it is possible to establish such pipelines. If an enterprise were to resist this, such as enterprise will graudally come to lose business opportunities and will be forced to withdraw from the Soviet market.

"20- or 30-percent discount in prices is a matter of course, and the price is reduced to less than half, depending on the goods concerned." This is a part of a song which trading firm staff members, engaging in trade with the Soviet Union, hum to themselves, partly in self-derision. From the very beginning of the business talks for propeller milling machines, the Japanese side intended to withdraw immediately, if the demand for a price discount is severe. If the Soviet side were to demand a price discount which it normally demands at business negotiations in general, it was not a business transaction which could be carried out, to consider the risk.

In transactions with the Soviet Union, the deciding of prices is carried over to the very end of the negotiations. If refuses to discuss prices until other general terms, such as technological problems, the time of delivery, the payments terms, etc., are definitely decided.

In the case of the propeller milling machines this time, the offer was 5 million dollars per machine. To calculate this price at the exchange rate at the time, which was about 200 yen to one dollar, the price was about one billion yen per machine.

After the holding of price negotiations a number of times, the Soviet side demanded a 20 percent discount in the price, saying that it will order four machines and that it will also increase its orders for spare parts. It was an almost unbelievably generous demand, as a demand for a price reduction for machinery and facilities. The Japanese side held down its impulse to break out into laughter, and rejected this demand. That was because we knew that there did not exist any company in capitalist nations which would dare to sell nine-axis-control propeller milling machines to the Soviet side.

The Soviet side would probably have brough them, even if we insisted that we will not offer even a one-dollar discount. However, honoring the face of Anatoly Troyitsky and Plant Manager Filskov, who persistently pressed for a price discount, we reached the compromise settlement of a unit price of 4.35 million dollars per machine, or the total price of 17.43 million dollars for the four machines. It was a discount of about 13 percent.

As admitted by Toshiba Machine itself later, about 3.5 billion yen for the four machines is an exhorbitant price. The Soviet Union may have been forced to make the purchase at a high price, as its vulnerability was known. However, if thought is given to the purpose and use of these machines, and also to the time and cost it would probably have had to spend for the development of this system itself, there remain doubts as to whether it was really a costly purchase or not.

For the ceremony of the concluding of the contract, all persons concerned gathered at Ito-Chu Shoji's Moscows Branch Office.

Ito-Chu Shoji's Moscows Branch Office is located in the office building of the Trade Center, in the same way as other Japanese enterprises which have offices or branches in Moscow. The concept for the construction of this grand building was proposed by President Armand Hammer of U.S. Occidental Petroleum Corporation, and which the Soviet Union built, devoting all-out efforts, in time for its completion for the Moscow Olympics. In actual fact, it is also very convenient for gathering together all foreigners at one place and keeping them under surveillance as a group.

Also, it made it possible to hold heated negotiations as much as one liked, without being chased out partway through the business negotiations, because of the limited time for talks and the schedule for the next appointment, which had been the case in the Corporation Office in Smolenskaya Square. At the same time, however, the Soviet side's Corporation-connected persons come to stay forever in the branch office and demand food and drinks.

A total of 20 persons were present at the ceremony for the signing of the contract.

From the Technological Machinery Import Corporation on the Soviet side:

Senior Vice President Araberdov, Vice President Oshipov (KGB), official in charge Troyitsky (KGB) (after the contract was signed, he was promoted to the post of Vice President of the Industrial Machinery Import Corporation), Department Chief Kotomin, administrative official in charge Jarlov and Corporation Secretary Olga Mironova.

It was also attended by Foreign Trade Ministry Technical Officer Zakharov, and from the Baltic Shipyard, by Propeller Plant Manager Filskov, Chief Engineer Gusev and Computer Programmer Suichov.

As for the Japanese side, the Export Department Chief, the Project Manager, the Export Section Chief, and the Designing Section Chief from Toshiba Machine, the Moscow Branch Manager, the Moscow Branch Deputy Manager and the staff in charge from Ito-Chu Shoji, and the Vice President, the Soviet Department Chief and the Moscow Branch Manager from Wako Koeki attended.

The selling side and the buying side initialled each page of the contract, which consisted of a total of 120 pages, broken down into 33 pages of main text and 87 pages of the attached document, and the full signature at the end of the contract was signed by Vice President Araberdov and Ito-Chu's Moscow Branch Manager. From this moment, the contract went into effect. It was on April 24, 1981.

FALSITY OF JAPAN-BASHING

Blessed with the applause of all persons present, as required by formality, the Japanese and Soviet signers shook hands with each other, and then a celebration party was held. At his point, however, no crime had yet been committed.

It is only when the actual act of implementation is taken that it becomes an infringement of laws and regulations. The contract, which was signed, did not have any nature of being illegal, so far as the documents were concerned, no matter how one looked at it.

Almost none of the people who gathered together on this occasion, at least on the part of the Japanese side's persons concerned, had any ideological bias, and they were all ordinary salaried workers, who are very interested in their work, of the type seen in any Japanese company. With their families, they were probably serious-minded and kindly fathers and husbands who could be depended on.

For what reason and in what way did these average company employees of average Japanese companies come to lend a hand in "selling to us the technology which we lack, and making it possible for us to achieve military reconstruction, which is indispensable for us to attack those persons, who offered those technologies and products to us, and for us to win victory," exactly as prophesized by Vladimir Ilich Lenin, who is revered in the Soviet Union as the Father of the Socialist Revolution? If a person reads about the case which took place in the "Baltic Shipyard," the munitions plant in the old capital of Leningrad, under the midnight sun, he will understand how greatly removed from the actual facts it is to grasp the case this time as a part of the United States' "Japan-bashing" and to doubt even the existence of the COCOM Rules, as is being done by some "men of culture," scholars and media organs.

However, I will not write about these circumstances this time. There is my position that indictment against me has been suspended. However, there are also other things which I think I must write about, eventually.

As for the purpose to which those screw milling-machines were put to use, I have doubts as to whether they were really for screws for submarines, as reported.

There is something more dreadful which is proceeding, and no one understands it correctly. Those who know just smile thinly and keep their mouths shut. I even felt at the time that a scene in an SF horror film had become a reality.

All that I can do at present is to earnestly pray that this author's apprehensions are nothing more than foolish imaginings born of fear.

[From the Wall Street Journal, Aug. 4, 1987]

THE TOSHIBA CASE: JAPANESE FIRMS' PUSH TO SELL TO SOVIETS LED TO SECURITY BREACHES—MANY TENDED TO IGNORE RULES AND THE NATIONAL INTEREST; AUTHORITIES SEEMED LAX—BUT ATTITUDES ARE CHANGING

(By Damon Darlin)

TOKYO.—Every business day, teams of Soviet trade officials would visit a Moscow office tower housing a lot of foreign trading firms, sometimes drinking and eating their way down, floor by floor.

"They liked the raw fish we served," recalls Kazuo Kumagai, who worked on the 18th floor as a representative for Wako Koeki Co., a Japanese company trading exclusively with Communist countries.

The Soviets liked Japanese technology even more. On most days, they presented lists of items they wanted to buy. Often mixed in with the mundane construction cranes and squid catchers on those lists were items that the Japanese businessmen suspected might be illegal to export, such as scientific testing equipment, high-tech composite fibers, even armored vehicles.

GOING ALONG

So, one day in late autumn of 1980, when a Soviet official asked Wako Koeki to find a sophisticated robotized milling machine capable of making large ship propellers, Mr. Kumagai and his bosses didn't think it unusual. Despite their suspicions, Wako Koeki went ahead and, along with C. Itoh & Co., a giant Japanese trading house, helped Toshi-

ba Machine Co. sell milling machines that, the U.S. believes, the Soviets used to make their submarines quieter and thus harder to track.

"Sometimes we had to break the regulations," says Mr. Kumagai, who, five years later, quit Wako Koeki in a tiff with his boss and informed authorities of the transaction. His revelations have ignited intense anger in the U.S. and gut-wrenching apologies and soul-searching in Japan. They may temporarily dry up trade with the Communist bloc but also may force Japanese companies to think twice about putting sales ahead of national security.

Although the Japanese government's laxity in policing Communist-bloc trade played a major role in the scandal, the Japanese companies' tendency to ignore security issues in the pursuit of deal-making is as much, if not more, to blame. "Japanese have considered it a taboo since World War II to think about national defense and have grown accustomed to thinking that the U.S. will defend the country," a Foreign Ministry official explains. "National security simply is never thought about by businessmen."

WHY SOVIETS SUCCEED

Indeed, the reasons Wako Koeki pursued the sale tell a lot about why the Soviets seem to score such coups in Japan.

"It was as if they dangled a delicious fruit in front of a hungry man," says Mr. Kumagai in Russian-accent English. "My company demanded results. I have a conscience, but I also have a family on my shoulder.

"Other companies were under the same pressures. Others were doing that, too," adds the unemployed 51-year-old, who learned Russian in college and then spent almost 22 years handling Soviet trade and pinning his hopes for advancement on Soviet largesse. "Toshiba is only the tip of the iceberg."

U.S. authorities, and a growing number of Japanese investigators, suspect that Mr. Kumagai is right. The whistle-blower has told police of other incidents, although he concedes that he has little evidence because he didn't save documents. And in many cases, Japan's three-year statute of limitations has expired.

However, a U.S. official says that in the past year, the Americans have gone to Japanese authorities with as many as half a dozen cases of export violations by Japanese companies. One, the official adds, is "almost as significant as Toshiba." In Washington, rumors are circulating that five giant Japanese companies are thought to have violated the rules in the past.

The Japanese government denies that the problem is that big, but, when pushed, the Ministry of International Trade and Industry admits to cracking down on two export violations in May, after the Toshiba case broke. In addition, Japanese police have expelled Poles suspected of stealing computer software secrets and have linked Soviet trade officials with illegal sales of aircraft instrument technolgoy.

The Japanese government, which at first sent out a hodgepodge of statements waffling on the importance of the Toshiba case to national security, now is closer to speaking with one voice. It is beefing up the staff that scrutinizes export licenses, although the staff remains small by U.S. standards and still isn't expected to pursue rigorously diversions of technology to third countries. And Japan is considering proposed legislation that would increase the maximum fines and prison terms for people convicted of exporting restricted technology to the Soviet bloc.

Japanese companies also are reacting to the scandal involving Toshiba Machine, which is 50.1%-owned by Toshiba Corp. They are more cautious about exports to the Soviet Union, which in the first five months of 1986 had already dropped 67% from a year before. Matsushita Electric Trading Co. says three deals that it had been negotiating with Soviet Union have been suspended. Japan's beleaguered machine-tool makers say exports to the Communist bloc could slump as much as 70% this year.

However, the Soviets deny being worried about any trade slowdown. "I don't believe this incident will have a great effect on Soviet trade," says Yurii P. Tchegodar, the director of the economic department of the U.S.S.R. trade office. What can't be bought in Japan, "we will buy from West Germany, England, Italy or the U.S.," he says, adding, in regard to one of the deals canceled by Matsushita, "We bought it from France already."

Perhaps more worrisome to the Soviets in the long term is that company attitudes seem to be slowly changing here, toward a broader view of the world. "We Japanese who put our companies' fortunes in front of our country's are beginning to realize that the security of our nation is the security of our company," says an executive of a major machine-tool maker.

BACKLASH FEARED

The shift apparently isn't entirely for altruistic reasons. Many fear that the backlash will hurt their business with the U.S. Toshiba faces the threat of tough sanctions prescribed by Congress with only a few dissenting votes. An amendment to the Senate trade bill would give President Reagan the option of banning imports from Toshiba or any of its subsidiaries for as long as five years if he deems such punishment suitable. The House has voted to ban the sale of all Toshiba products at U.S. military stores all over the world.

"Companies can't risk losing 100 yen for one additional yen," Mr. Kumagai says.

Japan's trade with Communist nations isn't large compared with its trade with the West. Exports to the Communist bloc, including China, totaled about $16.5 billion last year, about 7% of Japan's total exports. The outlook for growth looks pallid, although Japanese executives continue to harbor high hopes for China. The problem is that the Communist bloc is short of foreign currency, and the Soviets, especially, don't want a trade deficit with Japan; thus, trade is choked back because they have few goods that Japan needs.

The Soviets say their imports from Japan are down only 25%, mainly because they are buying less steel pipe and because two major trade agreements have lapsed and are being negotiated. The Toshiba case appears to have little bearing on the negotiations, say some parties involved.

Nor is it straining Soviet-Japanese relations, which seem to be warming up. Last January, Japanese Prime Minister Nakasone invited Mikhail Gorbachev, the Soviet leader, for a visit, and although the invitation was turned down then, talk of a visit has recently revived. Meanwhile, Soviet proposals to reduce nuclear missiles have been warmly received in Japan. The only nettlesome issues are, for the Japanese, the Soviet refusal to return several northern islands that the Soviets seized from Japan at the end of World War II and, for the Soviets, Japan's attempts to improve relations with China.

MOSTLY DRAB GOODS

There aren't any trade disputes. That's because much of what Japan sells the Soviets is dull fare—steel pipe, drilling equipment, bulldozers and dump trucks for construction and mining. But a partial list of legal exports last year also includes scientific testing equipment, super-cooling devices and even noise-measuring gear along with the machine tools.

"There will be a lot more" crackdowns on Communist-bloc trade, says a U.S. official in Tokyo. "The Japanese now know they have been too lax."

Soviet trade officials in Tokyo, who refer to the Toshiba case as the "notorious incident," say they think that they are being made scapegoats in an economic war being waged by the U.S. to weaken Japan's economy. And they make no apologies, for seeking high technology in Japan.

Even news reporters from Communist countries keep an eye on high-tech. Whenever the Japanese government press center organizes a tour of a high-tech factory or research facility, the reserved spots are quickly snatched up by Communist-bloc reporters.

"Naturally, every country is interested in modern equipment. We don't buy machines that are no good," Mr. Tchegodar says.

SOVIET REACTION

The Soviets scoff at Japanese and American allegations that many Soviet trade officials in Japan work for the Soviet secret police. Mr. Tchegodar says sardonically that trade officials don't know what is on the Cocom list, the agreement between Japan and several Western nations that restricts high-tech exports to Communist countries. "That is not our function. We are free to ask for everything," Mr. Tchegodar says. A. Rodionov, another Soviet official, says, shrugging, "If the Japanese companies want to send us such things. * * *

Little distinction is drawn between commercial and military applications. "I believe all machinery can be used for military use," Mr. Tchegodar explains.

Few manufacturers want to talk about their trade with Communist nations. No trading house would agree to an interview, not even the giants whose Soviet trade accounts for less than 1% of their revenues. And an organization of 150 companies that deal with the Soviet bloc refuses to disclose its membership. "There are no Japanese stupid enough to take the trouble to speak out at a time like this," says an official of the small Kurimoto Trading Co.

But some manufacturers did say it is hard to pass up Soviet orders. The National Policy Agency, Japan's Federal Bureau of Investigation, says the Soviets paid triple Toshiba's list price for the propeller-milling machine.

OTHER LURES

Even when the Soviets aren't raising the price to get what they want, the trade looks good. The Japanese companies don't have to set up service networks, as they do in the U.S. and Europe. Sales costs are low because few companies need to have large staffs in Moscow. The Soviets know what they want and when they want it. Japanese find the 74 Soviet trade people here easy to deal with because almost all of them, unlike Americans and Europeans, are fluent in Japanese, and most know English, too. And payment is guaranteed.

"There is a lot of profit" in Soviet sales, says Masaya Tsuchiya, an expert on Soviet-bloc trade with the Japan External Trade Organization.

So, while the high yen and trade friction are impeding trade with the West, Japanese companies, especially in declining industries such as shipbuilding, steel and machine tools, find that market appealing. Mr. Kumagai, the Wako Koeki whistle-blower, says the Soviets have exploited that by offering lucrative deals to small, weak trading concerns only if they helped them with more difficult projects.

The toughest problems are posed by legal commercial goods that the Soviets divert for military use. In such cases, the companies are supposed to police themselves. But there are a lot of diversions.

Japanese press reports say the Soviets used special ball bearings in the Toshiba-milled propellers. And Toshiba Machine has admitted that it sold two other propeller-milling units to the Soviet Union as early as 1974, but it says these didn't violate existing Cocom laws. MITI acknowledges that it is investigating the sales.

SOME OTHER CASES

In addition, Nissan Diesel Motor Co., an affiliate of Nissan Motor Co., stopped shipments of flatbed trucks to North Korea after reports that the trucks were being converted to mobile missile launchers. According to other reports, Japanese room air conditioners are being used in Soviet tanks, automobile air conditioners are going into military vehicles, and computer chips purchased in Tokyo's Akihabara electronics district are being carried to the Soviet Union.

Ishikawajima-Harima Heavy Industries Co. had a bad experience with a major diversion some years ago, and the huge shipbuilder and industrial-products company has changed its attitude toward Soviet trade. In 1978, it sold the Soviet Union a dry dock, a gigantic floating repair yard capable of lifting 80,000-ton ships out of the water. No one at the company heard anything about it for several years. Then, a U.S. spy photo spotted it repairing an aircraft carrier.

"We were shocked," says Koki Kinoshita, an IHI spokesman. "We had dealt with the Soviets for 30 years. We thought the dry dock was another routine matter."

Although IHI hadn't broken any laws, the incident touched off an internal debate on how to deal with the Soviets. The company decided to keep trading with them—it still sends them ships and other products—but every sale is considered in light of alternative uses of the product. "Anything can happen when you deal with the U.S.S.R." Mr. Kinoshita says.

And when the U.S.S.R. asked for a second dry dock, IHI politely said it was too busy. An order for computer controls for an aluminum-rolling machine in Hungary also was turned down, but IHI later learned that the Hungarians managed to get the system elsewhere.

"Our company now considers the broad principles of Cocom rather than narrow particulars" of the trade-regulating agreement. "You can be free from legal restrictions but still have moral responsibilities," Mr. Kinoshita says, adding: "Perhaps you need a bad experience, but now we think we have more self-control."

[From the Christian Science Monitor, July 22, 1987]

TOSHIBA WHISTLE-BLOWER DEFENDS DECISION TO EXPOSE COMPANY

HIS MOTIVE, HE SAYS, WAS TO PROTECT SECURITY OF JAPAN AND FREE WORLD

(By Takashi Oka)

TOKYO.—The man who blew the whistle on Toshiba says he would be willing to testify before the United States Congress or the Japanese Diet (parliament).

"The US Congress seems intent on bashing Toshiba," said Kazuo Kumagai. "They may do that. But to me, what is most important is how to stop illegal sales to the Soviet Union of high technology products that endanger the security of the free world."

Punishing Toshiba, Mr. Kumagai said, puts the emphasis on retribution for what has already been done. The US, Japan, and the other principle Western countries, he says, should be getting together to see how they can prevent future Toshiba-like incidents.

Toshiba Machine and the Norwegian firm Kongsberg Vaapenfabrikk have admitted selling to Moscow a special type of milling machine and its computer controls that have enabled the Soviet Union to dramatically reduce the noise level of its submarine propellers.

Drafts of laws now before Congress would deny Norwegian and Japanese companies concerned access to the American market for specified periods of time, particularly for the giant Toshiba Corporation, the parent of Toshiba Machine.

Kumagai exposed what Toshiba and the Norwegian firm had done in a letter to Cocom, the Paris-based coordinating committee of Western allies that makes rules for what may or may not be exported to Soviet-bloc countries.

A man of craggy visage and of somewhat saturnine expression, Kumagai has the air of someone who knows he has caused controversy; and yet is at peace with himself.

"Which is the greater patriotism," Kumagai asks, "not to expose something that is harmful to Japan's prestige, or to expose it because it endangers Japan's security and that of the whole free world?"

He was responding to an accusation that a number of Japanese have made, questioning his motives.

"To expose a case like this at this time, when Japan is already being bashed by Congress for its huge trade surpluses, is clearly against the national interest," said an editorial writer of a leading newspaper here. "Why did Kumagai do it? He must have had some compelling personal reason—some huge grudge against his employer."

The comment in turn shows one aspect of Japanese society an inclination to close ranks against a perceived threat from the outside, a reluctance to break ranks and to be seen pointing accusatory fingers at each other. People like Kumagai, who break these unspoken rules, must be prepared to face social ostracism and to have any skeletons they may have in their closet pitilessly exposed.

Kumagai, in this sense, is both vulnerable and not. He is vulnerable because he himself participated in the kind of rule-breaking he exposes. He is invulnerable because he has already been through this crise de conscience and made his decision to go public, come what may.

In a Monitor interview earlier this week with Daniel Sneider, Kumagai explained the kind of work that his company Wako Koeki did in Moscow, his growing uneasiness over its flouting of Cocom rules and the consequences for Western security, and his final decision to take action.

In Tuesday's interview with this correspondent, he reiterated that what originally impelled him was anger—anger with his company that, after years of doing "dirty work" for it, he had not been promoted as he thought he deserved. This anger in turn led him to reexamine what he had already been uneasy about—the kind of life he had led and why, and what satisfaction he had obtained.

Kumagai freely admits that he was one of the culprits, but he angrily denies that he was motivated by greed or that he tried to blackmail anyone. "Can't people believe that it's possible to expose something that may harm Japan's prestige in the short run, and still be a patriot?" he said.

Kumagai also points out that Wako was far from being the only company that flouted Cocom rules. Many other companies, Japanese and Western, did the same. He says he has mentioned some names other than Toshiba in his letter to Cocom as well as in his statements to the Japanese police when they investigated him following the letter.

"In quantity it's quite correct to say that the Toshiba case was only the tip of the iceberg," he said. "In quality, it was by far the most serious case."

Now that Toshiba is out in the open, what about these other cases? "The police are investigating them," he said. He did not want to mention names because he had no proof.

In that sense, Kumagai feels, his exposure of Toshiba has been a success. In the changed climate brought about by his action, Japan is now hurrying to tighten its Cocom-related laws and procedures. Other countries may be doing the same.

"But to be effective, there must be a coordinated effort," Kumagai said. That is what he very much hopes will be the next stage in this unfolding story.

FUNDING FOR THE INTERAMERICAN DEVELOPMENT BANK

APPROPRIATIONS COMMITTEE CLOSELY WATCHING ACRE PROJECT

Mr. KASTEN. Mr. President, yesterday, the Interamerican Development Bank informed me that it was reversing its position on the environmental performance of the Acre Construction Project.

Before yesterday, the Interamerican Development Bank (IDB) has always insisted that the environmental components of this $58.5 million loan were being complied with. Yesterday, however, the IDB decided to notify the Brazilians that a major environmental component of this loan, the demarcation of indigenous reserves, is not being adequately fufilled.

If this shortcoming is not corrected in 60 days, the IDB has indicated it will formally suspend further disbursements for this road.

Senator INOUYE and I have worked very closely to see that the environmental components of this loan are implemented. We will continue this close cooperation to see that these

critical environmental provisions are implemented.

Yesterday's decision by the IDB was a good first step. We will be carefully watching progress on bringing this loan into compliance with the environmental provisions in the loan contract. We will pay special attention to the adoption of the "definitive action plan" which provides for the implementation of these environmental provisions. This plan is currently scheduled to be presented in mid-September.

The Appropriations Committee has previously indicated that environmental reform is a necessary condition for our financial support. We will closely watch the progress on the Acre Project in preparing this year's appropriation bill.

U.S. LEADERSHIP IN SPACE

Mr. GLENN. Mr. President, earlier this year Mr. Robert Anderson, chairman and chief executive officer of Rockwell International, spoke to the Harvard Business School Club of Cleveland concerning the U.S. Space Program. Mr. Anderson addressed the imperative of maintaining—and in some cases, restoring—U.S. leadership in space.

The question he endeavored to answer was why the United States should make the commitment of resources to assure its space leadership. Mr. Anderson emphasized three main points:

First, the American people strongly support the goal of U.S. leadership in space; second, our competitors are certainly prepared to overtake the United States if we fail to grasp the initiative; and third, space exploration is a major driver of new technologies critical to U.S. international competitiveness.

Mr. President, I believe the first point speaks for itself. Public opinion polls consistently demonstrate broad, bipartisan support for the U.S. Space Program. A national poll taken last summer, for example, found:

That 89 percent said the United States should resume shuttle operations while recognizing that there will always be risks associated with manned space flight; 69 percent support proceeding with the Space Station Program; and, 56 percent support significant increases in the NASA budget.

America's space program is faced with an increasingly serious challenge from both our friends and adversaries abroad. Clearly, the Soviets are solidifying their position in manned space operations with their Mir Space Station Program. In the critical area of space launch capabilities, there is a growing list of countries competing in an effort to dominate this important business market. The range of nations involved in this competition now includes France, Brazil, Japan, the PRC, and the Soviet Union. There is clearly a requirement to get the space shuttle operating again safely and to build up a fleet of unmanned expendable launch vehicles to assure our Nation's access to space and our ability to compete internationally.

Space exploration has proven to be a significant driver of new technologies. Spinoffs from the space program that have benefited the everyday lives of all Americans are numerous. Among these are: traffic control devices, highway safety systems, and smoke detectors. In addition, medical spinoffs in terms of heart pacemakers and surgical tools, for example, are also among the technological benefits deriving from the space program.

Finally, Mr. Anderson provides a clear explanation for the requirement for a balanced space program that maximizes the potential of manned and unmanned missions. He cites several specific examples of manned space flight that underscore the importance of man's ability to work with the sophisticated space machines of today. I concur with his judgment that, "man turns the unexpected into discovery, discovery into knowledge and knowledge into leadership."

Mr. President, our Nation's aerospace community is actively engaged in the work of assuring America's leadership in space. Mr. Anderson's remarks stand as a compelling reminder of why this work is so important. I would, therefore, ask unanimous consent that his speech be printed in the RECORD.

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

U.S. LEADERSHIP IN SPACE: THREE REASONS WHY

(Robert Anderson)

For nearly three decades, one of our country's most important sources of new technologies—new companies—new products and services to improve our standard of living—has been the space program.

Today the promise for future advances from space is greater than ever.

But their realization will depend on some very down to earth decisions to be made in Washington, DC in the name of the American people.

These decisions involve both the scope and the cost of our national space effort.

The basic decision to be made is—will the United States of America invest in its future to assure continued leadership in space?

There are those who would argue we have already lost that leadership to the Soviet Union.

Personally I don't think we are quite to that point yet—but the course we plot now and in the months just ahead will determine whether we ultimately lose it.

It was almost exactly fourteen months ago that the space program took an unexpected and tragic turn as the shuttle Challenger exploded just 73 seconds into what was to have been the space transportation system's 25th operational flight.

The seven Americans who perished aboard Challenger cannot be replaced.

But the spirit with which they faced the dangers of space can be renewed in their names and in the name of the country which they served.

After the tragedy, events at first seemed to move very slowly.

In retrospect, however, they really moved fast for an event of such magnitude.

Just over four months after the accident the President's Commission delivered its report.

It contained nine recommendations for changes in NASA management and flight operations and concluded with the following words:

"The commission urges that NASA continue to receive the support of the Administration and the nation. The agency constitutes a national resource that plays a critical role in space exploration and development.

"It also provides a symbol of national pride and technological leadership. . . .

"The findings and recommendations of this report are intended to contribute to the future NASA successes that the nation both expects and requires as the 21st century approaches."

On August 15th the President approved building a fifth shuttle orbiter, to bring the fleet back up to four operational vehicles, and shortly thereafter NASA set February, 1988, as the target month for the next launch.

From the events of 1986 I believe the nation has learned some important lessons.

The first lesson is simply that space flight is inherently hazardous and probably always will be.

In space, routine is not a synonym for relaxed.

The second lesson brought strongly home by the events of 1986 is that this country needs a mixed fleet of launch vehicles.

As the result of the Challenger tragedy and several unrelated accidents with expendable launchers, for about four months last year every one of our large launch systems was grounded.

Even more serious is the backup and rescheduling that is underway as a result of losing at least two years out of what was an accelerating shuttle launch schedule.

This is affecting virtually every aspect of our usage of space—scientific experiments like the space telescope, bold new advances like the NAVSTAR global positioning system, many classified projects and a number of civilian communications satellites for United States owners and nations around the world.

Closely tied to our current situation is the third big lesson, which is the need to push on with development of new launch vehicles to support our long-range space goals.

The experience curve in space development has trended toward larger and larger satellites and other payloads. This trend will be extended as construction of the space station begins.

Just as with airplanes, ships or trucks, the more you can carry on each trip, or the simpler your operations are, the lower your costs per pound or ton will be.

Two approaches to this are now being studied: the heavy lift vehicle for the 1990's and the National Aerospace Plane for the 21st century.

The former would be a huge expendable launch vehicle capable of boosting payloads of 50 to 75 tons into orbit.

This compares roughly with the five-ton payloads of current U.S. rockets, 21 tons for

the Soviet Proton and 32 tons for the shuttle.

The National Aerospace Plane is what President Reagan has called the "Orient Express," emphasizing its terrestrial role as an ultra fast intercontinental transport plane.

But, there is a potentially larger role for this craft, as a space transport capable of taking off from conventional type runways, attaining escape velocity and transporting people and cargo into orbit.

Its return to earth would reverse the process.

The aerospace plane offers the potential for much simpler space launch operations.

The final lesson learned from the events of 1986 is the critical need for this nation to get its act together with regard to supporting our space policy and plans.

Orderly development of space will be the work of decades, ultimately even generations.

It is an undertaking which requires a national commitment and a national will.

If the program cannot be structured to transcend the two-, four- and six-year cycles of American politics it is doomed to mediocrity.

Such a structure does not have to require unlimited access to the public till.

It does require a plan and a willingness to commit a percentage of our gross national product, at a predictable level, year in and year out no matter which way the political winds may blow.

For me, a person who has spent close to two decades managing businesses on the forefront of technology, the national need to maintain space leadership is obvious.

Why should we strive for leadership in space?

I see three good reasons.

And the first is simply that the American people want to.

Opinion polls show that national support for the space program is at an all-time high, even higher than during the years America was putting men on the Moon.

One recent poll showed that 9 out of every 10 Americans think we should resume flying the shuttle, even at some risk, and 8 out of 10 support the space station.

But not only do Americans support national space programs, they also perceive the threat to our leadership—which brings me to my second reason for keeping our space leadership.

If we don't stay in front, others will pass us.

That same opinion poll I just cited revealed that 7 out of 10 Americans believe it is important to stay ahead of the Soviet Union in space technology, and 6 out of 10 are even willing for our government to spend whatever it takes to keep our leadership position.

The Soviets are clearly the front runners among other nations in space activity, but they are not alone.

Europe's Ariane satellite launcher has a backlog of 59 launch contracts, the Europeans are developing their own shuttle-type vehicle and the British have a concept for an unmanned aerospace plane.

Both Japan and China have unmanned launch capability and the Chinese reportedly have a contract to launch the Westar 6S communications satellite next year with plans for launching two more Westars and a Swedish satellite over the next few years.

Our international competitors in high technology products recognize the tremendous contributions space programs make to their efforts to maintain global competitiveness.

But it remains the Soviet Union that is our major competitor in space.

Cosmonauts have flown in space more than twice the hours of U.S. astronauts.

The Soviets operate three cosmodromes and launch 100 rockets a year on average, five times what we do, and they, too, are now offering to provide commercial launch services.

The depth of their national commitment involves an estimated 600,000 people, compared with under 200,000 in the U.S., and expenditures estimated at 22 to 34 billion U.S. dollars.

This is two to three times our civilian space expenditures and represents perhaps twice as much of their gross national product.

This very minute, while U.S. astronauts are grounded for close to another year at best, Soviets are orbiting the earth in what is in fact a space station.

Modest, by our intentions for the future, but still a space station.

They have achieved mankind's first space station crew rotation and regularly resupply their orbiting cosmonauts using unmanned vehicles.

Their heaviest operational booster already outlifts our Titan 34D, and reported to be in advanced development is one that will approach the capacity of Saturn V which lifted Americans to the Moon.

The first Soviet shuttle may well fly this year. Some experts believe that by 1994 they could have five active space stations and 35 to 40 people in orbit.

That's the year NASA has targeted to have our station operational with a crew of only 5 to 8.

There can be no doubt that the Soviets are already more spacewise than we.

Yet our technical edge remains sharper—so far.

But that brings me to my third reason for maintaining space leadership—space exploration is a driver of new technologies.

NASA can identify tens of thousands of spin-offs from its research that enhance the everyday lives of most Americans.

These include traffic control devices, highway safety systems and smoke detectors.

Many additional spinoffs are found in medicine.

An estimated 12,000 life-saving and health enhancing devices and processes have sprung from aerospace research including programmable heart pacemakers, implants that dispense medication or control blood pressure, and surgical tools.

Yet, bear in mind that these advances are only those derived from the process of just getting men and machines into space for relatively short periods of time.

Our next step must be to prolong the length of that stay and provide the environment and equipment which will launch truly space-based research.

The space station is the foundation of that next step.

And any discussion of the space station should start with the question of manned versus unmanned space exploration.

Obviously unmanned spacecraft offer one major cost and weight advantage—there is no need to protect and nurture that fragile living organism called a human being.

Unmanned craft can perform many tasks, gather information, even conduct experiments.

With coming advances in computers and artificial intelligence, factories and laboratories operating for long periods untended will be possible.

But our experience to date clearly shows the need and effectiveness of men working with machines.

Let me give you three examples.

In April of 1984 U.S. astronauts operating from the Space Shuttle flew to the nonoperating scientific satellite of the so-called Solar Maximum Mission, retrieved it, repaired it and put it back into orbit to continue its mission.

In November, that same year, the shuttle retrieved and returned to earth two satellites, PALAPA-B2 and WESTAR 6, which had been launched earlier but failed to go into their correct orbits.

During that mission an A-frame device designed to secure one of the satellites could not be attached to the spinning satellite.

Undaunted, Astronaut Dr. Joseph Allen mounted the shuttle arm and grappled the satellite by hand, eventually bringing it into the orbiter's cargo bay.

My final example took place in 1985, but this time it was a Soviet accomplishment.

The Salyut 7 space station, while orbiting unmanned, had lost all electrical power and was tumbling through space in a decaying orbit.

Two cosmonauts flew a Soyuz spacecraft to the station, manually docked with it as it tumbled, entered and restored power.

Thus the Soviets salvaged through human effort what would otherwise have been a major loss because of machine failure.

Humans, then, have a material role to play in space.

Man turns the unexpected into discovery, discovery into knowledge and knowledge into leadership.

But once there how should we house them and how should they spend their time?

Although the Soviets are orbiting in space stations already, their approach and ours differs markedly.

They have opted so far for stations which are little more advanced than our Skylab of the 1970s.

At NASA planners are seeking a far more elegant solution.

The NASA station will include linked modules for living and work, capable of being expanded for decades—ports for docking shuttles and future launch vehicles—and advanced large power systems—all linked by a latticework of trusses.

It might be said that the Russian stations are oriented toward the present, while ours, built with our partners in Europe, Canada and Japan, will be oriented toward the future.

President Reagan has termed the space station our "gateway to the universe" and Dr. James Fletcher, the NASA administrator, has described it as the central focus of all our efforts to expand commerce, industry and science in space through the end of the 21st century and beyond.

It will evolve into far more than a place for a few men and women to conduct experiments and grow crystals.

From the station unmanned orbital transfer vehicles will place commercial and scientific spacecraft in higher orbits.

Nearby orbital construction and service stations will be capable of building, launching, maintaining and refueling a variety of manned and unmanned craft; craft to be used in exploring and developing the moon, the asteroids and Mars, or for probing deep into our solar system and beyond.

Meanwhile orbiting factories will be developed, and scientists will continue to expand

their knowledge of our own planet, the planets near us and the universe itself.

And for the majority of us who will never make that high journey there will be very direct and tangible benefits.

Two such potentials come right back here to this room, to Cleveland.

As we have progressed in developing the concept and specifications for the space station it has become clear that a high level of artificial intelligence will be needed.

To keep the station running smoothly—in the correct orbit and in contact with Earth—using crew members alone would require so much of their time that little would be left for their primary work.

So the station itself will be required to do much of this.

The systems developed for these purposes will pave the way for major strides forward at companies which are building products to make industry more productive.

Indeed it may be said a few years hence that our factories of the future were born in space.

As I mentioned, the U.S. station will probably utilize advanced large scale systems to generate electricity from the sun.

One system will be an array of solar cells five times as powerful as the traditional systems which now power most orbiting spacecraft. As you probably know these cells are composed of a material which turns sunlight into electric power.

But NASA has asked its contractors to look also at what is called solar dynamic power. In this approach a reflector focuses the sunlight on a heat exchanger which turns the resulting heat into energy to run a alternator.

Some of this heat also is stored and continues to produce electricity when the station is in the earth's shadow.

For the station, solar dynamic offers the potential of higher efficiency with reduced drag, lower hardware costs and longer useful life.

For mankind generally, it offers the promise of relatively small sunpowered electric stations that could be set up in any remote area with enough sunlight.

So just within the scope of what we have discussed today, there are two readily identifiable benefits which will most likely result from space station development and construction.

Expanding out into other systems, materials, software programs, computer development, the need for food storage and preparation, just to name a few, station spin offs seems sure to begin soon and continue indefinitely.

For me, obviously, there is no question about the need to maintain U.S. space leadership.

But for those who doubt, I hope that I have offered strong and compelling arguments.

It would seem to be difficult to justify not making the investment if the American people are willing to make it.

I would hope that few Americans really care so little about their country and their way of life that they could accept the idea of living cooped up under a sky dominated by any foreign nation, but especially the Soviet Union.

And we already are feeling the hot breath of technology competition across both oceans.

How can we fail to fuel one of the two primary drivers of advanced technology, space, especially at a time when there is growing restraint on funding the other one, national defense?

Although it seems difficult to realize in the heart of downtown Cleveland, this pleasant land of the Western Reserve was once a frontier.

A frontier that was subsequently settled and folded into the fabric of a nation.

Space, too, has been termed a frontier.

Some have called it the "The Endless Frontier" and others the "Final Frontier."

My own view is that mankind does not yet know enough about the universe to term space either "endless" or "final."

But it is clearly the "Next Frontier."

I hope you will agree with me that there are solid, pragmatic reasons to commit both the national will, and a portion of our national treasure, to developing that frontier.

And ultimately folding it also into the scientific and economic fabric, not just of this nation, but of all nations.

Thank you.

SHAKESPEARE IN THE PARK

Mr. WIRTH. Mr. President, I would like to draw the attention of my colleagues to Murray Ross of Colorado Springs, CO, and his efforts to bring Shakespeare's plays to Coloradans. Murray has directed and produced the Colorado Springs Shakespeare-in-the-Park festivities since its beginning 4 years ago.

In that short period of time, the troupe has grown in size and expertise so that it now creates first-rate performances for the people of Colorado Springs. Thanks to Murray's vision and dedication, Colorado Springs can now claim to be the home of one of the finest Shakespeare-in-the-Park productions in the State.

Murray, his wife Betty, and son Orion have succeeded in presenting superb theater to Coloradans free of charge. The troupe's unique interpretations of William Shakespeare's work, coupled with his innovative approaches to set design and production, have captured the imagination of scores of audiences in the past 4 years.

I am enclosing a recent article from the Colorado Springs Gazette-Telegraph, which I hope will help inspire other communities across the Nation to follow the example of Murray Ross and his family.

[From The Colorado Springs (CO) Gazette-Telegraph, Aug. 4, 1987]

SHAKESPEARE MOVES INSIDE—PPC TO HOST PARK PRODUCTION

(By Deborah Belgum)

It had become a tradition to stage the annual Shakespeare in the Park productions in a large tent in Monument Valley Park.

But, as Shakespeare aptly stated: "All the world's a stage." Shakespeare in the Park organizers have taken that statement to heart by moving the outdoor theater indoors.

Rain and hail, along with noisy trains, have forced the troupe to move to the Pikes Peak Center this summer, where a theater-in-the-round will be formed right on stage. The production this year is "Twelfth Night," sponsored in part by the Gazette-Telegraph.

"While the park has its charms, it also has its limitations," says artistic director Murray Ross. "I don't think it matters very much in a play like 'Taming of the Shrew,' last year's production, which is a robust, knockabout farce. But I do think it matters in a play that is a little more delicate and a little more sophisticated, like 'Twelfth Night.'"

In keeping with the spirit of theater in the park, however, the city and county have declared that the center stage of the Pikes Peak Center will be the park during the play's Aug. 7-22 run.

"I want people to understand that we're not using the Pikes Peak Center in a way that it has never been used before," Ross says. "One of the things that really concerned us was to keep a lot of the qualities that we value in Shakespeare in the Park and to make sure that they successfully survived the migration to the Pikes Peak Center.

"And among those we count intimacy and informality and a sense of a magical place. . . . So what we are going to do is take the stage towers that are three tiers and try to circle those around the stage three-quarters of the way, so we will have an approximation of Shakespeare's own Globe Theatre."

"Twelfth Night" is one of Shakespeare's most popular comedies. It takes place in the seaport city of Illyria.

Duke Orsino falls in love with the wealthy Lady Olivia, who is in love with a young man named Cesario. But Cesario is actually a young woman named Viola disguised as a young man. Disguised as Cesario, Viola works for Duke Orsino, with whom she falls in love. The duke, of course, doesn't know she is a young lady.

Shakespeare untangles his amorous mess as the play draws to a close.

The most famous character in the play, however, is Malvolio. He is a servant in Olivia's household, and through a cruel trick is made to believe that Olivia is madly in love with him. This idea appeals to Malvolio, a pompous social climber eager to elevate his social status.

This year's cast is a mixture of area residents and out-of-state actors.

Duke Orsino will be played by Harry Blackman of New York, Lady Olivia will be played by Claudette Buelow, also of New York. Myra Platt of Colorado Springs has the part of Viola.

Malvolio will be played by English actor Gregory de Polnay, who is in town for six weeks through a grant from the University of Colorado at Colorado Springs.

The Park is able to bring together the geographically disparate group of actors largely because of a hefty budget increase, from $35,000 last year to $55,000 this year. The money comes from the city, county, UCCS and several corporations.

Shakespeare in the Park is known not only for its unusual settings but for performing Shakespeare with a difference. The difference in this year's production will be that the Da Vinci String Quartet, from Colorado Springs, will be on stage with the actors, playing music not normally associated with string quartets.

In the four years that Shakespeare in the Park has been around, it has grown in sophistication and popularity—a fact not lost on director Murray Ross, who started the troupe.

His aspirations were to present Shakespeare to the people of Colorado Springs at no cost. But his aspirations have grown.

"Our goal is to be the best small Shakespeare that we can possibly be," he said. "Not just in Colorado Springs but in the region and in the West. We think we are ready to rumble with Boulder's Shakespeare Festival and with the big kids up the road."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGES FROM THE HOUSE

At 12:07 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1418. An act for the relief of Rick Hangartner, Russell Stewart and David Walden.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 769. An act to provide grants to support excellence in minority health professions education;

H.R. 318. An act to provide for the restoration of the Federal trust relationship and Federal services and assistance to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas, and for other purposes; and

H.R. 921. An act to require the Secretary of the Interior to conduct a study to determine the appropriate minimum altitude for aircraft flying over national park system units.

The enrolled bills were subsequently signed by the President pro tempore [Mr. STENNIS].

At 3:50 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 1371. An act to designate the Federal building located at 330 Independence Avenue SW., Washington, District of Columbia, as the Wilbur J. Cohen Federal Building"; and

S. 1577. An act to extend certain protections under title 11 of the United States Code, the Bankruptcy Code.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 161. Concurrent resolution authorizing a public ceremony on the West Lawn of the Capitol in honor of the Bicentennial of the United States Constitution.

At 4:52 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 44. Joint resolution to designate November 1987, as "National Diabetes Month";

S.J. Res. 49. Joint resolution to designate September 18, 1987, as "National POW/MIA Recognition Day";

S.J. Res. 87. Joint resolution to designate November 17, 1987, as "National Community Education Day"; and

S.J. Res. 175. Joint resolution to recognize the efforts of the United States Soccer Federation in bringing the World Cup to the United States in 1994.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3058. An act making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1988, and for other purposes.

At 5:32 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 108. Joint resolution to designate October 6, 1987, as "German-American Day";

S.J. Res. 109. Joint resolution to designate the week beginning October 4, 1987, as "National School Yearbook Week";

S.J. Res. 121. Joint resolution to designate August 11, 1987, as "National Neighborhood Crime Watch Day"; and

S.J. Res. 157. Joint resolution to designate the month of October 1987, as "Lupus Awareness Month".

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1591. An act to temporarily restrict the ability to document foreign-built fish processing vessels under the laws of the United States.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 27. An act to regulate nonbank banks, impose a moritorium on certain securities and insurance activities by banks, recapitalize the Federal Savings and Loan Insurance Corporation, allow emergency interstate bank acquisitions, streamline credit union operations, regulate consumer checkholds, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. STENNIS].

At 5:50 p.m., a message from the House of Representatives, delivered, by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3085. An act to amend the Water Resources Development Act of 1986 relating to the level of flood protection provided by the flood control project for Lock Haven, Pennsylvania.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1418. An act for the relief of Rick Hangartner, Russell Stewart, and David Walden; to the Committee on the Judiciary.

H.R. 3058. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1988, and for other purposes; to the Committee on Appropriations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1706. A communication from the Administrator of the Panama Canal Commission, transmitting, pursuant to law, a report on a violation of law relating to an overobligation of an expense item subject to congressional limitation; to the Committee on Appropriations.

EC-1707. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Budget Issues—the use of Spending Authority and Permanent Appropriations Is Widespread"; to the Committee on the Budget.

EC-1708. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Budget Issues—Inventory of Accounts With Spending Authority and Permanent Appropriations, 1987"; to the Committee on the Budget.

EC-1709. A communication from the Administrator of the National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the fiscal year 1986 report on Ocean Thermal Energy Conversion; to the Committee on Commerce, Science, and Transportation.

EC-1710. A communication from the Vice President (Adult Learning and Elementary/Secondary Services) of the Public Broadcasting System, transmitting, pursuant to law, a report on the first 5 years of the Adult Learning Service; to the Committee on Commerce, Science, and Transportation.

EC-1711. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the Second Supplemental Appropriation Act, 1961, relating to the lease of certain lands from the Isleta Indian Tribe for a seismological laboratory; to the Committee on Energy and Natural Resources.

EC-1712. A communication from the Assistant Secretary of Energy (Conservation

and Renewable Energy), transmitting, pursuant to law, notice of a delay in the submission of an update of the Comprehensive Ocean Thermal Technology Application and Market Development Plan; to the Committee on Energy and Natural Resources.

EC-1713. A communication from the Secretary of Transportation, transmitting, pursuant to law, reports on "Methane Conversion for Highway Use"; to the Committee on Energy and Natural Resources.

EC-1714. A communication from the presiding officer of the National Ocean Pollution Board, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, a review of the fiscal year 1988 Agency Requests for Appropriations to Support Marine Pollution Research, Development, and Monitoring; to the Committee on Environment and Public Works.

EC-1715. A communication from the Assistant Secretary of the Treasury, transmitting, pursuant to law, notice that in the absence of a debt limit increase the Treasury will be uanble to invest or roll over maturing investments of trust funds and other Government accounts; to the Committee on Finance.

EC-1716. A communication from the President of the Overseas Private Investment Corporation, transmitting, pursuant to law, a copy of the development report of the Corporation for fiscal year 1986; to the Committee on Foreign Relations.

EC-1717. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, notification of the provision of emergency military assistance to Honduras; to the Committee on Foreign Relations.

EC-1718. A communication from the Plan Administrator of the Eighth Farm Credit District Employee Trust Fund, transmitting, pursuant to law, the annual reports for the Eighth Farm Credit District Pension Plans for calendar year 1986; to the Committee on Governmental Affairs.

EC-1719. A communication from the Director of the Administrative Office of the United States Courts, transmitting a draft of proposed legislation to amend the Comprehensive Crime Control Act of 1984 to provide for an orderly transition into sentencing with guidelines and for other purposes; to the Committee on the Judiciary.

EC-1720 A communication from the Secretary to the Railroad Retirement Board, transmitting, pursuant to law, notice of the award of contracts to the two low responsive and responsible bidders for certain services; to the Committee on Labor and Human Resources.

EC-1721. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for the Assistance for School Construction in Areas Affected by Federal Activities Program; to the Committee on Labor and Human Resources.

EC-1722. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of the Lupus Erythematosus Coordinating Committee; to the Committee on Labor and Human Resources.

EC-1723. A communication from the Secretary of Education, transmitting, pursuant to law, notice of Final Annual Funding Priority—Educational Media Research, Production, Distribution, and Training Program; to the Committee on Labor and Human Resources.

EC-1724. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, a report on the advisability and feasibility of implementing section 921 of Public Laws 99-591 and 99-661; to the Committee on Small Business.

EC-1725. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report concerning the new emergency service provisions that Medicare participating hospitals which have emergency departments must meet; to the Committee on Finance.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-287. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE CONCURRENT RESOLUTION No. 221

"Whereas, food stamps were designed and implemented to offer aid to citizens whose economic situation is such that they need additional financial assistance to feed their families; and

"Whereas, the reality of the economic condition of the American farmer has changed radically in recent years due to many factors, particularly the industrial and technological advancements of the twentieth century, and this has had a dramatic effect on the ability of individual farmers to continue to own and operate their farms and to meet the needs of their families; and

"Whereas, many other unemployed Americans also need jobs to provide the financial ability to feed and clothe their families; and

"Whereas, the adoption of policies to encourage the purchase of American products rather than foreign products would result in a stronger national economy and would improve our balance of payments with foreign nations, which would also tend to improve the nation's economic condition; and

"Whereas, a national policy to restrict the use of food stamps for the purchase of American products only would, therefore, benefit the farmer, the unemployed, others needing financial assistance to purchase food, and the overall economy.

"Therefore, Be it Resolved, that the Legislature of Louisiana does hereby memorialize the Congress of the United States, and in particular the members of the Louisiana congressional delegation, to limit the use of food stamps, in the case of the purchase of American agricultural products which face competition from foreign products, to the purchase of American products; and

Be it Further Resolved, That certified copies of this Resolution shall be forwarded to the secretary of the Senate and the clerk of the House of Representatives of the Congress of the United States, and to each member of the Louisiana congressional delegation."

POM-288. A resolution adopted by the Senate of the State of Alaska; to the Committee on Energy and Natural Resources:

"SENATE RESOLUTION No. 18

"Be it resolved by the Senate:

"Whereas the development of the state's mineral resources is important to the future of the state; and

"Whereas it is critical that the development be planned and carried out in a manner that minimizes the effects on the environment; and

"Whereas it is equally critical that the development be planned and carried out in a manner that maximizes the economic benefits and minimizes the socioeconomic disadvantages; and

"Whereas the Quartz Hill molybdenum deposit near Ketchikan, Alaska, contains over 10 percent of the world's supply of molybdenum; and

"Whereas the U.S. Borax and Chemical Corporation has invested over $100,000,000 in the project since the ore deposit was discovered in 1974 without asking for financial support or guarantees from the state; and

"Whereas development of the Quartz Hill mine would stabilize the economy of Southeast Alaska by providing thousands of construction, development, and production jobs for an estimated 70 years while creating an additional tax base for the entire state;

"Be it Resolved That the Senate encourages the development of environmentally responsible mineral resource projects to ensure sound and secure sources of employment and state revenue; and be it

"Further Resolved, That the Senate supports cost-effective and environmentally responsible construction, development, and operation of the Quartz Hill molybdenum project.

"Copies of this resolution shall be sent to the Honorable George Bush, Vice-President of the United States and President of the U.S. Senate; the Honorable Jim Wright, Speaker of the U.S. House of Representatives; the Honorable Lee M. Thomas, Administrator of the U.S. Environmental Protection Agency; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress."

POM-289. A resolution adopted by the House of Representatives of the State of Michigan; to the Committee on Energy and Natural Resources:

HOUSE RESOLUTION No. 318

"Whereas, The amount of low level radioactive waste projected to be generated in 1990 will be approximately one-third of the amount generated in 1980; and

"Whereas, Serious questions have been raised regarding the Low Level Radioactive Waste Policy Act (42 USC 2021b et seq.) This statute places no limit on the number of low level waste disposal sites or compacts that can be created under the act, and as many as thirteen facilities are currently under consideration by compacts and "go-it-alone" states. In addition, differing safe construction costs from one region of the country to another may create substantial economic inequities in utility costs and rates; and

"Whereas, There are also serious liability questions regarding these sites. The act makes no provision for liability coverage for sites constructed under the act, and private liability coverage is not currently available; and

"Whereas, The law also does not address the complex issue of the disposal of mixed wastes, and the Nuclear Regulatory Commission and the Environmental Protection Agency have been unable to reconcile their regulatory schemes; and

"Whereas, The act actually discourages source and volume reduction of low level radioactive wastes by generators; and

"Whereas, The act provides no funding mechanism for the construction of low level waste sites nor for the long-term care or

maintenance of the sites, thus placing host state taxpayers at substantial economic risk; and

"Whereas, In light of these many concerns, it would be in the public interest to make a thorough review of this law and recommend appropriate changes. Moreover, until this review is completed and acted on, it would be inappropriate to proceed with the low level radioactive waste site selection process due to current deficiencies in the federal law; now, therefore, be it

"Resolved by the House of Representatives, That we hereby memorialize the United States Congress to review the Low Level Radioactive Waste Policy Act of 1980; and be it further

"Resolved, That the members of his legislative body request that an immediate and total moratorium be established on the low level radioactive waste site selection process until this review is completed and current deficiencies corrected; and be it further

"Resolved, That the United States Congress be urged to:

"(1) Consider the inclusion of the environmental impact of a low level radioactive waste facility as a critical factor in its siting.

"(2) Review the liability problems and the availability of liability insurance coverage.

"(3) Address the issue of the disposal of mixed wastes.

"(4) Consider providing a funding mechanism for the construction and long-term maintenance of low level radioactive waste facilities. and be it further

"Resolved, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the Michigan congressional delegation.

POM-290. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Finance:

"HOUSE JOINT RESOLUTION NO. 1031

"WHEREAS, The Congress of the United States is presently considering an increase in the federal motor fuel tax as a means to reduce the federal deficit; and

"WHEREAS, Revenue raised by such an increase would be diverted from the Highway Trust Fund and would instead be used for deficit reduction purposes; and

"WHEREAS, The creation of the Highway Trust Fund in 1956 established the relationship between fees collected from highway users and the dedication of these revenues to meet state transportation construction, rehabilitation, and maintenance needs; and

"WHEREAS, Recent delays and reductions in the apportionment of federal funds to the states have seriously impaired state highway construction and maintenance efforts; and

"WHEREAS, Any increase in the federal excise tax will constrain state efforts to raise revenue for state transportation programs and will impair the ability of states to match the federal share in federal-aid highway programs; now, therefore,

"Be It Resolved By the House of Representatives of the Fifty-sixth General Assembly of the State of Colorado, the Senate concurring herein:

"That the General Assembly hereby urges the Congress of the United States to refrain from consideration of increased federal fuel taxes as a means to reduce the federal deficit, and to preserve the historic relationship between highway user frees and the Highway Trust Fund.

"Be It Further Resolved, That copies of this Resolution be transmitted to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Colorado delegation to the Congress of the United States."

POM-291. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Governmental Affairs:

"HOUSE CONCURRENT RESOLUTION NO. 40

"Whereas, this nation is a government of the people, by the people, and for the people; and

"Whereas, this government is founded upon the principle of participatory democracy; and

"Whereas, this principle is fully realized in every qualified citizen's paramount right to vote; and

"Whereas, the deprivation of this right without just cause shown can and should not be tolerated by any person in this country; and

"Whereas, it is the ministerial duty of the registrars of voters to preserve and maintain the most current records possible, especially as they relate to the registration of voters; and

"Whereas, such records cannot be kept current without the cooperation of many others, including the voters themselves and the United States Postal Service.

"Therefore, be it resolved, That the Legislature of Louisiana does hereby memorialize the Congress of the United States to direct the United States Postal Service to cooperate to the fullest extent with the registrars of voters in the updating of voters' addresses.

"Be it further Resolved, That a copy of this Resolution be forwarded to the secretary of the Senate and the clerk of the House of Representatives of the Congress of the United States and to each member of the Louisiana congressional delegation."

POM-292. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources:

"ASSEMBLY JOINT RESOLUTION NO. 16

"Whereas, Congress, in 1986, enacted and the President signed Public Law 99-457, which authorizes an early intervention program under the Education of the Handicapped Act for handicapped infants and toddlers and their families, and for handicapped preschoolers; and

"Whereas, Congressional testimony and research indicate that early intervention and preschool services help enhance intelligence in children; produce substantial gains in physical development, cognitive development, language, and speech development, psychosocial development and self-help skills; prevent the development of secondary handicapping conditions; reduce family stress; reduce societal dependency and institutionalization; reduce the need for special class placement in special education programs once the children reach school age; and save society and our nation's schools substantial costs; and

"Whereas, Congress has made findings that there are urgent and substantial needs '(1) to enhance the development of handicapped infants and toddlers and to minimize their potential for developmental delay, (2) to reduce the educational costs to our society, including our nation's schools, by minimizing the need for special education and related services after handicapped infants and toddlers reach school age, (3) to minimize the likelihood of institutionalization of handicapped individuals and maximize the potential for their independent living in society, and (4) to enhance the capacity of families to meet the special needs of their infants and toddlers with handicaps,' and that an overwhelming case exists for expanding and improving the provision of early intervention and preschool programs for these young individuals with exceptional needs; and

"Whereas, The Federal Department of Education in its Seventh Annual Report to the Congress has found that studies of the effectiveness of preschool education for the handicapped have demonstrated beyond doubt the economic and educational benefits of programs for young handicapped children, and the studies have also shown that the earlier intervention is started, the greater is the ultimate dollar savings and the higher the rate of educational attainment by these handicapped children; and

"Whereas, It is the policy of the United States to provide financial assistance to states to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for all handicapped infants and toddlers and their families; and provide a preschool grant program with enhanced incentives for states to serve all three- to five-year-old handicapped children by school year 1990-91 or 1991-92, depending on the level of funds appropriated under the preschool program by Congress; and

"Whereas, The California Legislature is concerned that Congress, since 1979, has not given states the full amount of financial assistance necessary to achieve its goal of ensuring handicapped pupils, under Public Law 94-142, equal protection of the laws; and that in 1986, the federal government's share of the cost of special education was only 9 percent of the average per pupil expenditure, although the law authorizes a 40 percent federal share; and

"Whereas, California currently has a partial mandate to make early educational opportunities available to all children younger than three years of age who require intensive special education and services and their parents, and a mandate to serve all handicapped children between the ages of three and four years and nine months who require intensive special education and services; and

"Whereas, California is exploring the feasibility of implementing the infant and toddler, and preschool provisions of Public Law 99-457; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to provide funding for the new federal programs for handicapped infants, toddlers, and preschoolers to the maximum amount authorized under Titles I and II of Public Law 99-457, in the 1988 federal budget, and in each subsequent budget year, so that states participating in these critical programs will not have to eliminate funding from other vital state and local programs to fund underfunded federal financial commitments; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader

of the Senate, to the Chair of the Senate Budget Committee, and the Chair of the House Committee on the Budget, and to each Senator and Representative from California in the Congress of the United States."

POM-293. A concurrent resolution adopted by the Legislature of the State of Texas; to the Committee on Labor and Human Resources:

"HOUSE CONCURRENT RESOLUTION No. 10

"Whereas, The recent 13th annual seven-nation economic summit of industrialized nations meeting in Venice, Italy, made it first policy statement on a public health issue by unanimously declaring acquired immune deficiency syndrome to the "one of the biggest potential health problems in the world" and agreeing to fully cooperate in seeking a cure for AIDS; and

"Whereas, No other industrialized nation has been as vulnerable to or as threatened by the disease AIDS as the United States of America, as evidenced by the fact that Americans account for three-fourths of the total AIDS cases reported in the seven industrialized nations that participated in the 1987 Venice economic summit; and

"Whereas, Conservative estimates place the number of Americans who would test antibody positive for the human immunodeficiency virus today at roughly 1.5 million people; and

"Whereas, The State of Texas has the fourth-largest AIDS population in the nation; and

"Whereas, Local government costs for treating AIDS will soon exceed local government's ability to tax citizens to raise necessary revenue for treatment, as evidenced by Harris County's projected cost increases for drug treatments for Texans with AIDS from $117,000 last year to $1.5 million this year; and

"Whereas, the total economic cost of AIDS to our nation has more than doubled in the last two years to an estimated $10 billion in 1987; and

"Whereas, the total economic cost of AIDS to Americans is conservatively estimated at nearly $56 billion annually in 1991; and

"Whereas, A new Rand Corporation study estimates that the total number of medically diagnosed AIDS cases in America will reach 400,000 by 1991, and such an estimate, if accurate, would increase our nation's annual total economic loss from AIDS to $84 billion in 1991; and

"Whereas, the health-care-related costs alone of treating Americans with AIDS between 1986 and 1991 will skyrocket to between $37 billion and $112 billion, according to the Rand Corporation; and

"Whereas, More than 270 community-based AIDS programs and 21,000 volunteers in AIDS-related service organizations will soon be stretched to the limits of their economic, social, and physical resources; and

"Whereas, The AIDS crisis threatens to overwhelm, cripple, or bankrupt the American health care delivery system, the American mental health care delivery system, the American life insurance industry, the American health insurance industry, the federal Social Security system, federal and state Medicaid programs, federal, state, and local indigent health care programs and services, and private, nonprofit, and voluntary social and support services for persons with AIDS and ARC, as well as the American tax system itself; and

"Whereas, Worsening of the AIDS crisis threatens the very social fabric of our nation, while depressing our national productivity and wealth; and

"Whereas, Such catastrophic projections can only be averted through astute leadership that will focus and prioritize the resources of our nation into accelerating efforts to find a vaccine against the human immunodeficiency virus and a cure for the millions of Americans who have been exposed to this deadly virus; now, therefore, be it

"Resolved, That the 70th Legislature of the State of Texas hereby request the Congress of the United States to enact legislation to establish and fund the Medical Manhattan Project on AIDS; and, be it further

"Resolved, That the 70th Legislature of the State of Texas further request the congress to include provisions in such legislation to establish a national goal and timetable for finding a vaccine against the human immunodeficiency virus and a cure for acquired immune deficiency syndrome; and, be it further

"Resolved, That the 70th Legislature of the State of Texas further request the Congress of the United States to enact accompanying legislation to allow Americans with medically diagnosed terminal diseases access to experimental and nonapproved drugs, medications, and therapies; and, be it further

"Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and the president of the senate of the 100th Congress of the United States, and to each member of the Texas delegation to the 100th Congress of the United States, with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 1397: A bill to recognize the organization known as the Non Commissioned Officers Association of the United States of America.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 155: Joint resolution to designate the period commencing on September 13, 1987, and ending on September 19, 1987, as "National Reye's Syndrome Week."

By Mr. STENNIS, from the Committee on Appropriations:

Special Report of the Committee on Appropriations on Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1988 (with minority views) (Rept. No. 100-144).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

John Daniel Tinder, of Indiana, to be U.S. district judge for the Southern District of Indiana; and

Philip N. Hogen, of South Dakota, to be U.S. attorney for the District of South Dakota for the term of 4 years.

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. DOLE (for himself, Mr. MELCHER, Mr. GRASSLEY, Mr. PRESSLER, Mr. CONRAD, Mr. KARNES, Mr. DURENBERGER, Mr. DOMENICI, Mr. EXON, Mr. SIMON, Mr. HARKIN, and Mr. DASCHLE):

S. 1598. A bill to provide for the increased use of motor fuel blended with ethanol in order to enhance the energy security of the United States and to expand markets for agricultural commodities; to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance, jointly by unanimous consent.

By Mr. LEVIN:

S. 1599. A bill to recognize the organization known as the American Philatelic Society; to the Committee on the Judiciary.

By Mr. FORD (for himself, Mrs. KASSEBAUM, Mr. BYRD, and Mr. LAUTENBERG):

S. 1600. A bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. McCAIN (for himself and Mr. BUMPERS):

S. 1601. A bill to permit the immigration of Vietnamese Amerasians to the United States; to the Committee on the Judiciary.

By Mr. PROXMIRE:

S. 1602. A bill to declare that certain lands are held in trust for Potawatomi Indian communities in Wisconsin and Michigan; to the Committee on Energy and Natural Resources.

By Mr. QUAYLE:

S. 1603. A bill to require the Secretary of Housing and Urban Development to develop regulations that would provide transitional relief from the application of the rent formula under the United States Housing Act of 1937; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SANFORD (for himself, Mr. ADAMS, Mr. CONRAD, Mr. SIMON, and Mr. FOWLER):

S. 1604. A bill to require the President to submit to the Congress a study on the reduction of the public debt of the United States; to the Committee on Finance.

By Mr. HATFIELD:

S. 1605. A bill to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes; to the Select Committee on Indian Affairs.

S. 1606. A bill to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. ROTH (for himself and Ms. MIKULSKI):

S. 1607. A bill to prohibit the burning and dumping of toxic and hazardous waste in certain areas off the coast of Delaware, Maryland, and Virginia; to the Committee on Environment and Public Works.

By Mr. THURMOND:

S. 1608. A bill to amend title 28 of the United States Code as it pertains to the structure of the United States Claims Court; to the Committee on the Judiciary.

By Mr. McCLURE (for himself, Mr. SYMMS, Mr. EVANS, and Mr. ADAMS):

S. 1609. A bill for the relief of James P. Purvis; to the Committee on the Judiciary.

By Mr. PRYOR (for himself and Mr. HEINZ):

S. 1610. A bill to amend the Internal Revenue Code of 1954 to eliminate the retroactive certification of employees for purposes of the work incentive jobs credit; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mr. MOYNIHAN):

S. 1611. A bill to amend the Immigration and Nationality Act to effect changes in the numerical limitation and preference system for the admission of immigrants; to the Committee on the Judiciary.

By Mr. HATCH:

S. 1612. A bill to provide for the disposition of unclaimed property in the custody of the United States; to the Committee on Governmental Affairs.

By Mr. HATFIELD:

S. 1613. A bill to authorize the Secretary of the Interior to construct, operate and maintain the Umatilla Basin Project, Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. D'AMATO (for himself, Mr. HELMS, Mr. CRANSTON, Mr. KERRY, Mr. DURENBERGER, Mr. MURKOWSKI, Mr. SYMMS, Mr. DECONCINI, Mr. KENNEDY, Mr. McCAIN, and Mr. WILSON):

S. 1614. A bill to restrict United States assistance for Panama; to the Committee on Foreign Relations.

By Mr. BURDICK (for himself and Mr. CONRAD):

S. 1615. A bill to authorize the establishment of the Fort Totten National Historic Site; to the Committee on Energy and Natural Resources.

By Mr. SIMON:

S. 1616. A bill to amend title XVIII of the Social Security Act and the Internal Revenue Code of 1986 to provide long-term home care benefits under the medicare program for chronically ill individuals and children, to provide quality assurance for home care services, and for other purposes; to the Committee on Finance.

By Mr. WALLOP (for himself, Mr. BAUCUS, Mr. DANFORTH, Mr. MOYNIHAN, Mr. CHAFEE, Mr. ROTH, Mr. PRYOR, Mr. BOREN, Mr. HEINZ, Mr. DURENBERGER, Mr. ARMSTRONG, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. SYMMS, Mr. COCHRAN, Mr. McCAIN, Mr. WILSON, Mr. GRASSLEY, Mr. ADAMS, and Mr. GLENN):

S. 1617. A bill to amend the Internal Revenue Code of 1986 with respect to the allocation of research and experimental expenditures; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 1618. A bill to amend the Airport and Airway Improvement Act of 1982, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY (for himself and Mr. KASTEN):

S. 1619. A bill to amend the copyright law to secure the rights of authors of pictorial, graphic, or sculptural works to prevent the distortion, mutilation, or other alteration of such works, to provide for resale royalties, and for other purposes; to the Committee on the Judiciary.

By Mr. PELL (for himself, Mr. EXON, Ms. MIKULSKI, Mr. HATCH, Mr. DASCHLE, and Mr. PRESSLER) (by request):

S. 1620. A bill to reauthorize and revise the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) relating to Federal impact aid, and for other purposes; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

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

S. Res. 270. A resolution paying special tribute to Portuguese diplomat Dr. de Sousa Mendes for his extraordinary acts of mercy and justice during World War II; to the Committee on Foreign Relations.

By Mr. KASTEN (for himself, Mr. DOLE, Mr. HELMS, Mr. BINGAMAN, Mr. WILSON, and Mr. HEINZ):

S. Res. 271. A resolution expressing the sense of the Senate with respect to Japanese trade with the Socialist Republic of Vietnam; to the Committee on Foreign Relations.

By Mr. BYRD (for himself and Mr. DOLE):

S. Res. 272. A resolution authorizing testimony of Senate employees and representation by Senate Legal Counsel in criminal proceeding; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. MELCHER, Mr. GRASSLEY, Mr. PRESSLER, Mr. CONRAD, Mr. KARNES, Mr. DURENBERGER, Mr. DOMENICI, Mr. EXON, Mr. SIMON, Mr. HARKIN, and Mr. DASCHLE):

S. 1598. A bill to provide for the increased use of motor fuel blended with ethanol in order to enhance the energy security of the United States and to expand markets for agricultural commodities; by unanimous consent, referred jointly to the Committee on Finance and the Committee on Agriculture, Nutrition, and Foresty.

(The remarks of Senators on this legislation and the text of the bill appear earlier in today's RECORD.)

By Mr. LEVIN:

S. 1599. A bill to rcognize the organization known as the American Philatelic Society; to the Committee on the Judiciary.

FEDERAL CHARTER FOR THE AMERICAN PHILATELIC SOCIETY

● Mr. LEVIN. Mr. President, I am introducing legislation today to grant a Federal charter to the American Philatelic Society, a nonprofit corporation headquarted in State College, PA. An identical bill, H.R. 2796, has been introduced by Representative SID MORRISON.

The American Philatelic Society observed its 100th anniversary last year. It is the largest organization of stamp collectors in the United States, with 53,000 members. Philatelic Society members collect postage and revenue stamps, first day covers, and participate in other philatelic activities. The Philatelic Society supports educational efforts to spread awareness about stamp collecting in the United States and abroad, and encourages communication between stamp collectors, dealers, postal authorities and the general public.

As a stamp collector, I am pleased to be able to sponsor this legislation, and I urge my colleagues to support granting this well-deserved Federal charter.

Mr. President, I ask unanimous consent that a copy of this legislation be inserted in the RECORD.

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

S. 1599

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

CHARTER

SECTION 1. The American Philatelic Society, a nonprofit corporation organized under the laws of the State of Pennsylvania, hereby is recognized as such and is granted a Federal charter.

POWERS

SEC. 2. The corporation shall have only the powers granted to it through its articles of incorporation and bylaws filed in the States in which it is incorporated and subject to the laws of such States.

PURPOSES

SEC. 3. The purposes of the corporation are those provided in its articles of incorporation and shall include—

(1) advancing and supporting philatelic education and awareness of the collecting of stamps and postal material in the United States and abroad;

(2) encouraging and supporting communication among philatelists, stamp dealers, postal authorities, and the general public;

(3) establishing and fostering ethical standards of philately;

(4) aiding in the establishment of international philatelic communications and recognition of American philatelists in the international community; and

(5) providing, operating, and publishing such communications as may be useful, necessary, or of interest to philatelists, stamp dealers, collectors, and the general public.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and the States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation, and the rights and privileges of such membership, shall be as provided in the articles of incorporation and bylaws of the corporation.

BOARD OF DIRECTORS

SEC. 6. The composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation and bylaws of

the corporation and shall be in conformity with the laws of the States in which it is incorporated.

OFFICERS

SEC. 7. The officers of the corporation and the election of such officers shall be as provided in the articles of incorporation and bylaws of the corporation and shall be in conformity with the laws of the States in which it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection may be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) The corporation, and any officer or director of the corporation acting as such officer or director, may not contribute to, support, or otherwise participate in any political activity or attempt in any manner to influence legislation.

(d) The corporation may not issue any share of stock or declare or pay any dividend.

(e) The corporation may not claim the approval of the Congress or the authorization of the Federal Government for any of its activities.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers, directors, employees, and agents whenever such officers, directors, employees, and agents have acted within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of the corporation may be inspected by any member having the right to vote in any proceeding of the corporation, or by any agent or attorney of such member, for any proper purpose and at any reasonable time. Nothing in this section may be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(68) American Philatelic Society.".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted on the same date as the report of the audit of the corporation required by reason of the amendment made in section 11. Such annual report may not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to amend or repeal this Act is expressly reserved to the Congress.

DEFINITIONS

SEC. 14. For purposes of this Act—

(1) the term "corporation" means the American Philatelic Society; and

(2) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986.

TERMINATION

SEC. 16. If the corporation fails to comply with any of the provisions of this Act, the charter granted in this Act shall expire.●

By Mr. FORD (for himself, Mrs. KASSEBAUM, Mr. BYRD, and Mr. LAUTENBERG):

S. 1600. A bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FEDERAL AVIATION ADMINISTRATION INDEPENDENT ESTABLISHMENT ACT

Mr. FORD. Mr. President, I am introducing legislation today which I believe provides the starting point for coming to terms with our current "crisis in confidence" in air transportation. In taking this first step, I am also putting out a call to all facets of the aviation industry, the executive branch, and the public at large to work with the Congress in adding further definition to this legislation so as to better assure its efficacy well into the next century.

It is my intention over the coming months to hold a series of hearings before the Aviation Subcommittee to more fully understand the problems confronting the Federal Aviation Administration and its ability to ensure aviation safety. Out of these hearings, it is my intention to bring forth a bill significantly more developed than the one which I am introducing today, and one which will reflect the combined best efforts of the aviation community and those associated with it. Even more importantly, I expect that the final bill will result in an FAA better equipped to identify those areas in need of aviation safety enhancements—and more importantly, an agency better equipped to address them.

Before I explain in more detail what this bill will do, as well as chart the course of the subcommittee's hearings, it is important that I make clear my absolute commitment to moving forward to resolve what I referred to earlier as the "crisis in confidence." This crisis, of course, has its origins in the dominant public perception that our air transportation system is not functioning at an optimum level of safety and efficiency. This perception relates to the intolerable level of airline service and air traffic control deficiencies we are currently witness to. We must stem this lack of confidence in the system by getting at the root causes of these deficiencies. In this manner we will, most importantly, enhance the margin of safety in the system and, as an added benefit, restore public confidence in the system.

While we have learned through economic deregulation of the airline industry that there is a tremendous reservoir of public demand for air service, it is increasingly clear that we have not designed a fully dynamic system capable of responding to that demand. On the one hand, we have an extremely fluid situation insofar as the aviation industry is concerned. For example, the airlines operating in a competitive environment are forced by necessity to move quickly to capitalize on advantage or cut losses. On the other hand, we have a very static FAA—an organization that has changed little since being moved into the Department of Transportation in 1966.

I would emphasize at this time that we still have the luxury of dealing with this so-called crisis through a period of thoughtful and careful study. The timeframe with which we have to work, however, is not without limitation. The Federal Aviation Act of 1958, which led to the creation of the FAA as an independent agency, was in large measure, driven by a series of air disasters which created an atmosphere of urgency in the legislative process. I sincerely hope and pray that it does not require a similar set of circumstances to serve as a catalyst for new legislation. The time for us to deal with this matter is now, when we have the symptoms of a system in need of repair—not when those systems have been permitted to grow into a true disaster.

The bill which I am introducing today would take the first step in this process. It would remove the FAA from the Department of Transportation and reestablish it as an independent governmental agency. I propose to do this because it is absolutely and fundamentally clear to me that this Nation must have a revitalized and responsible FAA—attributes which are currently lacking. The FAA needs strong, consistent, and high quality leadership for the long term. The debilitating pattern of frequent changes needs to be corrected. Within the framework of an independent FAA, we must also see that the Administrator is given greater independence and assured tenure. Probably the best example of how this can work is at the FBI,

where the Director serves a term that provides the needed insulation from the whimsical changes of the political process.

The current relationship of having the FAA under the Secretary of Transportation has, over the past 21 years, proven unworkable. Particularly in the recent past, every important decision—and indeed some seemingly less important decisions, made by the Administrator of the FAA—have been run through the political sieve by the Secretary and the departmental staff. This has gone on, unfortunately, not as the result of any regard for the wisdom or merit of the decision, but simply to test its political benefit or detriment. The results have been decisions characteristically mushy, lacking in clear direction and always delayed.

By this comment, I do not mean to suggest that under my proposal, the FAA should be or would be removed from the political and budgetary process. Obviously, it will continue to require macrolevel, policy oversight from both the Congress and the White House. What has proven intolerable, and what can be eliminated only through the action I am proposing, is the misguided effort by the Department to manage and approve what are really operating decisions by the FAA. If the FAA is to function effectively in the extraordinarily fast moving world of air transportation, it must be equipped exclusively with the power to make its own decisions, as well as the responsibility for those decisions. The absence of this fundamental attribute from the current FAA arrangement has contributed immeasurably to its inability to respond to fast changing demands of our current environment.

My effort is to cement the fact that aviation is the primary responsibility for an independent FAA. This bill would remove the requirement that the agency be responsible for promoting the development of the civil aviation industry, leaving that to the Secretary of Transportation. Years ago, when the Federal Aviation Act was enacted, the fledgling civil aviation industry needed the support of Federal regulators to ensure its survival. Today, however, this billion dollar industry represents one of the largest segments of our economy and hardly needs the FAA to act as its cheerleader. More importantly, by removing this apparent contradiction, I strongly believe the FAA will be better situated to devote all of its energies to aviation safety, which is and must remain our No. 1 priority.

Mr. President, in introducing this bill to establish an independent FAA, I am assuming that there are a significant number of ways in which the safety of the flying public would benefit. One that comes immediately to mind is the system for funding desperately needed airport expansion projects and air traffic control facilities and equipment improvements. We must find a way to guarantee a continuous stream of necessary funding more consistent with congressionally approved authorizations in order to correct a historic deficiency. There are a variety of alternative proposals currently under scrutiny which attempt to address this issue. These run the gamut from simply removing the airport and airway trust fund from the budget process—which I endorse—to full privatization of the air traffic control system. In this series of hearings, I intend to explore these and other concepts for funding the FAA, and again, I call upon all parties to consider the available alternatives and make appropriate recommendations.

On a related subject, it is also my intention to focus our hearings on the procedures followed by the FAA in determining current and future system requirements—and in acting to fulfill those requirements. The past instability of the funding process has rendered the procurement of badly needed new updated air traffic control equipment extraordinarily difficult. Equally important is the process through which new acquisitions are made. It is vital that we simplify the procurement process and related procedures. Traditional practices are cumbersome and ill-suited to meet present needs. Through these hearings, I intend to explore the possibility of adapting the current procurement process to the highly specialized needs of the FAA so that it can better fulfil its mission of ensuring safety in a dynamically changing technological aviation environment.

Yet another matter demanding attention is the state of FAA personnel issues. In hearings earlier this year, I learned that with the current civil service structure, the FAA is limited in its ability to meet air traffic controller staffing needs at many of the busiest, and often, least desirable facilities. Without increased incentives to place people where the demand exists, the FAA will continue to be unable to adequately ensure aviation safety or allow continued growth in the capacity of the air traffic control system.

Mr. President, I have briefly outlined some of the areas in which I expect to solicit testimony at these hearings. There are, no doubt, considerably more issues which I have not mentioned that need our review. In the coming months, I intend to ensure that the Aviation Subcommittee explores each of them—doing our best to find answers. And in this regard, I look forward to working with other groups also searching for long-term solutions to our current aviation situation—the newly formed professional users group and, more importantly, the Byrd Aviation Safety Commission.

In conclusion, the bill I am introducing today is intended to simply provide a frame work upon which we will build solutions to our air transportation problems. They are long-term solutions—ones badly needed to carry us into the 21st century.

Answers to these issues will not come easily. But I am committed to finding them. And with the hard work of dedicated professionals from all interested sectors, we will succeed in ensuring continued air safety for the traveling public.

Mr. President, I urge my colleagues to join me in supporting this measure, and 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. 1600

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Aviation Administration Independent Establishment Act of 1987."

FINDINGS

SEC. 2. The Congress finds that—

(1) the civil aviation industry in the United States has, over the past decade, experienced an unprecedented period of rapid development and expansion;

(2) during this period of development and expansion, the Federal Aviation Administration, the administration within the Department of Transportation charged by Congress with the responsibility for overseeing the safe operation of this essential segment of the national economy, has performed its responsibilities in a professional and competent manner, albeit under an organizational structure which substantially predates this period of rapid development and expansion;

(3) the Federal Aviation Administration can perform more effectively within a more streamlined and consistent organizational structure, possessed of the essential management tools necessary to fulfill its mission of ensuring improved and enhanced safety of civil air operations;

(4) if the Federal Aviation Administration is provided with greater managerial autonomy and consistent leadership, the Federal Aviation Administration can be expected to exercise vigorously its prerogatives under the ongoing oversight of the Congress and with the assistance and guidance of the President.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) the term "Administrator" means the Federal Aviation Administration established under section 4; and

(2) the term "Administration" means the Administrator of the Federal Aviation Administration appointed under section 5(a).

ESTABLISHMENT

SEC. 4. There is established as an independent establishment of the Government the Federal Aviation Administration. The Administration shall succeed the Federal Aviation Administration of the Department of Transportation in existence on the day before the effective date of this Act.

OFFICERS

SEC. 5. (a) The Administration shall be administered by an Administrator, who shall be appointed by the President to a seven-year term of office, by and with the advice and consent of the Senate. The Administrator shall carry out all functions transferred to the Administrator by this Act and shall have authority and control over all personnel, programs, and activities of the Administration. The Administrator shall be compensated at the rate prescribed for level II of the Executive Schedule Pay Rates.

(b) There shall be in the Administration a Deputy Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall perform such functions, duties and powers as the Administrator shall prescribe. The Deputy Administrator shall act for and perform the functions of the Administrator when the Administrator is absent or unable to serve, or when the office of the Administrator is vacant. The Deputy Administrator shall be compensated at the rate prescribed for level III of the Executive Schedule Pay Rates.

(c) There shall be in the Administration seven Associate Administrators, who shall be appointed by the Administrator. The Associate Administrators shall perform such functions as the Administrator shall prescribe. The Administrator shall designate the order in which the Associate Administrators shall act and perform the functions of the Administrator when the Administrator, or in the Administrator's place the Deputy Administrator, is absent or unable to serve, or when either the office of the Administrator or the office of the Deputy Administrator is vacant. An Associate Administrator shall be compensated at the rate prescribed for level IV in the Executive Scheule Pay Rates.

(d) There shall be in the Administration a Chief Counsel, who shall be appointed by the Administrator. The Chief Counsel shall be the chief legal officer for all legal matters arising from the conduct of the functions of the Administration. The Chief Counsel shall be compensated at the rate prescribed for level IV of the Executive Schedule Pay Rates.

(e)(1) Each of the officers referred to in this section must be a citizen of the United States; must be a civilian; and must have experience in a field directly related to aviation.

(2) Such officers may not have a pecuniary interest in, or own stock in or bonds of, an aeronautical enterprise, or engage in another business, vocation, or employment.

POWERS

SEC. 6. (a) The Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration.

(b) In carrying out the functions of the Administration under this Act, the Administrator shall be governed by all applicable statutes, including the policy standards set forth in the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.).

(c) Decisions of the Administrator made pursuant to the exercise of the functions enumerated in the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.) shall be administratively final, and appeals as currently authorized by law shall be taken directly to the National Transportation Safety Board or to any court of competent jurisdiction, as appropriate.

(d) The Administrator shall not submit decisions for the approval of, nor be bound by the decisions or recommendations of any committee, board, or other organization created by executive order.

TRANSFERS AND INCIDENTAL PROVISIONS

SEC. 7. (a) The following are transferred to the Federal Aviation Administration, the independent agency:

(1) All functions vested by law in the Federal Aviation Administration in the Department of Transportation or its Administrator, and all functions vested by law in the Secretary of Transportation or the Department of Transportation which are administered through the Federal Aviation Administration or are related to the Federal Aviation Administration, including those exercised under the following laws and provisions of law:

(A) the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.), except for those functions exercised under section 305 of that Act relative to fostering the development of civil aeronautics and air commerce, exercised by the Secretary of Transportation under Title IV of that Act as successor to the Civil Aeronautics Board, and exercised by the Secretary under titles XI or XII of that Act relative to international air commerce;

(B) section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)) along with all functions, duties, and powers which at any time has been vested in the Administrator of the Federal Aviation Administration prior to the revision of Title 49, United States Code by Public Law 97-449 (96 Stat. 2413);

(C) the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2201 et seq.);

(D) the Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.), to the extent that such Act pertains to the transportation of hazardous materials by air;

(E) the Independent Safety Board Act of 1974 (49 App. 1901 et seq.) insofar as it relates to transportation by air; and

(F) the Aviation Safety and Noise Abatement Act of 1979 (49 App. U.S.C. 2101 et seq.).

(2) The functions of the Department of Transportation or the Federal Aviation Administration in the Department of Transportation incidental to, helpful to, or necessary for, the performance of the functions transferred by subsection (a)(1) or which relate primarily to those functions.

(3) So much of the personnel, property, records, funds, accounts, and unexpended balances of appropriations, allocations, and other moneys of the Department of Transportation as are employed, used, held, available, or to be made available in connection with the functions transferred by subsections (a)(1) and (a)(2).

(b) The personnel transferred under this section shall be so transferred without reduction in classification or compensation, except that after such transfer, such personnel shall be subject to changes in classification or compensation in the same manner, to the same extent, and according to the same procedure, as provided by law.

(c) The Administrator of the Federal Aviation Administration, an independent agency, shall exercise all functions transferred by subsection (a) of this section or any other function vested in the Federal Aviation Administration or the Administrator of the Federal Aviation Administration by any law subsequent to enactment of this Act. The Administrator may from time to time make such provisions as the Administrator shall deem appropriate authorizing the performance by any other officer, employee, or office of the Federal Aviation Administration of such functions.

RULES; REGULATIONS

SEC. 8. In the performance of the functions of the Administrator and the Administration, the Administrator is authorized to make, promulgate, issue, rescind, and amend rules and regualtions. The promulgation of such rules and regulations shall be governed by the provisions of chapter 5 of title 5, United States Code.

DELEGATION

SEC. 9. Except as otherwise provided in this Act, the Administrator may delegate any function to such officers and employees of the Administration as the Administrator may designate, and may authorize such successive redelegations of such functions in the Administration as may be necessary or appropriate. No delegation of functions by the Administrator under this section or under any other provision of this Act shall relieve the Administrator of responsibility for the administration of such functions.

PERSONNEL AND SERVICES

SEC. 10. (a) In the performance of the functions of the Administrator and in addition to the officers provided for by section 5, the Administrator is authorized to appoint, transfer, and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Administrator and the Administration. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and compensated in accordance with title 5, United States Code.

(b) The Administrator is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(c) The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of title 5, United States Code.

(d) The Administrator is authorized to utilize, on a reimbursable basis, the services of personnel of any Federal agency.

(e)(1)(A) The Administrator is authorized to accept voluntary and uncompensated services without regard to the provisions of section 1342 of title 31, United States Code, if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) The Administrator is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The Administrator is authorized to provide for incidental expenses, including transportation, lodging, and subsistence for such volunteers.

(3) An individual who provides voluntary services under subsection (e)(1)(A) shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

CONTRACTS

SEC. 11. The Administrator is authorized, without regard to the provisions of section 3324 of title 31, United States Code, to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the functions of the Administrator and the Administration. The Administrator may enter into

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such contracts, leases, agreements, and transactions with any Federal agency or any instrumentality of the United States, or with any State, territory, or possession, or with any political subdivision thereof, or with any person, firm, association, corporation, or educational institution, on such terms and conditions as the Administrator may consider appropriate. The authority of the Administrator to enter into contracts and leases under this section shall be to such extent or in such amounts as are provided in appropriation Acts.

USE OF FACILITIES

SEC. 12. With their consent, the Administrator may, with or without reimbursement, use the services, equipment, personnel, and facilities of Federal agencies and other public and private agencies, and may cooperate with other public and private agencies and instrumentalities in the use of services, equipment, personnel, and facilities. The head of each Federal agency shall cooperate fully with the Administrator in making the services, equipment, personnel, and facilities of the Federal agency available to the Administrator. The head of a Federal agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, without reimbursement, supplies and equipment other than administrative supplies or equipment.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 13. (a) The Administrator is authorized—

(1) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain—

(A) air traffic control facilities and equipment;

(B) research and testing sites and facilities; and

(C) such other real and personal property (including office space and patents), or any interest therein within and outside the continental United States,

as the Administrator considers necessary;

(2) to lease to others such real and personal property; and

(3) to provide by contract or otherwise for eating facilities and other necessary facilities for the welfare of employees of the Administration at its installations and to purchase and maintain equipment for such facilities.

(b) Title to any property or interest therein acquired pursuant to this section shall be in the United States.

(c) The authority granted by subsection (a) shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Administration by the Administrator of General Services.

(d) The authority of the Administrator to enter into contracts and leases under this section shall be to such extent or in such amounts as are provided in appropriation Acts.

FACILITIES AT REMOTE LOCATIONS

SEC. 14. (a) The Administrator is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) meeting facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for school-age dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under subsection (a)(1) and the furnishing of services and supplies under subsection (a)(2) shall be at prices reflecting reasonable value as determined by the Administrator.

(c) Proceeds derived from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Administrator to pay directly the cost of work or services provided under this section, to repay or make advances to appropriations of funds which do or will bear all or a part of such cost, or to refund excess sums when necessary, except that such payments may be credited to a service or working capital fund otherwise established by law, and used under the law governing such funds if the fund is available for use by the Administrator for performing the work or services for which payment is received.

TRANSFERS OF FUNDS FROM OTHER FEDERAL AGENCIES

SEC. 15. The Administrator is authorized to accept transfers from other Federal agencies to funds which are available to carry out functions transferred by this Act to the Administrator or functions assigned by law to the Administrator after the date of enactment of this Act.

SEAL OF ADMINISTRATION

SEC. 16. The Administrator shall cause a seal of office to be made for the Administration of such design as the Administrator shall approve. Judicial notice shall be taken of such seal.

STATUS OF ADMINISTRATION UNDER CERTAIN LAWS

SEC. 17. For purposes of section 551 of title 5, United States Code, the Administration is an agency. For purposes of chapter 9 of such title, the Administration is an independent regulatory agency.

SAVINGS PROVISIONS

SEC. 18. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in regard to functions which are transferred under this Act to the Administration on or after the date of enactment of this Act, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Administrator or other authorized officials, a court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending at the time this Act takes effect; and such proceedings and applications, to the extent that they relate to function so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; 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. 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 Act had not been enacted.

(c)(1) The provisions of this Act shall not affect suits commenced prior to the date this Act takes effect.

(2) In all such suits, proceedings shall be had, appeals taken, and judgment rendered in the same manner and effect as if this Act had not been enacted.

(d) In any case involving one or more officers required by this Act to be appointed by and with the advice and consent of the Senate who shall not have entered upon office on the effective date of this Act, the President may designate any officer whose appointment was required to be made by and with the advice and consent of the Senate, and who was such an officer immediately prior to the effective date of this Act, to act in such office until the office is filled as provided in this Act. While so acting, any such person shall receive compensation at the rates provided by this Act of the respective office in which he or she acts.

AUTHORIZATION OF APPROPRIATIONS

SEC. 19. There are authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act. Notwithstanding any other provision of law, there are authorized to be appropriated, for any fiscal year beginning after September 30, 1987, for use of the Administration, such sums as are specifically authorized to be appropriated as of the date of enactment of this Act.

LAWS AND REGULATIONS

SEC. 20. Except to the extent otherwise provided in this Act, all laws, rules, and regulations in effect and applicable to the Federal Aviation Administration of the Department of Transportation and to the Administrator of such Administration on the date immediately preceding the effective date of this Act shall, on and after such effective date, be applicable to the Federal Aviation Administration and the Administrator established by this Act, until such law, rule, or regulation is repealed or otherwise modified or amended.

REPEALS

SEC. 21. Section 106 of title 49, United States Code, is repealed.

EFFECTIVE DATE

SEC. 22. The provisions of this Act shall take effect upon the expiration of the 180-day period following the date of enactment of this Act.

● Mr. LAUTENBERG. Mr. President, I rise today to join in introducing legislation that cuts to the heart of one of most serious issues facing this body—the state of our national aviation system.

I'm pleased to join Senator FORD, chairman of the Commerce Committee's Aviation Subcommittee, and Sen-

ator KASSEBAUM, ranking minority member of the Aviation Subcommittee. As chairman of the Transportation and Related Agencies Appropriations Subcommittee, I look forward to working closely with my distinguished colleagues to address the problems facing our aviation system today. The Federal Aviation Administration Independent Establishment Act would take a major step in that direction.

The problems in our air traffic system are numerous. We don't have enough controllers manning the towers and centers. Inspection and maintenance forces have been inadequate. The multibillion dollar, multiyear national airspace system plan is years behind schedule and billions of dollars over budget. We're still reacting to potentially threatening air congestion problems, rather than being able to predict and avoid them.

There's a common thread that runs through the problems we're facing. That problem is one of management. And that is what this legislation would address.

The FAA is charged with a tremendous task—ensuring the safe passage of the approximately 450 million air passengers using our skies each year. Unfortunately, the FAA's job has been complicated by the political pressures that exist within the Department of Transportation. Making the FAA an independent entity would help to depoliticize the FAA, and allow the professionals at the agency to do their job correctly.

Designing and operating a national air traffic system is a unique challenge. To effectively manage such a system, there must be long-range planning and budgeting. What we've seen over the last 6 years is short-sighted, closed-minded policy guiding the FAA. That has to change. Today, our air traffic system is being stretched to the limits. The margin of safety is being reduced to an unacceptable level.

There has been a revolving door in the Office of the FAA Administrator. We're now on our third Administrator since the beginning of the Reagan administration. That in itself has been part of the problem. The FAA is a vast agency. There are over 15,000 people in the air traffic control work force alone. Mr. President, I came to this body from the private sector, where I headed a corporation of over 15,000 employees. From firsthand experience, I know what it takes to make a group that size run. Without consistent, stable management at the top, no entity, be it a corporation or a Government agency, can function over the long run.

The FAA Administrator should have a long-term appointment, not subject to changes in the political winds at the White House. I also believe that we should look at the possibility of a commission or board to direct the agency. I hope to see this need addressed in this legislation as it proceeds through the committee process.

This bill is a starting point. It's the frame upon which more comprehensive legislation will be built. The distinguished Aviation Subcommittee chairman, Senator FORD, will hold hearings on the bill in the coming months. I intend to play an active role in the development of this bill, and look forward to participating in those hearings. In addition, the Aviation Safety Commission is looking into the idea of an independent FAA. I look forward to hearing the Commission's views on the matter.

I would also note that it is not the intention of this Senator to use this bill as a means of privatizing the air traffic control system, or any part of it. The aviation system is a public concern, using public resources. While changes can be made to improve the system, taking it from the public domain is not, at this point, the way to do it.

Mr. President, those of us who have had a chance to look closely at the air traffic system have come to appreciate how complex and cumbersome it is. We know that there are a number of proposals to improve the system. Allowing the FAA to operate free of the daily political pressures at DOT should be a priority among those proposals. Our skies are already crowded. There's no room for politics.

Mr. President, I commend Senator FORD for his work in developing this legislation, and look forward to continuing to work with him in efforts to enhance our Nation's aviation system.●

By Mr. MCCAIN (for himself and Mr. BUMPERS):

S. 1601. A bill to permit the immigration of Vietnamese Amerasians to the United States; to the Committee on the Judiciary.

IMMIGRATION OF VIETNAMESE AMERASIANS

● Mr. BUMPERS. Mr. President, I rise today to introduce legislation along with my distinguished colleague, Senator MCCAIN, entitled the "Amerasian Homecoming Act of 1987." Passage of this legislation will allow the remaining children fathered by United States soldiers during the Vietnam war, termed "Amerasians," to come to the United States. Companion legislation is being introduced in the House of Representatives today by Representatives MRAZEK and RIDGE.

Vietnamese "Amerasian" children are defined by the bill we introduce today as those living in Vietnam who were fathered by United States servicemen between 1962 to 1976. There is no question that these children have ties to the United States. They are a lingering legacy of the longest war in our history. Because of their prominent physical features in an extremely homogeneous society, these children are often harshly ostracized. Their families, especially the mothers, face severe discrimination and shame. Mothers often respond by disassociating themselves with the children and casting them out on the street to fight for survival or perish.

Congressman MRAZEK recently returned from a trip to Vietnam during which he was given assurances by the Vietnamese Foreign Minister, Nguen Co Thach, that they are ready and willing to resolve this outstanding issue. Congressman MRAZEK made the journey to rescue from the streets of Ho Chi Mihn city—formerly Saigon—a young 15-year-old Amerasian boy, Le Van Mihn. Mihn, who suffers from polio, was forced to live a life of desperate survival after his mother cast him out on his own at age 11. There are other children like Le Van Mihn that need to be rescued from their miserable plight.

While Congress passed the Amerasian Act—Public Law 97-359—in 1982 to address this issue, that legislation has proved unworkable with respect to Vietnamese Amerasians. That law was designed to facilitate the immigration to the United States of the thousands of offspring of U.S. servicemen living throughout Asia. In sum, the act worked relatively well for Amerasians living in some Asian countries, such as South Korea and the Philippines, but the strict requirements of the act have virtually prevented its use for those in Vietnam.

Some progress on this issue has been made in recent years, but has unfortunately stalled. Since 1982, some 9,000 Vietnamese Amerasians and their family members have come to the United States through the auspices of the Orderly Departure Program [ODP] administered by the United Nations High Commissioner on Refugees [UNHCR]. However, in January 1986, the Vietnamese Government effectively suspended the ODP program, leaving the fate of Amerasians in question. While the breakdown of the ODP had little to do with the specific question of Amerasians, it has had a prohibitive effect on their emigration from Vietnam.

Several problems prevented further inclusion of Vietnamese Amerasian children in the ODP. The suspension of onsite interviews by ODP officials has meant that only a trickle of Amerasians has been able to leave Vietnam since the end of 1985. The Vietnamese have never been pleased with using the ODP process for the emigration of Amerasians. Because the ODP designates these children as refugees, which is the United States point of view, the Vietnamese reject this term because it implies official persecution in Vietnam. Also, the ODP addresses the question through the United Na-

tions, when it is in fact a bilateral issue. Third, the ODP lumps the Amerasian children with the thousands of other refugees who seek to emigrate from Vietnam, which traps them in the slow, cumbersome bureaucracy and offers them little hope of immediate freedom.

Persistent diplomatic efforts, including Congressman MRAZEK's recent mission, have hopefully resolved the dispute on this issue between our country and Vietnam. Most recently, Gen. John Vessey is returning at this moment from a mission on behalf of President Reagan to Vietnam to discuss a number of pressing humanitarian issues such as the continuing question of possible United States prisoners of war and missing in action in Vietnam, and the Amerasian issue.

Both Houses of Congress passed resolutions of support on July 28 for General Vessey's mission. The short joint communique issued at the end of his trip suggests that the time is ripe for the resolution of the latter issue this bill addresses. The process of determining which children of U.S. soldiers wish to come to the United States has been preliminarily agreed to by both countries, as well as the conditions for their departure.

Accord between the United States and Vietnam has been reached on several issues: First, the issue must be resolved bilaterally; second, the Amerasians must be given nonrefugee status; third, the Amerasians must be eligible for the benefits normally afforded to refugees; fourth, the Vietnamese must allow Americans to conduct preliminary face-to-face interviews; fifth, family unity must be preserved; and sixth, the issue must be resolved quickly.

According to the Department of State, temporary statutory authority for the final resolution of this problem should now be enacted by Congress. The legislation Senator MCCAIN and I introduce today provide the necessary legal authority for the program to go forward. In sum, our legislation calls for a waiver of numerical limitation of immigrant admissions under the Immigration and Nationality Act and waives other grounds for exclusion for Vietnamese Amerasians for 2 years. It allows immigrant status as required by the Vietnamese, but authorizes all of the language training and assimilation assistance provided refugees under chapter 2 of title IV of the Immigration and Nationality Act. It requires face-to-face interviews in Vietnam. It defines Amerasians in the Vietnamese context. It provides for family unity. And it requires the State Department to report to Congress every year for 3 years on the program.

Congress should not delay on the passage of the Amerasian Homecoming Act. Thousands of destitute children, many of them outcasts in the land of their birth, are waiting on our action. I ask my colleagues to lend their support for this humanitarian effort, and urge that hearings be held as early as possible. Mr. President, I urge adoption of this legislation at the first possible opportunity, and I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1601

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Amerasian Homecoming Act".

SEC. 2. ADMISSION OF VIETNAMESE AMERASIANS AND CLOSE FAMILY MEMBERS.

(a) IN GENERAL.—

(1) WAIVER OF NUMERICAL LIMITATIONS.—Notwithstanding any numerical limitations specified in the Immigration and Nationality Act, the Attorney General may admit aliens described in subsection (b) to the United States as immigrants if—

(As) they are admissible (except as otherwise provided in paragraph (2)) as immigrants, and

(B) they are issued an immigrant visa and depart from Vietnam during the 2-year period beginning 90 days after the date of the enactment of this Act.

(2) WAIVER OF CERTAIN GROUNDS FOR EXCLUSION.—The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not be applicable to any alien seeking admission to the United States under this section, and the Attorney General on the recommendation of a consular officer may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following an investigation by a counsular officer.

(3) PERIOD OF VALIDITY OF VISAS.—Notwithstanding section 221(c) of the Immigration and Nationality Act, immigrant visas issued to aliens under this section shall be valid for a period of 8 months.

(b) ALIENS COVERED.—

(1) IN GENERAL.—An alien described in this subsection is an alien who, as of the date of the enactment of this Act, is residing in Vietnam and who establishes to the satisfaction of a consular officer after a face-to-face interview, that the alien—

(A)(i) was born in Vietnam after January 1, 1962, and before January 1, 1976, and (ii) was fathered by a citizen of the United States (such an alien in this subsection referred to as a "principal alien");

(B) is the spouse or child of a principal alien and is accompanying, or following to join, the principal alien; or

(C) subject to paragraph (2), either (i) is the principal alien's natural mother (or is the spouse or child of such mother), or (ii) has acted in effect as the principal alien's mother, father, or next-of-kin (or is the spouse or child of such an alien), and is accompanying, or following to join, the principal alien.

(2) LIMITATIONS ON APPROVAL FOR CERTAIN ALIENS.—An immigrant visa may not be issued to an alien under paragraph (1)(C) unless the principal alien involved is unmarried and the consular officer has determined, in the officer's discretion, that (A) such an alien has a bona fide relationship with the principal alien similar to that which exists between close family members and (B) the admission of such an alien is necessary for humanitarian purposes or to assure family unity. If an alien described in paragraph (3)(A)(ii) is admitted to the United States, the natural mother of the principal alien involved shall not, thereafter, be accorded any right, privilege, or status under the Immigration and Nationality Act by virture of such parentage.

(3) CHILD DEFINED.—For purposes of this subsection, the term "child" has the meaning given such term in section 101(b)(1) (A), (B), (C), (D), and (E) of the Immigration and Nationality Act.

(c) ASSISTANCE FOR IMMIGRANTS.—Any alien admitted (or awaiting admission) to the United States under this section shall be eligible for benefits under chapter 2 of title IV of the Immigration and Nationality Act to the same extent as individuals admitted (or awaiting admission to) the United States under section 207 of such Act are eligible for benefits under such chapter.

(d) REPORTS.—The Attorney General, in cooperation with the Secretary of State, shall report to Congress 1 year, 2 years, and 3 years, after the date of the enactment of this Act on the implementation of this section. Each such report shall include the number of aliens who are issued immigrant visas and who are admitted to the United States under this Act and number of waivers granted under subsection (a)(2) and the reasons for granting such waivers.

(e) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section and nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provisions of law for which the alien may be eligible.●

By Mr. PROXMIRE:

S. 1602. A bill to declare that certain lands are held in trust for the Potawatomi communities in Wisconsin and Michigan; to the Committee on Energy and Natural Resources.

LANDS OF THE FOREST COUNTY POTAWATOMI COMMUNITY

Mr. PROXMIRE. Mr. President, today I introduce a bill to correct an administrative error which placed the title of the lands owned by the members of the Forest County Potawatomi Community, residing in the States of Wisconsin and Michigan, in trust in the name of the United States only. Technically, the lands should be in the

tribe's name and held in trust by the U.S. Government.

Historical record supports the Potawatomic Tribe's position. The Department of the Interior agrees that the deed was recorded in error.

This bill does not change or alter existing law but corrects that oversight in the deed.

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

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

S. 1602

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

SECTION 1. (a) All rights, title, and interests of the United States in the surface and mineral estate of approximately 11,300 acres of land located in Forest County and Oconto County, Wisconsin that was acquired by the United States by reason of section 24 of the Act of June 30, 1913 (38 Stat. 102), including any improvements on such land, are hereby declared to be held by the United States in trust for the benefit and use of the Forest County Potawatomi Community of Wisconsin and such land is hereby declared to be the reservation of the Forest County Potawatomi Community of Wisconsin.

(b) All rights, title, and interests of the United States in the surface and mineral estates of approximately 3,359 acres of land located in Menominee County, Michigan, that was acquired by the United States by reason of section 24 of the Act of June 30, 1913 (38 Stat. 102), including any improvements on such lands, are hereby declared to be held by the United States in trust for the benefit and use of the Hannahville Indian Community of Michigan, and such land is hereby declared to be the reservation of the Hannahville Indian Community of Michigan.

SEC. 2. The Secretary of the Interior shall publish in the Federal Register a detailed description of the lands referred to in section 1.

SEC. 3. Nothing in this Act shall deprive any person (other than the United States) of any lease, right-of-way, mining claim, grazing permit, water right, or other right or interest which such person may have in the surface or mineral estate of any land referred to in section 1 on the day before the date of enactment of this Act.

By Mr. QUAYLE:

S. 1603. A bill to require the Secretary of Housing and Urban Development to develop regulations that would provide transitional relief from the application of the rent formula under the U.S. Housing Act of 1937; to the Committee on Banking, Housing, and Urban Affairs.

TRAINING PROGRAM RENT RELIEF ACT

● Mr. QUAYLE. Mr. President, a lot of attention has been paid this year to the idea of welfare reform. Legislation is being prepared and debated in the House and in the Senate based on the principle that we should do more to help welfare recipients who want to help themselves. This is an idea whose time has come, and I think that the ongoing debate is an extremely important one.

There is general agreement that job training must be a key element of welfare reform. Welfare recipients must have the opportunity to learn skills that will help them get meaningful jobs and increase their earning power. A two-pronged approach is necessary to achieve this objective: we must provide incentives to State job training agencies to focus their efforts on long-term welfare recipients, and we must provide incentives to welfare recipients to seek training. As the former chairman of the Labor and Human Resources Subcommittee on Employment and Productivity, and coauthor of the Job Training Partnership Act [JTPA] in 1982, I have taken a special interest in this element of welfare reform.

To address the first of these objectives, on April 2, the Senate unanimously approved S. 514, the Jobs for Employable Dependent Individuals Act [JEDI]. I offered several key amendments to the JEDI bill during markup in the Labor and Human Resources Committee to bolster JTPA's title II-B summer youth employment and training program for teenagers living in welfare households.

JEDI, which was introduced by the chairman of the Labor Committee, the distinguished Senator from Massachusetts, is designed to target JTPA services to dependents in welfare households. It would pay bonuses to State job-training agencies that successfully train long-term welfare recipients and place them in jobs, removing them from the welfare rolls. The bonuses paid to the States would be a percentage of the Federal welfare expenditures saved in the process.

In addition to strengthening the foundations of the State bonus program, my amendments would give States the flexibility to convert their JTPA summer youth employment programs into year-round remedial skill training programs targeted at youths aged 14 to 21 living in welfare households. Under the revamped program, local private industry councils [PIC's] could provide disadvantaged teenagers with year-round remedial education, summer jobs, or a combination of both, as determined by local needs. While the initial provisions of the JEDI would achieve their worthy objectives at a fairly low cost to the Government, the Congressional Budget Office has estimated that my amendments would yield savings of up to $50 million per year in aid to families with dependent children [AFDC] outlays over a 3-year period by helping to remove people from the welfare rolls.

I believe that early remedial education and skills training is crucial to breaking the chain of welfare dependency for young adults. JEDI, with my amendments, would give States the tools and flexibility they need to help young adults find good jobs and increase their earning power throughout their lives. I hope the House of Representatives will act this session to approve this legislation.

To complement the JEDI bill, I am today introducing the Training Program Rent Relief Act of 1987. This bill is designed to meet our second objective of providing welfare recipients with incentives to enter job training programs and find employment. Specifically, this bill directs the Secretary of Housing and Urban Development [HUD] to study alternatives to HUD's current rules for assessing public housing rents that often deter tenants from seeking employment opportunities. The Secretary would be required to present a proposal to Congress for a program of phased-in rent increases for tenants who find better paying jobs or enter training programs that supply new sources of income.

HUD's formula for determining fair monthly rents paid by public housing residents is based on the premise that tenants should contribute a fair portion of their income to rent. As their finances improve, residents are required to pay more in rent for their unit. This is a sound premise.

Under HUD's current formula, a tenant's monthly income is annualized. Then $480 is deducted for each dependent living in the household. One-third of this adjusted yearly income must be paid in rent. This amount is divided by 12 to determine the monthly payments.

The problem with this formula is that a tenant who achieves a higher level of income faces an immediate rent increase that is often of dramatic proportions. This is true even though the tenant is confronted with new employment-related expenses such as transportation or child care, and will only receive a first paycheck after a 2- to 3-week delay. In addition, newly employed individuals often face the loss of other welfare benefits and have previously incurred debts to pay. The cash flow problems created by these large rent increases and other factors in the first few months of employment create a tremendous obstacle to seeking new employment.

A public housing tenant who finds a better paying job and cannot cope with the numerous new bills that must be paid is faced with a real Hobbesian dilemma: Either quit the job that caused the budget crunch in the first place, or leave the family home so that the new income does not cause a rent increase. This is a choice that no one should be forced to make, least of all a welfare recipient struggling to get on his or her feet financially. The Federal Government should not be in the business of breaking up families or dis-

couraging people from finding good jobs.

I recently asked the Indianapolis Housing Authority in my home State to provide me with a sample of cases in which rental increases were incurred due to increased income. The information I received provides a clear illustration of this problem. In eight randomly selected households in which a higher level of income was achieved, the average rental increase in the first month was 663 percent. In one case, the rent increased a staggering 1,063 percent. While some of these families survived the difficult first several months, others did not, and still others were doubtlessly discouraged from even trying.

One case in point: A man aged 25, his 22-year-old wife and their 3-year-old daughter lived in $126-a-month two bedroom apartment. Both parents found jobs, the husband's paying $13,500, the wife's, $9,858. Their new combined income of $23,358 caused their rent to be recalculated to $546—a 330-percent increase. While $23,358 is not a fortune for a family of three, it is enough to live on. Unfortunately, because of the dramatic jump in rent, the husband was forced to move out of the household so that his wife and daughter could stay.

I ask unanimous consent to insert in the RECORD a table of vital statistics provided by the Indianapolis Housing Authority on the eight randomly selected families whose rent increased due to increased earnings. This table demonstrates how dramatic and sudden these rent increases can be.

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

Family	Age	Sex	Relationship	Source/income	Annual amount	Total amount	Apartment size
No. 1 [1]	25	Male	Head	Wages	$13,500.00		2 bedroom.
	22	Female	Spouse	Wages	$9,858.00	$23,358.00	
	3	Female	Daughter				
No. 2 [2]	48	Male	Head	Wages	$27,913.00		4 bedroom.
	20	Male	Son	SS	1,728.00		
	16	Female	Daughter	SS	1,728.00		
	11	Male	Son	SS	1,728.00	33,097.60	
No. 3 [3]	72	Female	Head	SS	4,068.00		5 bedroom
	23	Male	Grandson	Wages	7,592.00	24,972.00	
	20	Male	Grandson	Wages	13,312.00		
No. 4 [4]	40	Female	Head	Wages	6,630.00		5 bedroom.
				Support	5,214.00		
	21	Male	Son	Wages	15,891.00	27,735.00	
	19	Female	Daughter				
	18	Female	Daughter				
	16	Female	Daughter				
	15	Male	Son				
	14	Male	Son				
	12	Female	Daughter				
	11	Female	Daughter				
	9	Male	Son				
	8	Male	Son				
	2 mo	Female	Granddaughter				
No. 5 [5]	40	Male	Head	Wages	17,222	17,222.00	3 bedroom.
	43	Female	Spouse				
	4	Female	Granddaughter				
	3	Male	Grandson				
No. 6 [6]	50	Female	Head	Wages	14,701	14,701.00	3 bedroom.
	12	Male	Son				
No. 7 [7]	51	Female	Head	SS	4,032.00		4 bedroom.
				SSI	288		
	26	Male	Son				
	25	Female	Daughter	AFDC	1,140.00		
	23	Male	Son	Wages	13,520.00	18,980.00	
No. 8 [8]	55	Female	Head				4 bedroom.
	23	Female	Daughter	Wages	12,300.00	12,300.00	
	23	Male	Son				
	18	Male	Son				

[1] The rent increased from $126 per month to $546 per month, a 330-percent increase. Husband moved out.
[2] The rent increased from $68 per month to $791 per month, a 1,063-percent increase. They moved.
[3] The rent increased from $58 per month to $614 per month, a 959-percent increase. Grandson moved out.
[4] The rent increased from $91 per month to $597 per month, a 556-percent increase. They moved.
[5] The rent increased from $63 per month to $407 per month, a 546-percent increase. Still renting the unit.
[6] The rent increased from $48 per month to $356 per month, a 642-percent increase. Still renting unit.
[7] The rent increased from $100 per month to $452 per month, a 352-percent increase. Still renting unit.
[8] The rent increased from $32 per month to $307 per month, a 859-percent increase. Still renting the unit.

Mr. QUAYLE. Mr. President, there are numerous social and economic factors that tend to reinforce the negative self-image of public housing tenants and discourage them from seeking to improve their lot in life. It is essential that the rules established by HUD not add to these negative influences. Our housing policies must act to promote the efforts of individuals and families to become self-supporting. At present, they do not.

A rent-relief program would have the double blessing of being both responsive to the needs of welfare recipients and fiscally prudent. By making it possible for welfare recipients to get job training or accept a job offer, we would be assisting people who want to work get off the welfare rolls. By enabling public housing residents to increase their earning power, we would be helping families get out of public housing and making room for other families on waiting lists.

Enactment of this pair of legislative initiatives—JEDI and the Training Program Rent Relief Act—would increase the utilization of JTPA programs and enhance their efficiency. JEDI would help focus the efforts of State job-training agencies on welfare recipients, while the Training Program Rent Relief Act would improve the incentives for public housing tenants to seek participation in job training programs. By approaching this problem from both angles, I believe these bills will help increase job opportunities for welfare recipients and lower costs to the Federal Government.

Mr. President, I ask unanimous consent that the full text of the Training Program Rent Relief Act be printed in the RECORD following my remarks.

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

S. 1603

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall develop a proposed regulation to provide a phased-in rental increase for public housing tenants whose incomes increase substantially as a result of their participation in job training programs.

(b) In developing the regulation under this section, the Secretary shall consider past experience in training programs and the response of public housing tenants to sudden and substantial increases in rent as a result of training income. The Secretary shall utilize data from a statistically significant number of public housing agencies in developing the regulation under this section.

(c) The Secretary shall make an estimate of the cost of such a regulation. If the Secretary finds that a majority of public housing tenants move out of public housing or forgo participation in training programs in order to avoid rent increases, the Secretary shall consider that finding in determining the cost estimate of the regulation developed under this section. If the Secretary finds that rent increases have no impact on a public housing tenant's decision whether to participate in a job training program or to remain in occupancy in a public housing unit, then the cost estimate shall reflect that finding.

(d) Not later than ———, 1988, the Secretary shall transmit to the Congress a report containing the findings and the Secretary's recommendation regarding the regulation developed under this section.●

By Mr. SANFORD (for himself, Mr. ADAMS, Mr. CONRAD, Mr. SIMON, and Mr. FOWLER):

S. 1604. A bill to require the President to submit to the Congress a study on the reduction of the public debt of the United States; to the Committee on Finance.

REQUIREMENT FOR A STUDY ON REDUCTION OF THE FEDERAL DEBT

Mr. SANFORD. Mr. President, I am today introducing a measure to require the President to submit to the Congress a plan to rid the United States of its enormous national debt.

Mr. President, the joint resolution scheduled to be voted on by the Senate before we recess tomorrow focuses our attention once again on the most serious economic problem our Nation has ever faced.

For the second time in as many weeks we are going to vote to raise the statutory debt limit and, in so doing, will grant our tacit approval to this administration's continuing failure to curb its voracious appetite for borrowing.

Our national debt has mushroomed, as in atomic mushroom—out of sight—since this administration has taken office, at a rate unparalleled in history. Publicly held Federal debt has more than doubled since this President has taken office, and has risen substantially as a share of GNP—from 26.8 percent in 1980 to 41.9 percent of GNP in 1986. And interest rates, although they have declined, remain high relative to today's low rate of inflation.

This madness has got to stop.

We cannot turn our debt problem around tomorrow. We probably can't even do it in the next several years. But until we agree to begin looking seriously at this problem, studying it carefully, we will just end up returning here to this Chamber, 1 year after the next, and voting again to raise the limit without giving any consideration to the problem we are creating for our Nation's long-term economic future.

For this reason, I am proposing that this President, who in his term alone has done more to add to our Nation's debt problems than all of his predecessors combined, be charged with coming up with a plan for putting us back on a path to fiscal responsibility. It would require the President to devise a strategy for leaving the Nation's economy for the next generation in at least as good a shape as it was in ours.

This legislation gives the President 90 days after its enactment to report to Congress on a method of reducing the national debt by fiscal year 2000 to the same level as a percentage of the gross national product as it was in fiscal year 1980, which was approximately 27 percent. This would require approximately a 1-percent drop annually in the percentage amount the debt represents as a share of the gross national product.

This measure would also require the plan to disclose whatever changes in fiscal policy the President would propose adopting in order to reduce our Federal debt and to provide the economic assumptions upon which these proposed changes would be based. This will give the President the chance, which he already has, to be specific in what he thinks Congress can do to help him return to fiscal responsibility.

Finally, the President would be required in this report to describe those historical events that have caused unanticipated increases in the Federal debt during his two terms in office and the prospects of their reoccurring anytime during the remainder of his Presidency.

Mr. President, we can't simply go on raising the debt limit without having some idea of how or when we're going to get our national debt problem under control. We've got to stop and take stock of where we are—and of more importance, of where we are headed. We simply must have a plan. I believe it only fair that this President, having had so much to do with getting us into the mess we're in right now, have first crack at figuring out how we get ourselves out.

It is time that we reestablish fiscal responsibility as a national policy.

Thank you, Mr. President, and I ask unanimous consent that the bill be printed following these remarks.

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

S. 1604

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That within 90 days after the date of enactment of this Act, the President shall prepare and transmit to the Congress a plan to reduce by fiscal year 2000 the total public debt of the United States such that the percentage determined by dividing the amount of such public debt for such fiscal year by the amount of the gross national product of the United States for such fiscal year does not exceed the percentage determined by dividing the amount of the total public debt of the United States in fiscal year 1980 by the amount of the gross national product of the United States in fiscal year 1980.

(b) The plan required by subsection (a) shall include—

(1) recommendations for changes in fiscal policy to achieve the reduction required by subsection (a);

(2) an analysis of current and projected economic conditions; and

(3) a description of historical events since January 20, 1981, which have caused unanticipated increases in the deficit and a projection of the likelihood of the reoccurrence of such events prior to January 20, 1989.

By Mr. HATFIELD:

S. 1605. A bill to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes; to the Select Committee on Indian Affairs.

S. 1606. A bill to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes; to the Select Committee on Indian Affairs.

GRAND RONDE INDIAN RESERVATION

● Mr. HATFIELD. Mr. President, today I am introducing two bills which would establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon. These bills are identical except for the amount of acreage set aside for the reservation. The different versions are intended to spur public discussion on the proposal in an effort to assist Congress in crafting legislation that takes into consideration the needs of the tribe as well as those of the affected communities.

In accordance with Public Law 98-165, the Grand Ronde Indians have submitted to Congress a proposal for a reservation and have completed the requirements for such a request as established by the Department of the Interior. The tribe has submitted a lengthy report which examines in detail the history and socioeconomic status of the tribe as well as the planning objectives and the impacts of establishing a reservation. The report delves into these subjects through scrupulous questioning of tribal members, public viewpoint, and dialog with public officials in the area. In the weeks ahead, Congressman LES AUCOIN, coauthor of companion measures in the House of Representatives, and I will be reviewing the tribe's report and soliciting comments from interested constituents and affected community leaders. In addition, a public hearing on these bills will be chaired by Congressman AUCOIN on August 10, 1987, in Oregon.

The information gathered in these efforts will assist us and our colleagues in the Congress as we consider legislation to establish a reservation for the Grand Ronde Indians.●

By Mr. ROTH (for himself and Ms. MIKULSKI):

S. 1607. A bill to prohibit the burning and dumping of toxic and hazardous waste in certain areas off the coast of Delaware, Maryland, and Virginia; to the Committee on Environment and Public Works.

DELAWARE BAY AND CHESAPEAKE BAY SANCTUARY ACT

● Mr. ROTH. Mr. President, I rise today to introduce legislation with my distinguished colleague from Maryland, Ms. MIKULSKI, that would designate the Delaware Bay, the Delaware and Chesapeake Canal and the Chesapeake Bay as sanctuaries. We must do all we can to protect these beautiful and valuable waterways.

I have always been a strong proponent of a healthy environment and this bill reinforces my strong posture on the environmental issues that confront us. Of immediate concern is how we should proceed with the disposal of our hazardous wastes. One method that has been proposed is to burn certain types of wastes at specially designated sites in our oceans.

And now the ports of Wilmington, DE, Philadelphia, PA, and Baltimore, MD, are all considered to be candidates for a waste transfer, collection and/or storage facility by the ocean incineration industry to ferry the wastes to the burn site.

Mr. President, this activity is regulated by the Environmental Protection Agency, and I find it hard to believe that the Federal agency so involved in the restoration of the Delaware and Chesapeake Bays would even consider jeopardizing these beautiful pristine environments. I feel the EPA was ill-advised to pursue this waste management option, as do most Delawareans. Delaware's coastal zone, wetlands, and natural resources are one part of Delaware's environment that makes it such a pleasant and unique place to live and visit. They must be protected.

In my view we must not pursue this out of mind out of sight activity. Our bill gives us a chance to prevent possible catastrophies, pursue alternatives, and thus help keep the oceans off limits to unnecessary, unwarranted, and irresponsible intrusions. We must keep those unique qualities intact that warrant the special protection we bestow on our oceans and which they so richly deserve.

Specifically our legislation would prohibit ocean incineration and the dumping of hazardous wastes in the bays, it would bar any Federal agency from licensing onshore facilities that exist to facilitate ocean incineration or ocean dumping, and it would prohibit travel through the sanctuaries of vessels en route to or from ocean incineration sites.

Mr. President, I would like to ask unanimous consent that a brief chronology of events and my involvement in the Environmental Protection Agency's attempts to promulgate ocean incineration regulations be included in the RECORD in its entirety. I also ask unanimous consent that the bill be printed in the RECORD in its entirety.

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

S. 1607

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 "Delaware Bay and Chesapeake Bay Sanctuary Act of 1987".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Delaware Bay and Chesapeake Bay possess unique historical, ecological, educational, recreational, and other research values and resources which are appropriate under Federal law; and

(2) there is an existing and mounting threat to this sensitive national treasure in the form of burning and dumping of toxic and hazardous wastes, which could result in irreparable damage to these coastal resources.

SEC. 3. DESIGNATION.

The areas comprising the Delaware Bay, the Chesapeake Bay, and the Chesapeake and Delaware Canal are designated as the Delaware Bay-Chesapeake Bay Sanctuary (hereinafter in this Act referred to as the "Sanctuary").

SEC. 4. RESTRICTIONS.

(a) Notwithstanding any other provision of Federal law, no Federal agency shall issue a lease, permit, or license—

(1) for ocean incineration or dumping of toxic or hazardous waste within the Sanctuary; or

(2) for an onshore facility which exits to facilitate ocean incineration or ocean dumping of toxic or hazardous waste within the Sanctuary.

Notwithstanding any other provision of Federal law, a vessel may not travel within the Sanctuary while en route to or from ocean incineration.

CHRONOLOGY

Mr. ROTH. Mr. President, first, in November 1983 the largest public hearing in EPA history—6,400 people—was held in Brownsville, TX, to consider EPA's proposal to issue two special permits and one research permit to Chemical Waste Management, Inc., to incinerate hazardous wastes in the Gulf of Mexico.

Second, in May 1984 EPA denied the permits and stated that it would not issue any more operating permits until specific regulations had been promulgated, and the scientific research had been completed.

Third, by February 1985 the Agency issued a final research strategy which included the possibility of conducting a research burn at sea. Draft ocean incineration regulations were also issued for public comment and review.

Fourth, in April 1985 EPA's Science Advisory Board issued a report on the current knowledge about ocean incineration. The report indicates that much more research is needed on several technical questions, such as incinerator capacity, capability to measure destruction efficiency, and emission characteristics. In addition, the report questions the effects on human health and marine environment.

Fifth, in July 1985 I submitted my comments to the EPA, and questioned: the protection it afforded the citizens of Delaware and the Nation; the transportation risks; the need for this technology as required by the London Dumping Convention and the Marine Protection Research and Sanctuary Act; the scientific risks associated with this technology; past performance of the operator of the incinerator vessel.

Sixth, in December 1985 the EPA made a decision to issue a research burn permit to Chemical Waste Management, Inc. Wastes would be loaded onto the vessel in Philadelphia, PA, shipped down the Delaware Bay out to a burn site in the North Atlantic Ocean and incinerated.

Seventh, after several—five—more public hearings, one of which took place in Wilmington, DE, on May 1, 1986, the EPA hearing officer issued his report. On the basis of that report, the EPA denied the research burn permit, and announced it would not issue any ocean incineration permits until specific ocean incineration regulations had been promulgated.

Eighth, on December 5, 1986, Chemical Waste Management, Inc., filed suit in Federal district court against the EPA. The suit relates to EPA's decision on May 1986 to defer considering applications for ocean incineration until final regulations had been promulgated. The suit claims that the EPA violated its mandatory duty under the Marine Protection Research and Sanctuary Act to consider applications for ocean dumping and ocean incinerations activities. Chem Waste seeks an order that the EPA abandon the decision it made in May 1986, and consider ocean incineration permits under existing regulations, or, that the EPA be ordered to finalize ocean incineration regulations within 30 days from the day of judgment. The court has not ruled on this suit, and a decision is expected shortly.●

● Ms. MIKULSKI. Mr. President, today I am pleased to join with my colleague from Delaware, Senator ROTH, in introducing the Delaware Bay and Chesapeake Bay Sanctuary Act of 1987.

Both Maryland and Delaware enjoy the benefits of two of the Nation's great estuaries—the Delaware and Chesapeake Bays. Both bodies of water offer many ecological, recreational, and economic opportunities, and both have played an important role in the history and well-being of the two States.

Because of the unique resources of the two estuaries, and because people from all over the country enjoy their benefits, I believe it appropriate to provide them with Federal protection.

This legislation therefore designates the areas comprising the Delaware Bay, the Chesapeake Bay, and the Chesapeake-Delaware Canal as the Delaware Bay-Chesapeake Bay Sanctuary.

This designation will restrict Federal agencies from issuing a lease, permit, or license for ocean incineration or dumping toxic or hazardous waste within the sancturary, or for any onshore facility which exists to facilitate ocean incineration or dumping of toxic or hazardous waste within the sanctuary. In addition, vessels may not travel within the sanctuary. In addition, vessels may not travel within the sanctuary while en route to or from ocean incineration.

I believe that this legislation compliments other actions taken by the Federal Government and both States to protect and preserve these estuaries, as well as the Maryland and Delaware ocean shoreline.●

By Mr. THURMOND:

S. 1608. A bill to amend title 28 of the United States Code as it pertains to the structure of the U.S. Claims Court; to the Committee on the Judiciary.

U.S. CLAIMS COURT IMPROVEMENT ACT

Mr. THURMOND. Mr. President, today, by request, I am introducing the U.S. Claims Court Improvement Act of 1987. The purpose of this legislation is to remove the existing article I Claims Court from the authority of the Administrative Office of the U.S. Courts and to establish the Claims Court in the executive branch of the Federal Government. The effect of the legislation would be to make the Claims Court similar to the Tax Court in operational and administrative aspects as well as the benefits and salaries of the judges.

This proposal is a comprehensive response to the problems the Claims Court has experienced since its reorganization under the Federal Courts Improvement Act of 1982, Public Law 97-164. As my colleagues will recall, the main focus of that act was to improve the adjudication of complex issues by combining the appellate functions of the former Court of Claims with the complex intellectual property cases formerly considered by the Federal Courts of Appeals. The remaining Court of Claims jurisdiction was set aside for the Claims Court. Although the Claims Court has a proud history dating back to 1855, the impact of the 1982 law upon it was not the primary consideration of the Congress in creating that law, and many key issues were not addressed by the Congress at that time.

The recent experiences of the Claims Court should now be a priority for congressional review. Issues such as—why this article I court, which is not represented on the Judicial Conference, is nonetheless administered and bound by the policy decisions of that distinguished body, and why there is such disparity in the salaries and other benefits of the various groups of judges—are deserving of our prompt and careful attention.

I believe we need a review of the entire judicial structure. Such a comprehensive review could enable us to establish one set of guidelines to assist our consideration of these requests relating to administration, salaries, and benefits. We would then have one consistent approach that would result in a more equitable rationale for any differing treatment we might adopt. I would be pleased if the U.S. Claims Court Improvement Act of 1987 could be the basis for not only the needed review of the recent Claims Court structure and concerns, but also as a focal point for the review of the entire panoply of judicial administration issues and requests.

Mr. President, because the U.S. Claims Court Improvement Act of 1987 is a lengthy and comprehensive bill, I ask unanimous consent to insert into the RECORD at this time a copy of the bill. I urge my colleagues to carefully consider this legislation.

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

S. 1608

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Claims Court Improvement Act of 1987".

SEC. 2. Section 172 of title 28, United States Code, is amended to read as follows:

"§ 172. Tenure and salaries of judges

"(a) Each judge of the United States Claims Court shall be appointed for a term of 15 years. Any such judge so appointed may be reappointed for a term of 15 years and if reappointed shall continue in office until reappointed or until a successor has been appointed and taken office. If a judge is not reappointed, such judge shall continue in office until a successor has been appointed and taken office.

"(b) Each such judge shall receive a salary at the rate of pay received by judges of the United States Tax Court.".

SEC. 3. Section 173 of title 28, United States Code, is amended by inserting "at the National Courts Building" after "Columbia".

SEC. 4. Section 176 of title 28, United States Code, is amended to read as follows:

"§ 176. Removal from office

"The provisions regarding the manner of and causes for removal of judges of the United States Tax Court shall apply to judges of the United States Claims Court.".

SEC. 5. Section 376 of title 28, United States Code, is amended—

(1) in subparagraph (a)(1)(B) by—

(A) striking "or"; and

(B) inserting before the semicolon at the end thereof the following: ", or a judge of the United States Claims Court who files an election under section 797 of this title";

(2) in subsection (a)(1) by—

(A) striking out "; or" in the last clause and inserting in lieu thereof ", or"; and

(B) adding before the semicolon at the end thereof the following: ", or in the case of a judge of the United States Claims Court, who so notifies the Director on or before the date of an election to retire under section 797 of this title"; and

(3) in subsection (a)(2)(B) by—

(A) striking out "title or" and inserting in lieu thereof "title,"; and

(B) inserting before the semicolon at the end thereof the following: "or in the case of a judge of the United States Claims Court, an annuity paid under section 797 of this title".

SEC. 6. Section 460 of title 28, United States Code, is amended—

(1) in subsection (a) by striking out "to the United States Claims Court,"

(2) by redesignating subsection "(b)" as subsection "(c)"; and

(3) by adding a new subsection (b) to read as follows:

"(b) Sections 452 through 455, and sections 458, 459, and 463 shall also apply to the United States Claims Court.".

SEC. 7. Section 520(a) of title 28, United States Code, is amended by inserting "or complaint" after "petition".

SEC. 8. Section 610 of title 28, United States Code, is amended by striking out "the United States Claims Court".

SEC. 9. Section 791 of title 28, United States Code, is amended—

(1) in subsection (a) by striking out "Director of the Administrative Office of the United States Courts" and inserting in lieu thereof "court"; and

(2) in subsection (b) by striking out the second sentence.

SEC. 10. (a) Chapter 51 of title 28, United States Code, is amended by inserting between section 791 and section 794 the following new sections:

"§ 792. Retirement; employee benefits

"The clerk, court executive, and all employees of the United States Claims Court shall be deemed to be officers and employees of the judicial branch of the United States Government within the meaning of subchapter III of chapter 83 and chapter 84 (relating to civil service retirement), chapter 87 (relating to Federal employees' life insurance program), and chapter 89 (relating to Federal employees' health insurance) of title 5. The grade and salary of such employees, where appropriate, shall be that generally applicable to like employees in the judicial branch.

"§ 793. Court executive

"The chief judge of the United States Claims Court, with the approval of the court, may appoint a court executive who shall be subject to removal by the court.".

(b) The table of sections for chapter 51 of title 28, United States Code, is amended by inserting between the item relating to section 791 and the item relating to section 794 the following new items:

"792. Retirement; employee benefits.
"793. Court executive.".

SEC. 11. Section 794 of title 28, United States Code, is amended to read as follows:

"§ 794. Law clerks and secretaries

"The judges of the United States Claims Court may appoint necessary law clerks and

secretaries in such numbers as needed, subject to the availability of appropriated funds.".

SEC. 12. Section 795 of title 28, United States Code, is amended to read as follows:

"§ 795. Other employees

"The chief judge, with the approval of the court, may appoint such other employees as may be necessary to execute efficiently the functions vested in the court. Each such employee shall be subject to removal by the chief judge, with the approval of the court.".

SEC. 13. Section 796 of title 28, United States Code, is amended to read as follows:

"§ 796. Authority to contract and make expenditures

"(a) The United States Claims Court is authorized to contract for the reporting of all proceedings had in open court, and in such contract to fix the terms and conditions under which such reporting services shall be performed, including the terms and conditions under which transcripts shall be supplied by the contractor to the court and to other persons, departments and agencies.

"(b) The court shall have the authority to obtain by contract, purchase or otherwise, such support services, supplies, equipment, and furnishings from any private organization or governmental agency, as it finds appropriate to carry out its functions.

"(c) Personnel of the court shall be deemed to be personnel of the judicial branch for the purposes of section 620(b)(3) of this title.

"(d) The court shall have the authority to accept and utilize voluntary and uncompensated services, including services authorized by section 3102(b) of title 5, and to accept, hold, administer, and utilize gifts and bequests of personal property for the purpose of aiding or facilitating the work of the court, but gifts or bequests of money shall be remitted to the Treasury of the United States.

"(e) The court is authorized to make such expenditures (including expenditures for personal services and rent at the seat of Government and elsewhere, and for law books, books of reference, and periodicals), as may be necessary to execute efficiently the functions vested in the court. Except as otherwise provided, all expenditures of the court shall be allowed and paid, out of any moneys appropriated for purposes of the court, upon presentation of itemized vouchers therefor signed by the certifying officer designated by the chief judge.".

SEC. 14. Section 797 of title 28, United States Code, is amended to read as follows:

"§ 797. Retirement and recall of judges

"(a) The provisions regarding the eligibility of judges of the United States Tax Court, as judges of such Tax Court, for retirement, retired pay and recall shall apply to judges of the Claims Court, as judges of such court in the same manner and under the same provisions as they apply to judges of the United States Tax Court. To carry out the purposes of this section, when the provisions which govern the retirement, retired pay, and recall of judges of the Tax Court are applied to judges of the Claims Court—

"(1) the term "Tax Court" shall be deemed to mean the Claims Court;

"(2) the term "judge" shall be deemed to mean a judge or chief judge of the Claims Court;

"(3) the term "chief judge" shall be deemed to mean the chief judge of the Claims Court;

"(4) in any determination of length of service as a judge there shall be included all periods (whether or not consecutive) during which an individual served as judge of the United States Claims Court, or as a commissioner (trial judge) of the United States Court of Claims; and

"(5) the non-government services performed such as to cause a permanent forfeiture of retired pay shall consist of legal services in a claim against the United States within the jurisdiction of the United States Claims Court.

"(b) In addition to retirement and recall as provided in subsection (a), any judge or former judge of the United States Claims Court not in active service who is receiving an annuity, or who will upon reaching the required age be entitled to receive an annuity, under subchapter III of chapter 83, or chapter 84, of title 5, shall be eligible for recall to perform judicial duties. When so recalled such judge shall be known and designated as a senior judge.

"(c) The chief judge of the Claims Court, whenever he deems it advisable, may recall any person eligible to serve as a senior judge, with the consent of such person, to perform such duties as a senior judge and for such period of time as the chief judge may specify.

"(d) Any senior judge performing duties pursuant to this section, shall not be counted as a judge for purposes of the number of judgeships authorized by section 171 of this title.

"(e) Any senior judge, while performing duties pursuant to this section, shall receive the same pay, allowances for travel and other expenses as a judge in active service. Such senior judge if receiving an annuity pursuant to subchapter III of chapter 83, or chapter 84, of title 5 shall receive supplemental pay in an amount sufficient, when added to the amount of such annuity, to equal the salary of a judge in active service for the same period or periods of time. Such pay or supplemental pay shall be paid in the same manner as the salary of a judge in active service.".

SEC. 15. Section 798(a) of title 28, United States Code, is amended to read as follows:

"(a) The United States Claims Court is hereby authorized to utilize facilities and hold court in Washington, District of Columbia, and throughout the United States as is necessary for compliance with sections 173 and 2503(c) of this title. The facilities of the Federal courts, as well as other appropriate facilities which are administered by the General Services Administration, shall be made available for trials outside of the District of Columbia.".

SEC. 16. Title 28, United States Code, is amended by adding at the end thereof a new section 799 to read as follows:

"§ 799. Expenses for travel and subsistence

"(a) Judges of the United States Claims Court shall receive necessary travel expenses and actual expenses for subsistence while traveling on duty away from their designated station, subject to the same limitations in amount as apply to the judges of the United States Tax Courts.

"(b) The employees of the court shall receive necessary travel expenses and actual expenses for subsistence while traveling on duty away from their designated station in an amount equivalent to that provided for comparable employees in the judicial branch.".

SEC. 17. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of chapter 51 of title 28, United States Code, as amended by this Act. Estimates thereof shall be approved by the United States Claims Court before presentation to the Office of Management and Budget;

(b) Until such time as there is a separate appropriation for the United States Claims Court, funds appropriated and designated for the "Courts of Appeals, District Courts, and other Judicial Services" shall be made available, in the required amount, for the operation of the United States Claims Court. Such amounts shall be determined by the Director of the Administrative Office of United States Courts and the chief judge of the Claims Court.

SEC. 18. The table of sections for chapter 51 of title 28 is amended by striking out the items relating to sections 795 through 798 and inserting in lieu thereof the following:

"795. Other employees.

"796. Authority to contract and make expenditures.

"797. Retirement and recall of judges.

"798. Places of holding court; appointment of special masters.

"799. Expenses for travel and subsistence.".

SEC. 19. (a) Section 963 of title 28, United States Code, is amended by inserting ", United States Claims Court, except for purposes of section 961," after "States".

(b) Section 961 of title 28, United States Code, is amended by inserting ", except any clerk of the United States Claims Court," after "court".

SEC. 20. Chapter 123 of title 28, United States Code, is amended—

(1) by repealing section 1926; and

(2) in the table of sections by striking out the item relating to section 1926.

SEC. 21. Section 2503 of title 28, United States Code, is amended by adding at the end thereof the following:

"(d) The Claims Court shall be deemed to be a court of the United States for the purposes of sections 1252, 1821, 1915, 1920 and 1927 of this title.

"(e) The records of the Claims Court shall be kept at its principal office, the National Courts Building, Washington, District of Columbia. Records which have become obsolete and are no longer necessary or useful may be disposed of, with the approval of the court, in the manner provided in chapter 33 of title 44.".

SEC. 22. Section 2520 of title 28, United States Code, is amended by—

(1) striking out "$60" and inserting in lieu thereof "$120"; and

(2) striking out "petition" and inserting in lieu thereof "complaint, and shall prescribe from time to time such other fees to be charged and collected".

SEC. 23. (a) Section 2521 of title 28, United States Code, is amended by—

(1) amending the title to read as follows:

"§ 2521. Subpoenas and incidental powers";

(2) inserting "(a)" before "Subpoenas requiring"; and

(3) adding at the end thereof the following:

"(b) The United States Claims Court shall have the same incidental powers as are provided to the Tax Court.".

(b) The table of sections for chapter 165 of title 28, United States Code is amended by amending the item relating to section 2521 to read as follows:

"2521. Subpoenas and incidental powers.".

SEC. 24. Section 308(9) of title 28, appendix II, United States Code, is amended by

striking out "Court of Claims" and inserting in lieu thereof "Claims Court".

SEC. 25. (a) Any provisions relating to the United States Claims Court not amended by this Act shall remain in effect.

(b) Nothing in this Act shall be construed to change or affect the jurisdiction of the United States Claims Court.

SEC. 26. This Act and the amendments made by this Act shall take effect 60 days after the date of enactment.

By Mr. McCLURE (for himself, Mr. SYMMS, Mr. EVANS, and Mr. ADAMS):

S. 1609. A bill for the relief of James P. Purvis; to the Committee on the Judiciary.

RELIEF OF JAMES P. PURVIS

● Mr. McCLURE. Mr. President, I am today introducing legislation for the relief of James P. Purvis of Coeur d'Alene, ID. Senators SYMMS, EVANS, and ADAMS join me in cosponsoring this bill, which has become necessary to correct a gross miscarriage of justice suffered by Mr. Purvis at the hands of the Federal Government. Let me explain.

James P. Purvis was a successful building contractor in the State of Washington for many years. In 1961, Purvis Construction Co., was awarded a contract by the General Services Administration to construct six buildings for the 1962 Seattle World's Fair.

Because of internal GSA funding problems and the lack of experience of the agency's contracting officer, the Government stopped construction work on numerous occasions to belatedly correct Government design errors. The GSA not only refused to compensate Purvis for the extra costs resulting from these work stoppages, but compounded his difficulties by withholding portions of his contract earnings that were due. When the case eventually came to trial, the U.S. Court of Claims characterized the GSA's actions as "a veritable breakdown in the administration of this contract."

As a result of GSA's unreasonable and unjustified actions, Purvis was forced to initiate litigation against the Government. Due to the continued intransigence of the General Services Adminstration and the Justice Department, this litigation lasted nearly two decades, an outrageous period of time by anyone's reckoning. Although Purvis was at all times willing to settle the case, the Government kept him in court from 1963 to 1981. The cost of that litigation and the delay in payment of his claim were the financial ruin of his construction firm, and he was consequently forced out of business.

Mr. Purvis finally prevailed before the Claims Court in 1981 and was awarded $390,248. Unfortunately, the court could not adjust the award to account for interest and the effects of inflation during the intervening years. The court recognized that this was grossly unfair, but was legally unable to take those factors into consideration, and suggested that Purvis turn to Congress for relief, which he did.

During the 98th Congress, the late Senator Henry Jackson introduced S. 413 for the relief of Mr. Purvis. On April 25, 1984, the Senate passed Senate Resolution 48, which referred the bill to the U.S. Claims Court under the so-called congressional reference procedures of 28 U.S.C. 1492. Under the terms of Senate Resolution 48, the court was asked to determine "the amount, if any, legally or equitably due from the United States to James P. Purvis."

On January 30, 1986, Judge Philip R. Miller, the hearing officer for the Claims Court, filed his report on this matter which states that:

> . . . Claimant (Purvis) has an equitable claim against the United States in the sum of $700,000 representing interest on the judgment . . . as well as reasonable attorney's fees.

The three-judge Claims Court review panel reviewed Judge Miller's report, and in their own report filed March 7, 1986, adopted the findings, opinions, and conclusions of the hearing officer. Subsequently, this report and the bill were sent to the Senate. Unfortunately, the bill was not valid because it had been sent to the court during the 98th Congress and returned during the 99th Congress, and a new private relief bill could not be introduced and approved before the 99th Congress adjourned sine die.

To ensure that the legislative process initiated by Senator Jackson is now concluded as rapidly as possible, all four of the Senators from Idaho and Washington have joined together in sponsoring this bill.

Mr. President, to say that the job of a U.S. Senator is multifaceted is, of course, an understatement. Every day of every week we are called upon to do a multitude of things some of which are very momentous and some of which are quite mundane. However, in my 14 years in the Senate I have always felt that one of the most important things we do is keeping faith with the citizens of our respective States and the Nation as a whole. This legislation is an attempt to restore the faith of one citizen who answered the call of his Government to help out with an important task and received as a reward for his efforts over 20 years of shameful mistreatment. Hopefully, enactment of this legislation will—at long last—make James Purvis whole and, perhaps, begin to restore his faith in our system of government.

Mr. President, I ask unanimous consent that the bill, the reports from the U.S. Court of Claims in this case and an article and editorial from the Spokesman Review from Spokane, WA, be printed in the RECORD at this point.

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

S. 1609

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

SECTION 1. SATISFACTION OF CLAIM AGAINST THE UNITED -TATES

Pursuant to the report of the United States Claim Court in Congressional Reference No. 1-84 (filed on March 7, 1986), the Secretary of Treasury shall pay, out of any money in the Treasury not otherwise appropriated, the sum of $700,000 to James P. Purvis of Coeur d'Alene, Idaho. The payment of this sum shall be full satisfaction of any claim of such person, and of Purvis Construction Company, against the United States arising out of a contract between Purvis Construction Company and the United States for construction of the Federal Exhibit Buildings for the Century 21 Exposition at the World's Fair in Seattle, Washington, in 1962.

SEC. 2. LIMITATION ON ATTORNEYS' AND AGENTS' FEES.

It shall be unlawful for more than 33.3 percent of the sum appropriated in Section 1 to be paid to or received by any agent or attorney for any service rendered in connection with enactment of this Act. Any person who violates this Section shall be fined not more than $1,000.

JAMES P. PURVIS, PLAINTIFF, V. THE UNITED STATES, DEFENDANT

(This Report will not be published in the U.S. Claims Court Reporter, because it does not add significantly to the body of law and is not of widespread interest.)

Patrick A. Sullivan, Spokane, Washington, attorney of record, for plaintiff. Winston U. Cashatt, Spokane, Washington, Paul L. Waldron and Hudson, Creyke, Koehler & Tacke, Washington, D.C. of counsel.

Charles R. Gross, Washington, D.C. with whom was Assistant Attorney General Richard K. Willard, for defendant. David M. Cohen, Director, and Sandra P. Spooner, Assistant Director, of counsel.

REPORT OF THE REVIEW PANEL

Before Yannello, Presiding Judge, and Mayer and Tidwell, Judges.

On January 30, 1986, Judge Miller, the hearing officer, filed findings, an opinion, and conclusions of law in the above-entitled matter. Both parties to this action have filed Notices of Acceptance of the hearing officer's Report.

The hearing officer has found that plaintiff has preserved an equitable claim as a result of a settlement previously entered into in connection with an award made to him by the United States Court of Claims in *Purvis* v. *United States,* 216 Ct. Cl. 398 (1978). Hearings before that court and the General Services Administration Board of Contract Appeals resulted in a delay of 18 years from the date of the filing of his claims until the date of payment. The hearing officer recommended that plaintiff in this Congressional Reference case receive the sum of $700,000 representing interest on the judgment ($390,248), as well as reasonable attorney fees, based on the stipulations of the parties. The hearing officer and the parties offer no opinion as to the tax year or years over which this sum should be ap-

portioned. No further amount is legally or equitably due from the defendant to the plaintiff.

The Review Panel, having considered the record and the report of the hearing officer, adopts the findings, opinion, and conclusion of the hearing officer.

This report is filed with the Clerk of the Court pursuant to RUSCC App. D, paragraph 10.

JAMES P. PURVIS, PLAINTIFF, V. THE UNITED STATES, DEFENDANT

(This Report will not be published in the U.S. Claims Court Reporter because it does not add significantly to the body of law and is not of widespread interest.)

Patrick A. Sullivan, Spokane, Washington, attorney of record, for plaintiff. *Winston U. Cashatt*, Spokane, Washington, *Paul L. Waldron* and *Hudson, Creyke, Koehler & Tacke*, Washington, D.C., of counsel.

Charles R. Gross, Washington, D.C., with whom was *Assistant Attorney General Richard K. Willard*, for defendant. *David M. Cohen, Director*, and *Sandra P. Spooner, Assistant Director*, of counsel.

REPORT OF HEARING OFFICER

MILLER, *Judge:*

On April 25, 1984, Sen. Res. No. 48, 98th Cong. 2d Sess., referred Senate bill S. 413, 98th Cong. 1st Sess., to the Chief Judge of the United States Claims Court and requested the Chief Judge to proceed with the same in accordance with the provisions of 28 U.S.C. §§1492 and 2509, notwithstanding the bar of any statute of limitations, laches or sovereign immunity, and report thereon to the Senate at the earliest practicable date, giving such findings of fact and conclusions thereof as shall be sufficient to inform the Congress of the nature and character of the demand of the claim, legal or equitable, against the United States, or a gratuity, and the amount, if any, legally or equitably due from the United States to James P. Purvis.

S. 413, the bill which is the subject of this referral is entitled "A Bill for the Relief of James P. Purvis." It proposes that the Secretary of the Treasury be authorized and directed to pay to Mr. Purvis of Spokane, Washington, out of any money in the Treasury not otherwise appropriated, a sum of money, in an amount to be substantiated, representing the amount to which James P. Purvis equitably is entitled in order to make him whole, for any damage, loss, cost, and expense not otherwise recoverable at law, sustained by Mr. Purvis as president and sole owner of Purvis Construction Company on account of the construction of the federal exhibit buuilding of the Century 21 Exposition, the 1962 Seattle World's Fair, and the litigation of claims resulting therefrom. The payment of said sum is to be in full satisfaction of any claims that James P. Purvis or Purvis Construction Company may have against the United States with respect to the losses described in this bill.

Mr. Purvis filed his complaint with the clerk of the United States Claims Court on May 23, 1984, and the United States filed its answer to the complaint on August 22, 1984. The complaint was then assigned by the Chief Judge to the undersigned. Thereafter, pursuant to court order, the parties filed pretrial submissions and engaged in extensive negotiations to arrive at a stipulation of the pertinent facts and an amicable disposition of the controversy.

Such a stipulation was filed on January 17, 1986. The stipulation recites in pertinent part that:

1. Jurisdiction is vested in this court under 28 U.S.C. §§ 1492 and 2509.

2. Purvis does not have any legal claim against the government but has preserved an equitable claim as a result of a settlement previously entered into in connection with an award made to Purvis by the United States Court of Claims in *Purvis v. United States*, 216 Ct. Cl. 398 (1978). That settlement provided that it compensated plaintiff only to the extent permitted by law and was not intended to prejudice or affect plaintiff's application for or receipt of private relief.

3. Purvis' claims underwent five hearings by the General Services Administration Board of Contracts Appeals and six hearings at the Court of Claims, resulting in a delay of 18 years from the date of filing of his claims until the date of payment.

4. Pursuant to the Congressional reference, Purvis submitted six counts to this Court, alternatively alleging it was entitled to recovery based upon losses at the result of increase in the Consumer Price Index and costs of borrowing; loss of interest on the judgment of $390,248, compounded annually, in the amount of $1,409,197 in interest; attorney fees of $206,707; loss from the sale of real estate and other assets in the amount of $579,335; and reasonable attorney fees and expert witness costs in the prosecution of this action for Congressional relief.

5. In view of the fact that in 1978 the Court of Claims determined that Mr. Purvis was entitled to recover the sum of $390,248, Mr. Purvis lost the use of that money and the United States government had the benefit and use thereof for the period 1962 through January 1981, when said sum was finally paid.

6. Predicated upon the foregoing, Mr. Purvis, in order to be made whole, is entitled to receive the sum of $700,000. This sum represents simple interest on the judgment amount, $390,248, from the time Mr. Purvis' claim was submitted until payment was received, as well as reasonable attorney fees. However, the government offers no opinion here as to the tax year or years over which this sum should be apportioned.

7. The parties recommend to the United States Claims Court that it adopt the stipulation of the parties as to such amount in its report to the Senate.

The hearing officer accepts and approves the stipulation of the parties as his findings of fact in this matter; and in accordance therewith the concludes that:

(a) claimant has no legal claim against the United States;

(b) claimant has an equitable claim against the United States in the sum of $700,000, representing interest on the judgment in its favor entered by the Court of Claims in the sum of $390,248, from the time Mr. Purvis' claim was submitted until payment was received as well as reasonable attorney fees. However, the hearing officer offers no opinion as to the tax year or years over which this sum should be apportioned; and

(c) no further amount is legal or equitably due from the United States to the claimant.

PHILIP R. MILLER,
Hearing Officer.

[From the Spokane (WA) Spokesman-Review, July 26, 1987]

LOSING IT ALL WHEN INJUSTICE SOURS SUCCESS

WORLD'S FAIR BUILDER DRAGGED DOWN BY GOVERNMENT'S ABUSE

(By Michael Murphy)

Pat Purvis figures it would all be worth about $50 million today—the land, the hotels, the buildings, the company.

Somehow, he's managed not to become a bitter man.

Still, during the grueling hours on the road at age 69, hauling suitcases full of clothing samples to retailers in four states, he admits he can't help but think now and again of what might have been.

"I know I think about it," said Dorothy, his wife of 26 years. She got in on just a couple of years of the good life before the bureaucrats started dismantling everything.

"I think about it," she said, "every time I bend over to pick up one of these suitcases."

In Seattle this year, they're making a big deal about the 25th anniversary of the 1962 World's Fair.

The celebration is deserved. The fair gave Seattle and the Northwest a national identity. It revitalized the city's present and shaped its future no less significantly than Expo '74 did for Spokane a decade later.

Among the fair's physical legacies, the Space Needle may have become the symbol of the city. But the Pacific Science Center—still startling in its architectural beauty after a quarter century—remains the popular centerpiece of the fair. It continues as a symbolic showcase of science, technology, and regional prosperity.

But the man who built the science center hasn't done so well.

The Pacific Science Center cost James P. "Pat" Purvis everything.

His story is an almost unbelievable litany of injustice imposed by the U.S. government on one of its citizens. Every court Purvis has appeared before over the past 25 years has agreed. The courts have ordered that Purvis be compensated for the huge losses he suffered.

But he's still waiting.

"A lot of people have told me that most men in my situation would have killed themselves," Purvis said last week in the living room of his modest home in Coeur D'Alene. "But I never even thought of that. I always figured that I could come back."

Purvis was 42 in 1960. He was in the process of amassing the kind of wealth and success that puts a person in the position to profoundly influence the world around him.

Certainly, he was putting his mark on Spokane.

Socially and politically he was at the heart of the community. His civic involvement was extensive. His picture was frequently in newspapers and trade journals. He loved the pace and the attention.

He had taken a pride in workmanship instilled by his father, a consuming drive and gambler's fearless instincts and parlayed them into a personal worth close to $3 million "back when that was real money."

I owned so much property, you see," Purvis explained. "I owned the Davenport property on 8th Avenue where they built Sacred Heart Hospital. I owned Bing Crosby's house at Hayden Lake. I owned the Sillman Hotel. I owned half-interest at the Avondale Golf Course at Avondale and Hayden."

He was on the boards of other country clubs. He was on the Spokane County Fair

Board. He was president of the local chapter of the Association of General Contractors and on the organization's national board.

He was a confidant of local politicians. There were trips to Europe and elegant homes. He raised quarter horses. He raced boats. He collected antique buggies and automobiles. He was even a local boxing promoter.

It wasn't bad for the son of a laborer who came of age in the teeth of the Great Depression.

Purvis' father was a craftsman, an ornamental plaster, who came to Spokane from the Midwest in the first decade of the century work on the ornate plaster ceilings in the Davenport Hotel.

Here, he met Purvis' mother, an Irish immigrant, and they married in 1909.

Purvis began learning his father's trade at the age of 12, just before the Depression forced the family to separate. Purvis and a brother were left alone to work the family dairy farm near Cheney when Purvis was 13. His parents moved to Medical Lake to work.

When he finished high school Purvis went to work with his father and brother. World War II took him to the Navy. After the war, he tried his hand at tending bar, selling cars, and selling real estate.

In 1948, he built and sold a couple of houses, put together a little capital and made a bid to build Medical Lake High School.

"We won that bid by $117," he said, smiling at the recollection. "From there on, we were landing jobs left and right."

He built numerous buildings at Gonzaga University, including the Crosby Library. He built the first addition to Deaconess Hospital. He remodeled a thousand homes at Fairchild Air Force Base. He built the Cathedral of the Rockies in Boise, a major defense department installation in Wyoming and the State of Washington Archives Building in Olympia.

He built Connell High School, Sprague High School, Moses Lake High School, West Valley High School, Cusick High School. He built apartments, grocery stores and government buildings in six states.

At one time, according to news accounts, his company employed 700 people on construction jobs scattered throughout the West. And Purvis was in the middle of them all. His company pilot flew him from job to job in Purvis' new twin-engine Aero Commander.

"I took a lot of pride in what we did," Purvis said. "We had a reputation for doing good work and we were very successful. In 13 years before the World's Fair project, we never had a single job that didn't pay a profit."

In his early 40s, with enough money to make him comfortable for the rest of his life, there was never a thought of slowing down.

"No, I pushed all the time," Purvis said. "I expanded my company. I took a lot of chances. I loved the work. I just ate it up."

The bid for the United States Science Pavilion at the World's Fair was something Purvis craved. He saw in the project professional prestige and a chance to display his country to the world.

Purvis won with a bid of $3 million, and began work on the complicated five-building complex in early 1961. The fair was scheduled to open May 1, 1962.

Problems with the project were immediate. A Seattle World's Fair had been on the drawing board for years before federal funding came through and the plans for the pavilion had actually been drawn in 1948.

Building technology changed dramatically in the ensuing decade, but the U.S. General Services Administration, which was in charge of the project, hadn't up-dated the plans.

Before Purvis could even begin, the government issues a stop-work order so that the plans could be altered. Over the course of the project, there were a half-dozen stop work orders and 59 changes orders, each causing a delay.

In a normal government contract, the delays would extend the time Purvis had to complete the job. But the pavilion had to be furnished by opening day.

Crews were doubled and tripled. Overtime drove up labor costs. With each change order, Purvis went to the GSA and warned of the costs. GSA officials ordered Purvis to continue, and said price adjustments would be determined later.

Records show it cost Purvis $600,000 of his own money to pay the increased labor costs and keep the job on schedule.

"The negotiations went back and forth to the point I'd say we couldn't continue unless we got paid, and the contracting officer threatening me with taking the job away," Purvis said.

"But I never would have walked away from it. No one else could have come in and gotten it done on time. I wanted to finish it because I knew they needed it for the fair.

"Besides, I thought I'd have my money 90 days after we finished."

When the job was finally done—in time for the opening—Dorothy Purvis commented to the GSA contracting officer, "Thank God Pat's problems are finally over."

The contracting officer, whom Purvis had frequently battled, replied, "Pat's problems are just beginning."

After considering the cost overruns, GSA officials told Purvis they would pay for the equipment and hardware required by the change ordered. But, they said, there was no provision in the contract allowing for increased labor payments.

They refused to pay the $600,000. Purvis appealed to the GSA's Board of Contract Appeals. That began a process of delays and entanglements that continue today.

While Purvis apparently had no legal authority to make the government pay him, the law clearly required him to pay his subcontractors. In 1963, the subcontractors began suing him.

During the pavilion project and beyond, Purvis' company had other jobs going throughout the West. The loss of the $600,000 devastated his working capital, forcing him to borrow to finance his other jobs. Interest payments ate up his profits and left him with no cash.

So his bonding company agreed to give him a $1.8 million loan to pay the subcontractors, with his property as collateral. As long as the loan was outstanding, though, Purvis could not be bonded. That meant he could not take on new construction projects.

He had three years to pay back the loan, but it was the end of 1964 before the GSA appeals board even heard the case. After hearing upon hearing, the appeals board finally ruled that GSA owed Purvis nothing.

In the meantime, Purvis finished the projects in progress, honoring all his contracts. He completed Deaconess Hospital in Great Falls in 1966. It was the last construction job he would ever work.

He was broke, and the three years on his loan from the bonding company was up. He deeded all his property to the bonding company, which sold it at auction for a fraction of its market value.

Purvis succeeded in taking his appeal to the U.S. Court of Claims, and in 1972 the court held that he was entitled to payment. The case was sent back to the GSA appeals board to determine the amount. The board ruled Purvis was entitled to $62,500.

After more lengthy arguments, an angry claims court finally said it would determine the amount because GSA had not acted fairly. One June 30, 1980, the court ruled that GSA owed Purvis $390,000.

"We are wholly unable to defend the system this case exemplifies," the court said in its ruling.

The case had dragged on so long, that by 1980, even GSA officials agreed that their predecessors had treated Purvis shamefully.

"We submit that the Purvis litigation well may constitute the classic situation where justice delayed resulted in justice denied," GSA officially commented for the court record.

Even though the court had awarded the money, Congress still had to pass a bill authorizing payment. Purvis enlisted the help of Sen. Henry Jackson and Congress produced a check for $390,000.

But Purvis never saw a dime.

In taking his property, the bonding company had assumed the obligation of legal fees in the Purvis case. The entire $390,000 went to pay it back.

When Purvis originally signed the contract in 1961, federal law didn't allow government contractors to recover interest or legal fees on awards resulting from contract disputes.

The law, however, was changed in 1968. And because the Court of Claims believed the government's handling of the Purvis case was so unfair, it made a rare ruling reserving the right for Purvis to pursue additional claims.

That took another round of congressional approval, so Purvis and his attorneys called on Jackson again. In 1983, Congress passed a bill authorizing further payment to Purvis, with the Court of Claims to determine the amount.

Patrick Sullivan, Purvis' attorney, sought to recover compound interest on the $390,000 that the government had held for more than 20 years. Given the difference between the value of 1962 and 1983 dollars and interest compounded annually, the figure was $2.5 million.

In 1986, the Justice Department said it would settle if Purvis would agree to accept simple interest on the $390,000. That came to $700,000.

"We could have gone through the trial process which would take five or 10 years," Sullivan said, "and we probably could have won. But Pat is 69, and I just don't know if he has 10 more years to wait. I want him to get this money in his lifetime."

The settlement was agreed on, but again it took a bill from Congress to authorize payment—and Jackson, Purvis's best advocate in Congress, had died in 1983.

Purvis and Sullivan turned to Sen. Slade Gorton for help. Gorton introduced a bill, but it lost all momentum when he was defeated for re-election by Brock Adams.

Last week, Sullivan got an agreement with Adams. Sen. Dan Evans, Sen. James McClure, Rep. Tom Foley and Rep. Larry Craig to introduce or support bills in the Senate and House this year to pay Purvis his $700,000. But congressional assistants

are not optimistic that such a bill will succeed.

An aide to Foley said private relief bills seldom pass, and only two such bills in the $700,000-range have passed in the entire history of the House.

Stephanie Solien, legislative assistant to Adams said: "We are very sympathetic to the problems Mr. Purvis has incurred in trying to get fair reimbursement from the federal government, and we are willing to work on it. We feel it's still going to be uphill, though.

"Clearly the courts have ruled in favor of Mr. Purvis, but there are a number of private relief bills before Congress, and this is a very large amount of money.

After losing everything, Purvis worked for a couple of other companies before settling into his clothing sales business 15 years ago. He has 600 customers in four states. He and his wife travel together on the road three or four days each week.

While he loved construction, the clothing business is "a living. A comfortable living," he granted. "But you can't get rich at it. Your savings account sure doesn't grow."

Incredibly, he's spent little energy on anger and a lot on optimism.

"I wasn't bitter because I always anticipated getting my money out of the government," Purvis said. "If not this month, then next month. I knew we could stay alive, and I figured I could always start over again any time the money came through."

And when did he give up on that expectation?

"Never," he said. "I still expect it today. I'm going to get my money. I have it coming."

Dorothy Purvis says it hasn't been quite as simple as her husband suggests.

"There have been times when it really got him down," she confided. "But not for long. Such faith in a human being I have never seen."

If—make that when, Purvis says—he gets the money: "I'll probably stop carrying these suitcases, that's for sure. And I'd like to get back into building. Home development or selling real estate."

There's no plan to retire, though, not if he could get his hands back on a construction operation.

"I still think I can start over," he said with a grin. "I never filed bankruptcy. I paid all the debts. I have good credit."

But he could have been a multimillionaire. He could have been right in the middle of everything, making things happen. He could have been the epitome of the American dream.

While seated at his basement desk for photographs to accompany this story, Purvis was asked by the photographer to do some paperwork—"Pretend you're writing to someone. Pretend you're writing to Tom Foley."

Purvis wrote:

Dear Congressman Foley, having all these pictures taken is good for my morale. It's just like the old days.

[From the Spokane (WA) Spokesman-Review, July 29, 1987]

AFTER 25 YEARS, WILL JUSTICE FINALLY PREVAIL?

Century 21, theme of the 1962 Seattle world's fair, shimmered like a distant dream during the heady days of the exposition that transformed Washington's largest city.

Fair-goers marveled at the House of Tomorrow, floated past visions of the future in the Bubbleator and dreamed about flights to the moon on warm summer nights beneath the soaring arches of the U.S. Science Pavilion.

Today, as Seattle celebrates the 25th anniversary of the fair, we enjoy a clearer vision of the good things the 21st century may bring. Technology, the focus of the fair, has indeed bettered our lot and promises further benefits yet unimagined. But the nuclear arms race, a space-shuttle crash and environmental pollution have tempered our enthusiasm for technology and have reminded us of other equally important goals for the 21st century—justice, for example.

We Americans have learned much of justice since 1962. Only a year after the fair, the Rev. Martin Luther King Jr. enunciated his dream of brotherhood and touched off a social revolution. Like the technological dreams that thrilled fair-goers 25 years ago, dreams of justice remain partly unfulfilled—and remain at the top of the agenda for century 21.

But Pat Purvis, whose construction firm built those famous arches that still inspire visitors to the science center, would rather not wait until the 21st century for the justice that has been denied him for the 25 years since the world's fair opened.

Purvis was one of the unsung heroes who made the world's fair a success. A quarter century ago, he was flying high, the owner of a Spokane-based construction firm deploying hundreds of workers at dozens of major projects throughout the West.

The U.S. General Services Administration awarded him the contract to build the fair's science pavilion, partly on the strength of his well-earned reputation as a can-do contractor whose savvy catapulted him from building houses to building high schools, hospitals, libraries, grocery stores, a cathedral and major government buildings.

The General Services Administration took this all-American success story and single-handedly destroyed it.

The GSA repeatedly altered plans for the science pavilion, issuing a half-dozen stop-work orders and 59 change-orders. Each delay made the project more costly and made it more difficult for Purvis to complete the pavilion in time for the fair's opening day.

Purvis spent $600,000 of his own money on overtime labor and other costs caused by the GSA's vacillation and tinkering. He got the job done on time, and the fair proceeded. But GSA refused to pay Purvis the $600,000; Purvis appealed, and appealed, and appealed again, hacking his way through dense jungles of governmental red tape, procrastination, rebuffs, delays, arrogance and inefficiency.

Twenty-five years later, despite court rulings that say he is entitled to compensation, despite an admission by the GSA itself that Purvis was mistreated, despite two acts of Congress calling for Purvis to be compensated, he still has not received one cent.

GSA's refusal to pay—and its delaying action in the face of rulings that it should pay—forced Purvis out of business. That $600,000 he took out of his own pocket for the sake of presenting the world's fair with a finished science pavilion drained his working capital, left him without cash to pay subcontractors and ultimately led to the auctioning of his company.

Now, at age 69, this man who would have been a multimillionaire, a pillar of his community and a major employer lives in a modest home in Coeur d'Alene and works as a traveling clothing salesman.

Several members of the Northwest congressional delegation hope to win approval for yet another bill that would give Purvis an agreed-upon $700,000 settlement from the government that ruined him. But they are not sure Congress will agree to spend so much on what might seem to be a small case.

Justice, however, is a large principle.

If the government can abuse even one citizen in the manner Purvis was abused—and get away with it—is anyone safe? How can anyone celebrate the hope and the progressive spirit embodied in Seattle's fair without seeing to it that this old wrong finally is righted?●

By Mr. PRYOR (for himself and Mr. HEINZ):

S. 1610. A bill to amend the Internal Revenue Code of 1954 to eliminate the retroactive certification of employees for purposes of the work incentive jobs credit; to the Committee on Finance.

ELIMINATION OF RETROACTIVE CERTIFICATION FOR WORK INCENTIVE JOBS CREDIT

● Mr. PRYOR. Mr. President, today I am introducing a bill to eliminate prospectively the ability of employers to claim a tax credit for hiring certain employees if the employer did not certify those workers as eligible employees when such individuals began to work for the employer. An identical bill (H.R. 2111) was introduced in the other body on April 22, 1987 by the Chairman of the Ways and Means Committee, DAN ROSTENKOWSKI.

As I understand the problem, which was brought to my attention by a submission for the record on the technical corrections legislation, before 1982 a tax credit (WIN credit) was available to an employer who hired a member of a family receiving assistance under aid to families with dependent children [AFDC], or an individual placed in employment under the Work Incentive Program [WIN]. To obtain the WIN credit, the employer was required to request certification by the Secretary of Labor or the appropriate State or local government agency that the employee was an eligible employee. The special credit for WIN and AFDC employees was terminated for years after December 31, 1981. The Economic Recovery Tax Act of 1981 [ERTA] provided that, for years beginning on or after January 1, 1982, eligible work incentive employees were included in the list of targeted groups for whom an employer may claim a targeted jobs tax credit [TJTC]. ERTA provided that, generally, the TJTC may not be claimed for an individual unless the employer has requested or obtained certification on or before the date the individual begins to work for the employer.

On February 26, 1987, the Internal Revenue Service issued General Counsel Memorandum [GCM] 39604 providing that employers may not claim a credit for eligible AFDC and WIN recipients hired before 1982 unless the employer certified those employees on or before the date the employees com-

menced service for the employer. However, the public was not put on notice regarding GCM 39604 until it was first published on March 11, 1987.

The bill I am introducing today upholds the position of the Internal Revenue Service taken in GCM 39604. For WIN credits first claimed after March 11, 1987, the credit is not available for an individual for whom the employer did not request or obtain certification on or before the date the individual commenced work for the employer. In the case of WIN credits claimed on or before March 11, 1987, the employer is not required to have obtained or requested certification on or before the date the individual commenced work for the employer.

The requirement that certification be requested on or before the date the employee commenced work with the employer is applied only to credits first claimed after March 11, 1987, because the position of the Internal Revenue Service was not publicly known until the publication of GCM 39604 on that date. Taxpayers who claimed the credit on or before March 11, 1987, were acting in reliance on the availability of the credit for workers for whom certification was requested at a later time. Taxpayers who first claimed the credit after March 11, 1987, were put on notice by publication of the GCM, and cannot claim to have acted in such reliance.

The bill I am introducing today upholds the principle that retroactive certification is an inefficient use of a tax credit, yet in fairness to taxpayers who acted in reliance on the availability of the WIN credit, applies this principle only to those taxpayers who have received adequate notice of its application.●

By Mr. KENNEDY (for himself and Mr. MOYNIHAN):

S. 1611. A bill to amend the Immigration and Nationality Act to effect changes in the numerical limitation and preference system for the admission of immigrants; to the Committee on the Judiciary.

IMMIGRATION ACT

Mr. KENNEDY. Mr. President, today I am joining with Senator MOYNIHAN in introducing the Immigration Act of 1987. Identical legislation is being introduced in the House of Representatives by Congressman BRIAN DONNELLY.

This bill will bring long needed reform to our existing system of admitting immigrants to the United States. Our goal is to make the system more flexible and generous, and to open it up to a fairer number of immigrants from nations shortchanged by current law.

We accomplish these goals without curtailing the traditional priority given to family reunification, and without departing from the principles of equity and fairness established in the 1965 reforms. Our proposals also reflects the 1981 recommendations of the Select Commission on Immigration and Refugee Policy, on which I served.

Unfortunately, in recent years, needed reforms of our legal immigration system have taken a back seat to proposals to deal with illegal migration. Now, after last year's resolution of that controversial issue, there is no justification for further delay.

This is particularly so given the growing evidence that our immigration laws are out of balance. In redressing years of discriminatory immigration policy, the 1965 law has inadevertently created a pattern of reverse discrimination.

The 1965 act was a fundamental reform—a major step toward a fair and nondiscriminatory immigration policy that we must not abandon. But its details were not to be frozen in stone.

For example, it was anticipated at that time that a further assessment of the reforms was to be guaranteed by the creation of the Western Hemisphere Commission. But that Commission met, filed its report, and nothing happened.

As the recent history of immigration legislation makes clear, Congress deals with the issue only rarely, and then only after extraordinary pressure and intense debate.

However, with the creation of the select commission and its report in 1981, and with the work which Senator SIMPSON, Congressman RODINO and the Senate and House Judiciary Committees have done over the past 6 years, we are now at a point where we can make progress on reforming the system of admitting legal immigrants.

The bill we are introducing today accomplishes this reform by separating the existing family reunification preference system from the employment and skill-related category with 50,000 additional visas for older sources of immigration—especially the traditional ethnic flows from Ireland, Italy, other nations of Western Europe, Canada, and other countries. At the same time, we protect the newer sources of immigrants who have rightly benefited from the reforms enacted in 1965.

By redressing some of the imbalances in immigration which have developed in recent years, we will open our doors again to those who no longer have immediate family ties in the United States, and are, therefore, unable to use the annual ceiling of 20,000 visas theoretically available for their country. we estimate, for example, that some nations which use only a few hundred of their current places might be able to eventually reach the maximum number of visas possible under this reform.

Although our bill follows the structure and substance of similar legislation adopted twice by the Senate, in 1982 and 1983, we have added some important new features. Attached is a detailed summary of the bill, but the key provisions are:

The family reunification system is reformed along the lines of the select commission's recommendations, to give higher priority to certain categories, such as spouses and children of permanent resident aliens;

An entirely separate new independent category is created, combining the current third and sixth preferences and adding 50,000 additional visas;

Part of the numbers in the independent category will be apportioned according to a new point system, similar to the systems currently used in other nations;

The point system gives an advantage to countries adversely affected by the 1965 reforms and to the skills needed for immigrants to work and contribute to U.S. society;

The individual labor certification procedure under current law is eliminated for the 50,000 additional visas, but points are given for needed skills and jobs; and

A sunset provision is included to assure that Congress will review these reforms after 5 years and take whatever corrective action may be needed.

The time has come for Congress to pick up where we left off last year and address the unfinished agenda of immigration—to reform our system of welcoming immigrants to our shores.

Our bill is balanced; it protects the principle of family reunification; it stimulates immigration from the older sources of immigration that have contributed so much to America in the past; and it promotes the entry of those who can contribute their skills and talents to the future development of our country. In doing so, we will be continuing and strengthening one of the oldest and most enduring themes in our Nation's history—America's immigrant heritage.

Mr. President, I ask that a summary of the bill's provisions be printed in the RECORD as well as the text of the bill.

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

S. 1611

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

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the "Immigration Act of 1987".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Whenever in this Act an amendment or repeal is expressed as an amendment to, or repeal of, a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

SEC. 2. NUMERICAL LIMITATIONS.

Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a) Exclusive of special immigrants defined in section 101(a)(27), immigrants born to permanent resident aliens during a temporary visit abroad, immediate relatives specified in subsection (b) of this section, immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative, aliens who are admitted or granted asylum under section 207 or 208, aliens provided records of permanent residence under section 214(d), and aliens whose status is adjusted to permanent resident status under section 245A, aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(1) family reunification immigrants described in section 203(a) and immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(a), in a number not to exceed in any fiscal year the number equal to (A) 216,000, plus (B) the difference (if any) between the maximum number of visas which may be issued under paragraph (2) during the prior fiscal year and the number of visas issued under that paragraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 per centum of the numerical limitation for all of such fiscal year, and

"(2) independent immigrants described in section 203(b) and immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b), in a number not to exceed in any fiscal year the number equal to (A) 104,000, plus (B) the difference (if any) between the maximum number of visas which may be issued under paragraph (1) during the prior fiscal year and the number of visas issued under that paragraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 per centum of the numerical limitation for all of such fiscal year.".

SEC. 3. REVIEW AND REVISION OF NUMERICAL LIMITATIONS.

Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended by adding at the end thereof the following:

"(c)(1) Beginning two years after the effective date of the Immigration Act of 1987, and at intervals of five years thereafter, the Secretary of State, the Attorney General, the Secretary of Labor, and the Secretary of Health and Human Services, shall jointly prepare and transmit to the President and to the Judiciary Committees of the Congress a report discussing the need to revise the numerical limitations contained in subsection (a). In preparing such report, the Secretary of State, the Attorney General, the Secretary of Labor, and the Secretary of Health and Human Services shall consider—

"(A) the family reunification requirements of citizens of the United States and of aliens admitted for permanent residence in the United States;

"(B) the impact of immigration on employment and other economic and domestic conditions in the United States;

"(C) the impact of immigration with respect to demographic and fertility rates and resources and environmental factors; and

"(D) the foreign policy and national security interests of the United States.

"(2) Not later than 60 days after receipt of such report, the President shall transmit to the Congress a certification on whether the numerical limitations contained in paragraphs (1) and (2) of subsection (a) should be changed, and if so, what the new numerical limitations should be. Before transmittal of such certification, the President shall, to the maximum extent practicable, solicit the views of individuals from the private sector and from appropriate Members of Congress.

"(3) Notwithstanding the provisions of subsection (a), unless the Congress within 30 calendar days after receiving such certification enacts a joint resolution prohibiting the numerical limitations contained in such certification from taking effect, any reference in this Act to the numerical limitations contained in subsection (a)(1) or subsection (a)(2) for a period of five consecutive fiscal years beginning with the first fiscal year after the close of such 30-day period shall be deemed to refer to numerical limitations contained in such certification with respect to reunification immigrants or independent immigrants, respectively. Any such joint resolution shall be considered in the Senate in accordance with subsection (e).

"(d) For the purpose of expediting the consideration and adoption of joint resolutions under subsection (c)(3), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(e)(1) For purposes of subsection (c)(3), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

"(2) Paragraphs (3) and (4) of this subsection are enacted—

"(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of joint resolutions referred to in subsection (c)(3), and supersede other rules of the Senate only to the extent that such paragraphs are inconsistent therewith; and

"(B) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

"(3)(A) If the committee of the Senate to which has been referred a joint resolution relating to a certification has not reported such resolution at the end of ten calendar days after its introduction, not counting any day which is excluded under paragraph (1) of this subsection, it is in order to move either to discharge the committee from further consideration of the joint resolution or to discharge the committee from further consideration of any other joint resolution introduced with respect to the same certification which has been referred to the committee, except that no motion to discharge shall be in order after the committee has reported a joint resolution with respect to the same certification.

"(B) A motion to discharge under subparagraph (A) of this paragraph may be made only by a Senator favoring the joint resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the joint resolution, the time to be divided equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(4)(A) A motion in the Senate to proceed to the consideration of a joint resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a joint resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a joint resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a joint resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a joint resolution is in order in the Senate.".

SEC. 4. PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS.

(a) IN GENERAL.—(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1) for family reunification immigrants shall be allotted visas as follows:

"(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a number not to exceed 15 percent of such numerical limitation, plus any visas not required for the class specified in paragraph (4).

"(2) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the spouses or children of an alien lawfully admitted for permanent residence or who—

"(A) as of the date of enactment of the Immigration Act of 1987, had a petition filed on their behalf for preference status by reason of the relationship described in this paragraph as in effect on such date and such petition was subsequently approved, and

"(B) continue to qualify under the terms of the Act as in effect on such date,

shall be allocated visas in a number not to exceed 65 percent of such numerical limitation, plus any visas not required for the class specified in paragraph (1).

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the

married sons or married daughters of citizens of the United States shall be allocated visas in a number not to exceed 10 percent of such numerical limitation, plus any visas not required for the classes specified in paragraphs (1) and (2).

"(4) UNMARRIED BROTHERS AND SISTERS OF CITIZENS AND PREVIOUS FIFTH PREFERENCE.—

"(A) qualified immigrants who are the unmarried brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, and

"(B) qualified immigrants who—

"(i) as of the date of enactment of the Immigration Act of 1987 had a petition filed on their behalf for preference status by reason of the relationship described in paragraph (5) of section 203(a) of this Act as in effect on the day before such date and such petition was subsequently approved, and

"(ii) continue to qualify under the terms of this Act as in effect on the day before such date,

shall be allocated visas in a number not to exceed 10 percent of such numerical limitation, plus any visas not required for the classes specified in paragraphs (1) through (3).".

"(b) PREFERENCE AND NONPREFERENCE ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(2) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING DOCTORAL DEGREES OR ALIENS OF EXCEPTIONAL ABILITY.—Qualified immigrants who are members of the professions holding doctoral degrees (or the equivalent degree) or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States, shall be allocated visas, except that not more than 27,000 visas in a fiscal year may be allocated under this paragraph. The Attorney General may, when he deems it to be in the national interest, waive the requirement of the preceding sentence that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning or a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States, shall be allocated in any fiscal year not more than 27,000 visas.

"(3) NONPREFERENCE ALIENS.—(A)(i) Visas authorized in any fiscal year under section 201(a)(2), less those required for issuance to the classes specified in paragraphs (1) and (2), shall be made available to other qualified immigrants selected at random by the Secretary of State from among aliens at least 18 years of age who qualify to be registered for a visa under subparagraph (C).

"(ii) The Secretary of State shall prescribe such regulations as may be necessary to provide a means for the selection of the qualified immigrants under this paragraph.

"(B) Beginning with the effective date of the Immigration Act of 1987, each alien applying for a visa under this paragraph shall be accorded units of assessment based on eligibility criteria as follows:

"(i) for aliens coming from any country adversely affected by the enactment of Public Law 89-236, as determined by the Secretary of State, 30 units of assessment;

"(ii) for aliens whose employment in the United States has already been arranged, 20 units;

"(iii) for aliens having successfully completed grade school through high school or its educational equivalent, 12 units;

"(iv) for aliens who were awarded bachelors' degrees or their equivalent, 10 units;

"(v) for aliens who were awarded graduate degrees, a number of units up to 5 units to be determined by the Secretary of Education based on the level of the degree;

"(vi) to the extent that the aliens have vocational preparation, the number of units for such preparation to be determined by the Secretary of Labor up to 10 units;

"(vii) for aliens not less than 18 years of age or more than 40 years of age, 10 units, except that 2 units shall be deducted for every year in excess of 40;

"(viii) to the extent that the aliens have skills determined by the Secretary of Labor to be needed in the United States, up to 20 units;

"(ix) to the extent the aliens have work experience relating to the skills described in clause (viii), the number of units to be determined by the Secretary of Labor up to 10 units;

"(x) for aliens who are the married brothers or sisters of citizens of the United States, if such citizens are at least twenty-one years of age, 10 units; and

"(xi) aliens speaking and reading the English language, 10 units.

"(C) No alien shall be qualified to be registered for a visa under this paragraph unless such alien has been accorded at least 70 units of assessment under subparagraph (B).

An immigrant visa shall not be issued to an immigrant under paragraph (1) or (2) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14). The provisions of sections 212(d)(11) shall apply with respect to any alien petitioning to be classified as a preference immigrant under paragraph (1).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(1) the sum of (A) the number of family reunification immigrants described in subsection (a), and (B) the number of immigrants born to permanent residents during a temporary visit abroad, immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative or under section 203(a), and aliens provided records of permanent residence under section 214(d), who are natives of such state and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(2) the sum of (A) the number of independent immigrants described in subsection (b), and (B) the number of special immigrants defined in section 101(a)(27) (other than those described in subparagraph (A) thereof) and immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b), who are natives of such state and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 4 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b) ELIMINATING INTRA-COUNTRY PREFERENCE SYSTEM.—Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e), section 204 (8 U.S.C. 1154) is amended by striking out subsection (f), and section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c) CONFORMING AMENDMENTS.—(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (3) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (3) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (1), (3), or (4) of section 203(a)",

(ii) by striking out section 203(a)(3)" and inserting in lieu thereof "paragraph (1), of section 203(b)", and

(iii) by striking out "203(a)(6)" and inserting in lieu thereof "203(b)(2) or 203(b)(3)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2), or (3) of section 203(b)".

SEC. 5. LABOR CERTIFICATION.

(a) CHANGE IN DETERMINATION.—Paragraph (14) of section 212(a) (8 U.S.C. 1182(a)) is amended by striking out "(A)" and all that follows through the end and inserting in lieu thereof the following: "(A) there are not sufficient qualified workers (or equally qualified workers in the case of

aliens (i) who are members of the teaching profession or who have exceptional ability in the sciences or arts) available in the United States in the occupations in which the aliens will be employed; and (B) the employment of aliens in such occupations will not adversely affect the wages and working conditions of workers in the United States who are similarly employed. In making such determinations the Secretary of Labor may use labor market information without reference to the specific job opportunity for which certification is requested. Except as provided in subsection (d)(11), an alien on behalf of whom a certification is sought must have an offer of employment from an employer in the United States. The exclusion of aliens under this paragraph shall only apply to preference immigrants described in section 203(b) (1) and (2). Decisions of the Secretary of Labor made pursuant to this paragraph, including the issuance and content of regulations and the use of labor market information under this paragraph, shall be reviewable by an appropriate district court of the United States, but the court shall not set aside such a decision unless there is compelling evidence that the Secretary made such decision in an arbitrary and capricious manner;".

(b) WAIVER OF OFFER OF EMPLOYMENT REQUIREMENT.—Section 212(d) (8 U.S.C. 1181(d)) is amended by adding at the end the following new paragraph:

"(11) The requirement in paragraph (14) of subsection (a) relating to an offer of employment from an employer in the United States may be waived with respect to any alien seeking to enter the United States as an immigrant under section 203(b)(1), if the Attorney General deems it to be in the national interest.".

(c) STUDY.—The Secretary of Labor shall conduct a study to determine the means by which the process for obtaining a labor certification under section 212(a)(14) of the Immigration and Nationality Act may be streamlined.

(d) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Labor shall prepare and transmit to the Congress a report setting forth the findings of the study required by subsection (c), together with recommendations for carrying out such findings.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of State such sums as may be necessary in order to implement section 203(b)(3) of the Immigration and Nationality Act, as amended by this Act.

SEC. 7. EFFECTIVE DATES AND TRANSITION.

(a) EFFECTIVE DATE.—The amendments made by this Act shall apply to the admission of aliens to the United States on and after the first day of the first fiscal year beginning at least 180 days after the date of enactment of this Act (hereafter in this Act referred to as the "effective date").

(b) TRANSITION.—(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before the effective date, such petition shall be deemed, as of such date, to be a petition for the new corresponding preference or nonpreference status (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding preference or nonpreference status" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on the day before the effective date), the preference status described in such section as in effect after such date;

(B) preference status described in section 203(a)(2) of such Act (as in effect on the day before the effective date), the preference status described in such section as in effect after such date;

(C) preference status described in section 203(a)(3) of such Act (as in effect on the day before the effective date), the preference status described in paragraph (1) of section 203(b) of such Act as in effect after such date;

(D) preference status described in section 203(a)(4) of such Act (as in effect on the day before the effective date), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on the day before the effective date), the preference status described in section 203(a)(4) of such Act as in effect after such date;

(F) preference status described in section 203(a)(6) of such Act (as in effect on the day before the effective date), the preference status described in section 203(b)(2), in the case of skilled labor, or the nonpreference status described in section 203(b)(3), in the case of unskilled labor, of such Act as in effect after such date; and

(G) nonpreference status described in section 203(a)(7) of such Act (as in effect on the day before the effective date), the nonpreference status described in section 203(b)(3) of such Act (as in effect after such date).

(c) ADMISSIBILITY STANDARD.—When an immigrant, in possession of an unexpired immigrant visa issued before the effective date, makes application for admission, his admissibility under paragraphs (20) and (21) of section 212(a) shall be determined under the provisions of law in effect on the date of the issuance of such visa.

SUMMARY OF KENNEDY/DONNELLY "IMMIGRATION ACT OF 1987"

GENERAL

Raises the annual ceiling on numerically limited immigration from 270,000 to 320,000 (Immediate Relatives of U.S. citizens—parents, spouses and minor children—remain outside this ceiling).

The 50,000 new numbers are assigned to a new "independent" category separate from the family reunification system. (Currently the family reunification and employment-related preferences are combined, and the percentages assigned to each preference compete with one another. Under the bill there will be two, separate preference systems.) The 50,000 additional numbers under the "independence" category will be apportioned through a newly established point system.

Reforms the current family reunification preferences to give higher priority to more immediate family members of permanent residents.

I. FAMILY REUNIFICATION

Maintains current number of family preference visas (216,000 a year).

Allocates a higher percentage of these visa numbers to spouses and children of legal permanent residents (65 percent compared to 26 percent today); this will deal with the heavy backlog that exists today in 2nd preference—which, in some countries is 7 to 9 years.

Eliminates the portion of the current second preference for adult sons and daughters of legal permanent residents.

The fifth preference for brothers and sisters of U.S. citizens is retained, but limited to unmarried brothers and sisters; pending claims under the current system are grandfathered in.

The above changes were all recommended by the Select Commission on Immigration and Refugee Policy.

II. INDEPENDENT IMMIGRANTS

The existing 3rd (professional) and 6th (skilled/unskilled) preferences, with 54,000 places, are combined with the new 50,000 nonpreference numbers to create an "independent" system of 104,000 visas annually.

The additional 50,000 visas are for applicants who qualify on the basis of a new point system and, once qualified, will be selected by whatever means are most equitable for the registrants and most easily administered, probably by random computer selection. Individual labor certification will not be required for this new nonpreference category.

ADVANTAGES OF THE BILL

More visa numbers become available to "independent" immigrants who do not have the immediate family ties to the U.S. necessary to qualify for the current family preferences.

Registration for the new nonpreference visas is world-wide, but the point system gives an advantage to applicants from the 36 countries adversely affected by the Immigration Act of 1965. The annual ceiling of 20,000 visas per country under current law is retained; countries may use their limitation for family reunification or for the independent category, or both.

The 50,000 new visa numbers of the "independent" category do not require individual labor certification, which has been a major obstacle to "independent" immigrations until now.

The bill reorganizes family reunification classes to make more visas available to spouses and children of legal permanent residents, in order to reduce the huge backlogs for these immediate relatives of persons living in the U.S.

A modified "sunset" provision is included to assure all those affected by these changes that Congress must review their implementation after five years. The review would study future family reunification requirements, the impact of immigration on employment and domestic conditions in the U.S., and other relevant concerns. If changes are needed, under the modified "sunset" provisions, Congress can act constructively and swiftly.

COMPARISON OF VISA NUMBERS UNDER CURRENT LAW AND KENNEDY/DONNELLY BILL

	Current law	Kennedy/Donnelly	Changes in definition of category
I. FAMILY PREFERENCES			
Immediate relatives (spouses and minor children; outside preference system).	(1)	(1)	Same.
1st Pref. (unmarried adult sons and daughters of U.S. citizens).	54,000	32,400	Same.
2nd Pref. (spouses and unmarried sons and daughters of residents).	70,200	140,400	Limited to spouses and unmarried children under 21.

COMPARISON OF VISA NUMBERS UNDER CURRENT LAW AND KENNEDY/DONNELLY BILL—Continued

	Current law	Kennedy/ Donnelly	Changes in definition of category
4th Pref. (married sons and daughters of U.S. citizens).	27,000	21,600	Same.
5th Pref. (brothers and sisters of adult U.S. citizens).	64,800	21,600	Limited to unmarried siblings and pending 5th pref.
Total family preferences.	216,000	216,000	
II. INDEPENDENT			
3rd Pref. (professions and exceptional ability).	27,000	27,000	Same.
6th Pref. (skilled and unskilled).	27,000	27,000	Limited to skilled.
Nonpreference	0	50,000	Adds 50,000 administered according to new point system.
Total independent	54,000	104,000	

[1] No limit.

Point system for nonpreference visas

	Maximum points
Age	10
Education	12
Higher education	15
Vocational preparation	10
Desired skill	20
Experience in desired skill	10
Arranged employment	20
Adversely affected country	30
U.S. citizen sibling	10
Speak and read English	10
Total	147
Needed to apply	70

CRITERIA

Age: Minimum age is 18. Ten points for persons ages 18-40; deduction of 2 pts. for every year over 40.

Education: One point for each year of grade school through high school or equivalent.

Higher education: 10 points for college or equivalent; up to 5 additional points for post-graduate education.

Vocational preparation: The points needed for a particular job or skill would be determined by the administration, up to 10 points.

Desired skill: The administration would determine areas of shortages in skilled workers.

Experience: Up to 10 points for work experience in desired skill.

Arranged employment: Not subject to labor certification.

Adversely affected country: Determined by Department of State (36 countries are on the current list).

U.S. citizen sibling: Brother or sister of adult U.S. citizen.

Mr. MOYNIHAN. Mr. President, I rise today to join Senator KENNEDY in introducing a bill to correct inequities in our immigration laws which have existed since 1965. This bill, the Immigration Act of 1987, would change the numerical limitation and preference system for the admission of immigrants to this country.

Fairness is at issue here. One need only look at a country such as Ireland with strong historical roots in America to see how the Immigration and Nationality Act Amendments of 1965 radically changed the balance of immigration. The 1965 act established a limit of 270,000 new visas per year to be issued under a preference system that strongly favors individuals that have close relatives who recently emigrated to the United States.

The system works to the disadvantage of individuals in countries like Ireland, which sent the first waves of immigrants to America. The countries which sent our grandparents and great-grandparents to America are penalized because citizens of those countries who want to emigrate to the United States do not have close enough relatives here to qualify under the 1965 preference categories.

I am most personally familiar with immigration from Ireland. One hundred and one years ago, my grandfather Jack Moynihan left County Kerry in search of opportunity and a new life—a search which led him to Jamestown, NY. Yet, under our current immigration laws, my grandfather would not have been so fortunate. Permit me to explain why. In his book, "The Irish Americans," Andrew M. Greeley states that about one quarter of the Irish in America are descendants of families who migrated before 1870, another two-fifths are descendants of those who came between 1870 and 1900, and another quarter are descendants of those who came between 1900 and 1925. Only 7 percent of Irish Americans are descendants of immigrants who came after 1925. Seventy-one percent of Irish Catholics in America are third or fourth generation. As a result of this situation, of 270,152 preference visas issued worldwide in 1986, only 730 were issued to Irish citizens. This is directly attributable to the advantage given to visa applicants with immediate family in the United States.

Economic conditions have scarcely improved since the days when my grandfather Jack lived in Ireland. In fact, the unemployment rate is over 30 percent for young people. Yet, it is doubtful that today my grandfather would be eligible to enter this country under our existing laws. Our present immigration policy functions at the expense of countries, like Ireland, which sent our earliest settlers—the forefathers of many Americans today.

From the travels and discoveries of St. Brendan—another native of County Kerry—in the fifth century to the early explorers of the Colonies, the tales of these first pioneers are fascinating indeed. Michael J. O'Brien, historiographer of the American Irish Historical Society at the turn of this century, in his collection of 132 articles, lists no fewer than 25,000 17th and 18th century Irish pioneers and settlers—even before the "green wave" of Irish immigration hit our shores during the 19th century. O'Brien chronicled the early expeditions to the New World stating that, "It seems that in all of the early voyages of the English to the American Continent, the adventurous Irishman was present."

This included Sir Walter Raleigh's first and subsequent voyages to this country. In his article entitled "A Glance at Some Pioneer Irish in the South," (1907) O'Brien writes, "In the charter which Raleigh received from the English Crown on March 27, 1585, empowering him to hold the lands which he had colonized in America and apportion them among the colonists, reference is made to persons from England and Ireland, thus showing that Irishmen were among the first white settlers of the Western World."

The O'Brien article also tells the tale of Capt. John White, believed to be a native of County Kerry, and his return journey from Virginia in 1587. "One of his vessels encountered a great storm. The crew and passengers were in sore straits on account of the lack of food and water, expecting to perish by famine at sea. When they had almost given up in despair, they sighted land which proved to be the coast of Kerry. The whole company was brought ashore, where the sick sailors and passengers were taken care of by the local doctor. They stayed there for nearly 2 weeks."

The significance of this tale is even greater than at first glance, for according to O'Brien, "Captain White distributed some potato plants among the people, the first ever seen in Europe. It is generally supposed that it was Raleigh who first brought the potato plant to Europe, but according to White's account, it was he who introduced it, and that it was the inhabitants of County Kerry who were the first Europeans to taste the esculent tuber."

While many of us may not be familiar with the story of the introduction of potatoes to Ireland, most schoolchildren can recite the tale of devastation and famine in that country when the potato crop failed. The mass waves of Irish immigration to this country during the 1800's are directly linked to the potato famines of that time. In "Beyond the Melting Pot," (1963) I wrote that "the basis of Irish hegemony in New York City was the famine emigration of 1846-50. By 1890, a full quarter of the city's population were Irish."

And indeed, this country has prospered because of the unique qualities and contributions of the Irish. As President Kennedy said during his historic address to the Parliament of the Republic of Ireland on June 28, 1963, "It is the quality of the Irish, the remarkable combination of hope, confidence, and imagination that is needed now more than ever today * * *. We need men who can dream of things that never were, and ask why not."

But now, because the Irish presence in country began so long ago, the citizens of this and other similarly situated countries are finding the once welcoming shores of America closed to them. In the interest of fairness, something must be done. That is why I join Senator KENNEDY in introducing the Immigration Act of 1987. In brief, this bill would increase the number of nonpreference visas, which would be available on a point system, which among other things, would allow additional points for being from a country which was adversely affected by the 1965 Immigration Act.

The purpose is simple, that is, to rectify the legal inequity which keeps the ancestors of the early voyagers and immigrants to this country from being accorded equal treatment under our immigration laws. The solution is simple, and I urge my colleagues to support this essential proposal.

By Mr. HATCH:

S. 1612. A bill to provide for the disposition of unclaimed property in the custody of the United States; to the Committee on Governmental Affairs.

UNCLAIMED PROPERTY ACT

● Mr. HATCH. Mr. President, I rise to introduce the Unclaimed Property Act of 1987. The bill relates to the matter of escheat, the succession of abandoned property of the State. It results from the failure of a person legally entitled to the property to make a valid claim against the holder of the property within a prescribed period of time. Property is also escheated from the estate of a person dying intestate or partially intestate without any known or discoverable heirs.

The principal of escheat originated in the elaborate feudal landholding system which existed in England during the Middle Ages. The basic premise was that property which remained without an owner or upon failure to make claim by a descedent's heirs, reverted to the sovereign from whom all property rights were derived. This concept was brought to the American Colonies by the English settlers and was included in the instrument by which the lords proprietors governed the Colonies.

The bill that I am submitting actually applies to either escheat or unclaimed property depending upon the specific law within the State. There is a distinction that needs to be made between the terms escheat and unclaimed property. Escheat refers to money that actually belongs to the government, which they can keep after a specified amount of time. Whereas, unclaimed property is money that the State is holding in its custody; however, an owner or legal heir may come back at any time to reclaim it.

The majority of the States have enacted uniform unclaimed property statutes which empower the States to collect and hold abandoned property, pending the submission of claims by the owners or their heirs to recover this property. Before a State executes its power of escheat, each State must establish a mechanism for locating lost owners through newspaper advertising and letters. A number of States have staff members whose sole duty is to track down lost owners. The last known address of the owner would be in the State receiving possession of the funds. The success rate in various States varies, but some claim having returned 50 percent of the funds initially reported by the holders. With the Unclaimed Property Act of 1987, the States would only begin their search after the Federal agencies have ceased to look. Thus, after the Federal agency has declared itself unable to locate the lost owner, they would turn over the funds to the States rather than the U.S. Treasury.

The States have formed the National Uniform Law Commission, which is a national group composed of all the individual State agencies whose job it is to find the owners of this unclaimed property. In 1954, they held their first meeting at which they prepared the initial unclaimed property law. Many States subsequently adopted this legislation. It has been reviewed and altered twice since this time, once in 1966 and most recently in 1981. The majority of all States have adopted the current law, in most instances with respect to unclaimed property rather than escheat.

For nearly 50 years, the States have been involved in an ongoing controversy with agencies of the Federal Government with regards to the right of escheat. Historically, the right of escheat was considered a State prerogative. Congress, however, has passed escheat laws which increasingly supersede this right. I am submitting this legislation in order to restore the right to escheat to the States.

There have been too many instances in which the Federal Government has refused to comply with State agencies when they have asked for various types of unclaimed property. California is now holding more than $1 million in U.S. bonds which the U.S. Treasury will not cash. I am compelled to conclude the Federal agencies will insist on continuing to hold such funds and will refuse to turn them over to the States so that the rightful owners can be sought and will neither negotiate nor moderate their stand without compelling legislation, such as the present bill.

Among the various types of property involved in this controversy are: the cashing of U.S. savings bonds turned over to States as unclaimed or escheated property through bank safe deposit boxes, savings bonds purchased and never delivered to owners, uncashed U.S. tax refund checks, unclaimed wages collected by the Department of Labor, uncashed postal money orders, uncashed unemployment compensation checks, unclaimed Federal retirement contributions including pension and military checks, unclaimed funds held by HUD, for a variety of examples.

I urge my colleagues to join me in restoring this traditional right to the State government. I ask unanimous consent that the text of the proposed bill be printed in the RECORD.

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

S. 1612

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Unclaimed Property Act of 1987".

DECLARATION OF POLICY

SEC. 2. It is the policy of Congress that—

(1) notwithstanding any other provision of law, States may escheat or otherwise take possession of unclaimed property in the custody of Federal agencies whenever the provisions of this Act have been complied with;

(2) if a State escheats or otherwise takes possession of unclaimed property pursuant to this Act, a Federal agency may not assert an interest in the unclaimed property by reason of any delay in the presentation of claims or demands for payment or delivery by or on behalf of the owners;

(3) nothing in this Act shall apply to any claim filed with a State pursuant to State law for any property paid or delivered to a State pursuant to this Act; and

(4) the United States shall assist the States in discovering and recovering such property.

DEFINITIONS

SEC. 3. As used in this Act:

(1) The term "Administrator" means the Administrator of General Services of the United States.

(2) The term "authorized officer" means a State officer or employee who is expressly authorized under State law to escheat or otherwise take possession of unclaimed property on behalf of the State.

(3) The term "Comptroller General" means the Comptroller General of the United States of America.

(4) The term "Federal agency" means—

(A) any executive or military department, agency, or independent establishment in the executive branch of the United States;

(B) any corporation wholly-owned by any entity referred to in subparagraph (A); and

(C) any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, the Architect of the Capitol, and any activities under the direction of the Architect of the Capitol).

(5) The term "owner" means any person who has a legal or equitable interest in unclaimed property. For the purposes of this Act, the owner shall be conclusively presumed to be the person to whom unclaimed property is payable or returnable according to the records of the Federal agency which delivers the property to the Administrator pursuant to this Act. If two or more persons are interested in the property, and the extent of the respective interests of each is

unknown, it shall be presumed that the interests of such persons in such property are equal.

(6) The term "person" means any individual, partnership, corporation, unincorporated association, or other legal entity.

(7) The term "State" means any State of the United States, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and any other territory or possession of the United States.

(8) The term "unclaimed property" means any intangible personal property, including, but not limited to, money, liquidated obligations, choses in action, accounts, entrusted funds, deposits, evidences of debt or instruments held by any Federal agency, officer or employee thereof (except bonuses, gratuities, and sums held by the Social Security Administration), which has remained unclaimed by the owner or the heirs, successors, or assigns of the owner for five years—

(A) from the date of maturity or call for payment, if arising from a transaction under the public debt;

(B) after the last transaction concerning principal or interest, if deposits are in the postal savings system; or

(C) after the property first became payable, demandable, or returnable, if arising from any other transaction.

DISCOVERY OF UNCLAIMED PROPERTY

SEC. 4. (a) The Comptroller General shall conduct annually an examination of all records in possession of or relating to the accounts of each Federal agency concerning unclaimed property in the custody of such agency. From such records, the Comptroller General shall determine and record, with respect to all such property—

(1) the name and, if available, last known address of each owner;

(2) the dates essential to determine, under section 3(a) of this Act, when the property became unclaimed property;

(3) the monetary value of the property; and

(4) the nature of the transaction in which the Federal agency obtained custody of the property.

(b) Except as otherwise provided in section 2575 of title 10, United States Code, all unclaimed property in the custody of any Federal agency shall be transferred, under such regulations as the Comptroller General shall prescribe, to the custody of the Administrator, who shall retain custody thereof pending disposition pursuant to the provisions of this Act.

REPORTS TO STATES

SEC. 5. (a)(1) The authorized officer shall—

(A) certify in writing that such officer is authorized under State law to escheat or otherwise acquire unclaimed property on behalf of a State; and

(B) request in writing that the Comptroller General provide a report of all unclaimed property to which the State may be entitled to recover pursuant to section 6.

(2) A request under paragraph (1)(B) shall remain in effect until terminated in writing by the authorized officer.

(3) The Comptroller General shall annually report to the authorized officer of each State all information obtained pursuant to section 4(a) concerning all unclaimed property to which the State may be entitled to recover pursuant to section 6.

(b) The Comptroller General shall annually report to the authorized officer of each State the aggregate monetary value of all unclaimed property identified pursuant to section 4(a) for which no address of any owner is available according to records of the Federal agency that delivers the property to the Administrator pursuant to this Act.

RECOVERY OF UNCLAIMED PROPERTY BY STATES

SEC. 6. (a) The authorized officer shall—

(1) file a written demand for the property with the Administrator identifying the owner, the last known address of the owner as disclosed in the report of the Comptroller General, and the value or description of the unclaimed property; and

(2) certify in writing that the State shall relieve from liability the United States and any Federal agency, official and employee thereof from any claim arising from the delivery of any property to the State pursuant to this Act.

(b) The Administrator shall deliver unclaimed property for which only one owner is identified by the Comptroller General to the State in which the last known address of the owner is located.

(c) The Administrator shall deliver any unclaimed property for which two or more owners are identified by the Comptroller General in the following manner:

(1) If the last known address of all owners are located in one State, such State shall be entitled to claim the property.

(2) If the last known address of the owners are located in two or more States, each State shall be entitled to claim a proportion of the total value of the unclaimed property equal to the ratio between—

(A) the number of owners with a last known address in a State; and

(B) the total number of owners.

(3) If the address of any owner is unknown and the last known address of all other owners are located in one State, such State shall be entitled to claim the total value of the property.

(4) If the address of any owner is unknown and the last known address of the other owners are located in two or more States, each State shall be entitled to claim a proportion of the total value of the unclaimed property equal to the ratio between—

(A) the number of owners with a last known address in a State; and

(B) the total number of owners with last known address.

(d) The Administrator shall deliver to the authorized officer of each State a proportion of the aggregate monetary value of all unclaimed property reported pursuant to section 5(b) equal to the ratio between the population of each State and the total population of all States combined, as determined by the most recent census, if—

(1) the authorized officer of a State files a written demand for the proportionate monetary value of property to which the State is entitled under this subsection; and

(2) the authorized officer certifies in writing that the State shall relieve from liability the United States and any Federal agency, official and employee thereof from any claim arising from the delivery of any property to the State pursuant to this Act.

(e) Notwithstanding any other provision in this section, the Administrator shall deliver unclaimed property to the heirs, successors or assigns, or a legal representative of the owner upon receipt of a certified copy of an order or judgment of a State court of competent jurisdiction declaring the right of the party requesting delivery to obtain possession of the unclaimed property.

(f) The expiration of any period of time specified by Federal or State statute, court order, or contract, during which an action or proceeding may be commenced or enforced to obtain payment of a claim for funds or recovery of property shall not affect the right of a State to escheat, acquire custody, or obtain possession of unclaimed property in accordance with the provisions of this Act.

(g) For the purposes of this Act, the last known address of an owner shall be conclusively presumed to be the last known address of such owner according to the records of the Federal agency which delivers the unclaimed property to the Administrator pursuant to this Act.

RULES AND REGULATIONS

SEC. 7. The Comptroller General may delay implementation of sections 5 and 6 of this Act within one year after enactment, if the Comptroller General determines that such a delay is necessary in order to permit Federal agencies to comply with this Act. The Comptroller General shall give notice of any such delay in the Federal Register.

AUTHORIZATION OF APPROPRIATION

SEC. 8. There is authorized to be appropriated to the Comptroller General and to the General Services Administration, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 9. This Act shall take effect ninety days after the date of enactment and shall apply to any unclaimed property which matured or was called, or regarding which the last transaction concerning interest or principal occurred, or which otherwise became payable, demandable or returnable as provided in section 3(8), at any time during the five years immediately preceding the effective date of this Act.●

By Mr. HATFIELD:

S. 1613. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Umatilla Basin Project, Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

UMATILLA BASIN PROJECT

● Mr. HATFIELD. Mr. President, today I am introducing legislation authorizing the Umatilla Basin project in my home State. This bill is similar to one I introduced during the 99th Congress, S. 2931, and represents a solution to a longtime water distribution conflict between the agricultural community in the Umatilla River Basin and the Confederated Tribes of the Umatilla Indian Reservation.

This dispute stems from conflicting commitments made by the Federal Government over the last 132 years. In 1855, the U.S. Government, in exchange for vast areas of the Umatilla Indians' tribal land, promised to protect Indian hunting and fishing rights within the reservation and at the "usual and accustomed" places outside the reservation. However, at the turn of the century, the Department of the Interior's Reclamation Service, now the Bureau of Reclamation, began an irrigation project in the Umatilla

Basin which strained the water resources of the area and reduced severely the salmon and steelhead runs which were guaranteed to the Umatilla Indians by the Federal Government.

This legislation embodies years of effort by the Confederated Tribes and the broader nontribal community of northeastern Oregon to develop a pragmatic, least-cost approach to meeting the Federal Government's treaty obligations in the Umatilla Basin without devastating the area's valuable agricultural economy. In addition, the project would provide badly needed tribal economic development, stimulate and diversify the local nontribal economy, and annually contribute millions of dollars in catches of anadromous fish to marine and freshwater in Alaska, Washington, and Oregon. In effect, the Umatilla Basin Project presents the Federal Government with a rare opportunity to meet its treaty obligations in a way which will turn a substantial economic profit to the local area, the region and the Nation.

The bill I am introducing today essentially is a consensus product of negotiations conducted by local, State, Federal, and tribal water interests in the Umatilla Basin. While it may be necessary to amend portions of this bill, I believe it represents a good starting point for discussion on this subject.

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

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

S. 1613

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 "Umatilla Basin Project Act."

SEC. 2. AUTHORIZATION OF PROJECT.

(a) For purposes of mitigating losses to anadromous fishery resources and continuing water service to the Hermiston, West Extension, Westland, and Stanfield Irrigation Districts, or any other entity which participates in the project water exchange, the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, and Acts amendatory thereof and supplementary thereto), is authorized to construct, operate, and maintain the Umatilla Basin Project, Oregon, substantially in accordance with the report of the Secretary. The principal works of the project shall consist of:

(1) Pumping plants and related diversion, conveyance, and distribution features;

(2) Works incidental to the rehabilitation or modification of existing irrigation systems necessary to accomplish a water exchange;

(3) Fish passage and protective facilities and other necessary mitigation measures;

(4) A program to monitor and regulate project operations; and

(5) A program to evaluate fishery resource mitigation measures.

SEC. 3. INTEGRATION AND OPERATION OF PROJECT.

Project facilities and features authorized by this Act shall be integrated and coordinated, from an operational standpoint, into other features of the Umatilla Project, and shall be operated in a manner consistent with Federal reclamation laws and water rights established pursuant to State law including the contract rights of water users. Prior to the initiation of project construction, the Secretary shall secure the necessary State and local permits and other authorities for the operation of project facilities, and through the conclusion of appropriate agreements with the State of Oregon, the relevant irrigation districts, and the Confederated Tribes of the Umatilla Indian Reservation provide for the monitoring and regulation of project related water supplies for the purposes herein identified.

SEC. 4. POWER FOR PROJECT PUMPING.

The Administrator of the Bonneville Power Administration, in accordance with provisions of the Columbia River Basin Fish and Wildlife Program established pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2697), shall provide for project power needed to effect the water exchange with irrigation districts for purposes of mitigating anadromous fishery resources. The cost of power shall be credited to fishery restoration goals of the Columbia River Basin Fish and Wildlife Program.

SEC. 5. RATE FOR CONSTRUCTION CHARGES.

The rate used for computing interest during construction, and where appropriate, interest on the unpaid balance of the reimbursable costs of the project shall be determined by the Secretary of the Treasury as of the beginning of the fiscal year in which funds for construction of the project are first disbursed, taking into consideration the computed average market yields on outstanding marketable obligations of the United States which are neither due nor callable for 15 years from date of issue.

SEC. 6. FISHERY RESOURCE FACILITIES.

Facilities and any other project features which furnish fishery resource benefits in connection with the project shall be constructed, operated, and maintained in accordance with the Federal Water Project Recreation Act (Public Law 89-72, 79 Stat. 213), as amended, except that costs allocated to the mitigation of anadromous fish species shall be nonreimbursable.

SEC. 7. NON-FEDERAL OBLIGATIONS.

The Secretary shall negotiate and enter into agreements which specify appropriate non-Federal obligations of the operation and maintenance of project facilities authorized in this Act. The Federal responsibility for operation and maintenance shall be limited to those costs in excess of non-Federal obligations as established by such agreements.

SEC. 8. INTERIM FLOW AUGMENTATION.

Until the facilities authorized in this Act are constructed and in operation, and as an interim measure to provide flow augmentation in the Umatilla River for anadromous fishery resources, funds are authorized to be appropriated to the Secretary to provide for interim operation and maintenance of existing pumps or other facilities for the purpose of providing flow augmentation for anadromous fish, except that pumping power shall be provided in accordance with section 4 of this Act.

SEC. 9. NON-FEDERAL COSTS.

(a) CREDIT FOR NON-FEDERAL FISHERY RESOURCE IMPROVEMENTS.—The Umatilla Basin Project authorized by this Act is a Federal action to improve streamflow and fish passage conditions and shall be considered part of a comprehensive program to restore the Umatilla River basin anadromous fishery resource. Related fishery resource improvement facilities which utilize funding sources under the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (94 Stat. 2697) and programs of the State of Oregon and other entities shall be consolidated in any final calculation of required cost sharing.

(b) TREATMENT OF NON-FEDERAL COSTS INCURRED IN IMPLEMENTING PROJECT FEATURES BEFORE APPROPRIATIONS.—Where a public or private entity shares in the cost of or constructs any feature of the project or portion thereof prior to the appropriation of funds for construction of such feature, the costs incurred shall be credited to the total amount of any cost sharing required for the project. The Secretary is authorized to accept title to facilities appropriate to the project without compensation and thereafter to operate and maintain such facilities.

SEC. 10. CONJUNCTIVE USE OF PUMPING FACILITIES.

When project pumping capacity is available in excess of that needed for fishery resource benefits, such capacity shall be available to lands eligible for service from the irrigation districts that participate in the project authorized in this Act, provided that such use shall be considered as secondary to the purpose of providing water for fishery resource purposes. Pumping power for this purpose shall be provided from the Federal Columbia River Power System at charges applicable to the Federal Reclamation projects in the Pacific Northwest, and the cost of power for such pumping shall be borne by irrigation districts receiving the benefit of such water, and the districts shall also bear that portion of the cost of transmitting power from the Federal Columbia River Power System to the Project pumping facilities allocated to this use.

SEC. 11. REHABILITATION AND BETTERMENT AUTHORIZATION.

For purposes of encouraging water conservation and improvements to water supply systems of the irrigation districts participating in the project authorized by this Act, such districts shall be eligible to receive financial assistance, as deemed appropriate by the Secretary, under provisions of the Rehabilitation and Betterment Act of October 7, 1949 (73 Stat. 724), as amended.

SEC. 12. LEASE AND PURCHASE OF WATER

The Secretary is authorized to acquire from willing parties land, water rights or interests therein for benefit of fishery resources consistent with the purposes of this Act; provided that acquisition of water rights shall be in accordance with applicable State law. There is hereby authorized to be appropriated such sums as required to accomplish the purposes of this section.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

(a) There is hereby authorized to be appropriated for construction of the Umatilla Basin Project the sum of $42,200,000 (April 1987 prices), plus or minus such amounts as may be required by reasons of changes in the cost of construction work of the types involved therein as shown by applicable engineering cost indexes and exclusive of facilities indicated in Section 13(b) of this Act. There are also authorized to be appropri-

ated such sums as may be required for the operation and maintenance of the project, including the monitoring and evaluation of project accomplishments.

(b) Related fish passage and protective facilities that are features of the Columbia River Fish and Wildlife Program established pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2697) shall be consolidated into calculations of project costs and benefits; provided that the Secretary shall not request an appropriation of funds to construct any facilities which are approved to be or are constructed as part of the Columbia River Basin Fish and Wildlife Program.●

By Mr. D'AMATO (for himself, Mr. HELMS, Mr. CRANSTON, Mr. KERRY, Mr. DURENBERGER, Mr. MURKOWSKI, Mr. SYMMS, Mr. DECONCINI, Mr. KENNEDY, Mr. MCCAIN, and Mr. WILSON):

S. 1614. A bill to restrict United States assistance to Panama; to the Committee on Foreign Relations.

RESTRICTIONS ON UNITED STATES ASSISTANCE TO PANAMA

Mr. D'AMATO. Mr. President, I rise today with the support of Senators HELMS, CRANSTON, KERRY, MURKOWSKI, KENNEDY, DECONCINI, WILSON, and MCCAIN to introduce legislation to assure those Panamanians risking their lives and livelihoods for true democracy, that the United States still stands with them.

Mr. President, for nearly 2 months the brave people of Panama have been demonstrating to the world that General Noriega must leave. To date this body and our Government have been instrumental in supporting the people of Panama. We must, if anything, strengthen our resolve, and speak clearly so as to leave no doubt where we stand.

This legislation prohibits further economic and military aid to Panama. To lift these restrictions, four conditions must be met:

First. The Government of Panama must demonstrate substantial progress in the effort to assure civilian control of the military and remove the Panama Defense Forces and its leaders from nonmilitary activities and institutions;

Second. The Government of Panama must commence an independent investigation into allegations of illegal actions by members of the Panama Defense Forces;

Third. A nonmilitary transitional government must be in power; and

Fourth. Freedom of the press and all other constitutional guarantees to the Panamanian people must be restored.

Mr. President, I commend Senators DODD and LUGAR and others who recently wrote Secretary of State Shultz urging him to continue the suspension of aid to Panama. The legislation introduced today would continue this suspension indefinitely.

Notably, this bill exempts from the prohibition humanitarian assistance and nongovernmental development aid. It also does not affect our obligations under the Panama Canal Treaty.

For fiscal year 1987, Panama was scheduled to receive over $19 million in developmental assistance and over $6 million in military assistance. For fiscal year 1988, Panama is scheduled to receive $19 million in developmental assistance, $10 million in cash transfers, and $3.5 million in military assistance.

Of the amount of aid remaining for fiscal year 1987, $10.1 million would be suspended under this legislation. Of the amount requested for fiscal year 1988, at least $13.5 million would be suspended by this legislation.

We must ensure that no aid goes to Panama unless a democratic civilian government, free from military control, is in power in Panama. Admittedly, Mr. President, our bilateral aid program is more symbolic than vital. Frankly, the aid we give the Government of Panama is pocket change for Noriega. But resumption of aid to Panama while Noriega remains in power can only be viewed as a sign of support, or acquiescence, in his desperate—and, I believe, doomed—struggle to continue as Panama's dictator.

Remember with whom we are dealing with in Panama. On Tuesday, Mr. President, it was reported in the Baltimore Sun and the Miami Herald that General Noriega is under investigation by a Federal grand jury in Miami for providing protection to cocaine trafficking and money-laundering operations in return for lucrative payoffs. The articles tell of a sordid operation where Noriega allegedly received a 1.5-percent cut of all transactions. With estimations that up to $200 million a month is laundered through Noriega's banks, the personal profits he reaps are tremendous.

I ask unanimous consent that these articles be included into the RECORD at this point.

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

[From the Baltimore Sun, Aug. 4, 1987]

PANAMANIAN STRONG MAN TIED TO DRUG TRADE

WASHINGTON.—Panamanian strong man Manuel Antonio Noriega is the focus of a major federal drug-conspiracy investigation and is suspected of providing protection to cocaine trafficking and money-laundering operations in return for hefty payoffs, federal law enforcement sources said yesterday.

The probe by a federal grand jury in Miami is being pursued despite a split within the Reagan administration about whether to press for General Noriega's ouster, with CIA and Pentagon officials reportedly maintaining that the fall of the Panamanian defense chief could endanger U.S. military bases in Panama.

Investigators charge that General Noriega allegedly has been skimming as much as 1.5 percent of the value of drug shipments and drug-related money transfers passing through Panama for several years. They say that attempts by General Noriega to increase his percentage prompted people with knowledge of the scheme to come to U.S. authorities and contribute to the case being built by Drug Enforcement Administration agents.

One law enforcement source familiar with the matter said the evidence gathered so far was "very strong," but acknowledged that there were problems in corroborating some details provided by single sources. Another official, also close to the investigation, said "don't hold your breath," when asked whether an indictment was imminent.

Officials who refused to be identified by name or agency said the investigation almost certainly would cause further strain to the United States' increasingly tense relations with the Noriega regime. There have been widespread demonstrations against the military chief, and the State Department has called for new elections and a return to civilian rule in Panama.

While the officials conceded that there was little possibility that Panama would agree to extradite General Noriega to face federal charges in Florida, where much of the cocaine allegedly entered this country, they said that allegations formally returned by a grand jury could intensify pressures inside and outside Panama to reduce corruption and the flourishing drug trade there.

Two sources familiar with a congressional investigation of narcotics in Latin America said that several witnesses had directly implicated General Noriega in money-laundering and drug-protection schemes.

The chief witness, Ramon Milian-Rodriguez, told a Senate subcommittee in private testimony last month that General Noriega had negotiated a commission of up to 1.5 percent on all money transfers by a major Colombia cocaine cartel through banks in Panama, the sources said.

Milian-Rodriguez, a Cuban-American who allegedly helped manage the Colombian drug cartel's finances and who is now serving a 35-year sentence on a federal racketeering conviction, testified under oath that he personally had negotiated the commission arrangement with General Noriega in 1979, they said.

Milian-Rodriguez said that the Colombia traffickers had moved as much as $200 million a month through Panamanian banks—all subject to General Noriega's commission, the sources said.

According to Milian-Rodriguez's account of the deal, General Noriega offered government protection for the trafficker's money laundering and for cocaine-processing plants in Panama in exchange for commissions on both operations, the sources said.

In 1983, Milian-Rodriguez reportedly testified General Noriega began pressing the Colombians to increase his commission on money-laundering transactions to 3 percent, the sources said. It was not clear whether the payments to General Noriega were increased that steeply, they said.

Last year, General Noriega, commander of the Panama Defense Forces, the nation's sole military and police organization, contended that U.S. press reports linking him to drug trafficking were part of a "dirty war" to prevent his country from taking over the Panama Canal in the year 2000 as scheduled.

The congressional investigation is being conducted by the Senate Foreign Relations subcommittee on terrorism and narcotics, chaired by Sen. John F. Kerry, D-Mass.

In an unusual political alliance, the liberal Kerry has teamed up with conservative Sen.

Jesse A. Helms, R-N.C., to press the congressional investigation of General Noriega and other Latin American officials suspected of involvement in drug trafficking.

The disclosure that General Noriega, is the target of a federal drug-conspiracy investigation comes only two months after Attorney General Edwin W. Meese III and other Justice Department officials praised Panamanian law enforcement officials for seizing millions of dollars of drug profits deposited in Panama banks by major Colombian drug traffickers.

"When Meese talks about the cooperation he's gotten from Panama, it's basically busting the Colombian cartel's competitors," a source familiar with the Senate investigation said.

The Colombian cartel allegedly linked to General Noriega is run by drug kingpins Jorge Ochoa and Pablo Escobar and is suspected of supplying as much as 75 percent of the cocaine sold in the United States.

Milian-Rodriguez, who was convicted of racketeering and sentenced to 35 years in prison in 1985, told the Senate panel that the cartel owns majority interests in seven banks in Panama, the sources said.

Senate sources said that General Noriega has neither State Department nor National Security Council support and little Justice Department support, but is still backed by the Pentagon and CIA.

[From the Miami Herald, Aug. 4, 1987]

MIAMI JURY PROBES NORIEGA DRUG LINK

(By Ronald J. Ostrow and Doyle McManus)

WASHINGTON.—Panamanian strongman Gen. Manuel Antonio Noriega is the focus of a major federal drug conspiracy investigation based on testimony he provided protection to Colombia's cocaine trafficking cartel and money laundering operations in return for hefty payoffs, federal law enforcement sources said Monday.

The probe by a federal grand jury in Miami is being pursued despite a split within the Reagan administration about whether to press for Noriega's ouster, with CIA and Pentagon officials reportedly maintaining that the fall of the Panamanian defense chief could endanger U.S. military bases in Panama.

"The State Department has abandoned Noriega, and so has the National Security Council," a Senate source said. "But the Pentagon and the CIA believe we have more important interests in Panama than fostering democracy and cutting off the drug traffic," referring to concerns that a new regime might evict U.S. military forces stationed in the country.

Investigators charge that Noriega has been skimming as much as 1.5 percent of the value of drug shipments and drug-related money transfers passing through Panama for several years. They say that attempts by Noriega to increase his percentage prompted people to go to Drug Enforcement Administration agents.

Officials who refused to be identified said that while the investigation may not lead to an indictment, it almost certainly would cause further strain to the United States' increasingly tense relations with Noriega's regime.

Officials also said the investigation could intensify pressures inside and outside Panama to reduce corruption and the flourishing drug trade there.

Two sources familiar with a congressional investigation of narcotics in Latin America said that several witnesses have directly implicated Noriega.

The chief witness, Ramon Milian-Rodriguez, told a Senate subcommittee in private testimony last month that Noriega negotiated a commission of up to 1.5 percent of all money transfers by the Colombian cartel through banks in Panama, the sources said.

Milian-Rodriguez, a Cuban-American who allegedly helped manage the cartel's finances and who is now serving 35 years for racketeering, testified under oath that he negotiated the commission arrangement with Noriega in 1979, they said.

Milian-Rodriguez, arrested in Fort Lauderdale in 1983, said that the Colombian traffickers have moved as much as $200 million a month through Panamanian banks—all subject to Noriega's commission, the sources said.

According to Milian-Rodriguez, Noriega offered government protection for the trafficker's money laundering and for cocaine-processing plants in Panama in exchange for commissions.

In 1983, Milian-Rodriguez reportedly testifed, Noriega began pressing the Colombians to increase his commission on money laundering transactions to 3 percent, the sources said. It was not clear whether the payments to Noriega were increased that steeply, they said.

Last year, Noriega, commander of the Panama Defense Forces, the nation's sole military and police organization, contended that U.S. press reports linking him to drug trafficking were part of a "dirty war" to prevent his country from taking over the Panama Canal in the year 2000 as scheduled.

Disclosure that Noriega is the target of the investigation comes only two months after Attorney General Edwin Meese III and other Justice Department officials praised Panamanian law enforcement officials for seizing millions of dollars of drug profits deposited in Panama banks by major Colombian drug traffickers.

The Senate passed a resolution of disapproval earlier this year against the administration's certification that Panama was making good faith efforts to halt drug traffic. Such certification is a step in the release of U.S. foreign aid funds to countries with a history of drug trafficking.

The Colombian cartel allegedly linked to Noriega is run by drug kingpins Jorge Ochoa and Pablo Escobar, and is suspected of supplying up to 75 percent of the cocaine sold in the U.S.

Last month, when a former deputy chief of staff accused Noriega of corruption, election fraud and complicity in a political assassination, demonstrations broke out across Panama.

Noriega later arrested former deputy, Col. Roberto Diaz Herrera. The government released a deposition Monday in which Diaz Herrera retracted his charges while under detention. His attorney, Alvin Weeden, later said the statement was made under duress.

Mr. D'AMATO. Mr. President, General Noriega's activities go well beyond drug trafficking. He has developed an elaborate process of selling Panamanian visas for huge personal gains. He has also been implicated in fixing election results and is accused of beheading Dr. Spadafora, an opposition leader. Most recently, Noriega raided the house of Colonel Diaz and arrested him; imposed censorship on radio and television stations; shut down three opposition newspapers; and, on Tuesday, Noriega's agents raided the headquarters of his opposition, the National Civic Crusade, and has ordered six opposition leaders arrested.

Despite this blatant attempts at intimidation, the opposition in Panama are expecting one of their biggest anti-Noriega rallies today.

The protests in Panama have been remarkably peaceful; only one student has died so far. Yet, reprisals have been severe. The human rights situation is rapidly deteriorating. Jails in Panama City are brimming over. The Panamanian Defense Forces are working overtime to intimidate, detain, and torture.

Regrettably, Noriega's tactics will only become more brutal.

No tactic too vile, no scheme too unscrupulous, and no reprisal is too severe for Noriega and his henchmen. By any standard, Noriega is a ruthless despot. The United States of America cannot be associated with him in any manner.

There is nothing Noriega and his henchmen can do about the eroding popular confidence in Panama's Government. It is the rapid decline of Panama's economy that, with a 14-percent unemployment rate and one of the highest per capita debts in the world, will dictate the downfall of military rule in Panama. Panama's banks are experiencing a run on their deposits. Noriega can use brutal force to keep the people in line, but he is powerless against the forces of economics.

Mr. President, this legislation is both timely and important. The Panamanian people closely watch the actions of our Government. By making aid to that nation conditional on true democracy, then we send a clear and unmistakable signal to all Panamanians that we stand with them, and with the cause of democracy.

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

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

S. 1614

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) unless the President certifies to Congress that—

(1) the Government of Panama has demonstrated substantial progress in the effort to assure civilian control of the armed forces and that the Panama Defense Forces and its leaders have been removed from nonmilitary activities and institutions;

(2) the Government of Panama has established an independent investigation into allegations of illegal actions by members of the Panama Defense Forces;

(3) a nonmilitary transitional government is in power; and

(4) freedom of the press and all other constitutional guarantees to the Panamanian people are restored;

then—

(A) no funds appropriated for United States assistance for fiscal year 1987 may be obligated, and no United States assistance may be furnished in any fiscal year thereafter, for Panama, and

(B) for purposes of subsection (a), the term "United States assistance" means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government to any foreign country, including—

(1) assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of such Act);

(2) sales, credits, and guaranties under the Arms Export Control Act;

(3) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

(4) other financing programs of the Commodity Credit Corporation for export sales of nonfood commodities;

(5) financing under the Export-Import Bank of 1954; and

(6) assistance provided by the Central Intelligence Agency or assistance provided by any other entity or component of the United States Government. If such assistance is carried out in connection with, or for purposes of conducting, intelligence or intelligence-related activities;

except that the term "United States assistance" does not include (A) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 insofar as such assistance is provided through private and voluntary organizations or other nongovernmental agencies, (B) assistance which involves the donations of food or medicine, (C) disaster relief assistance (including any assistance under chapter 9 of part N of the Foreign Assistance Act of 1961) (D) assistance for refugees, (E) assistance under the Inter-American Foundation Act, or (F) assistance necessary for the continued financing of education for Panamanians in the United States.

Mr. CRANSTON. Mr. President, I am pleased today to introduce, together with Senators D'AMATO, KENNEDY, HELMS, and KERRY, legislation to cut off all United States assistance to Panama until the Government of Panama is in the hands of a nonmilitary transitional authority. Under our bill, all United States aid would be barred until the President can certify that civil liberties have been restored in Panama, solid progress toward democracy is evident, and an independent investigation into allegations of illegal actions by members of the Panama Defense Forces is undertaken. I am also introducing legislation I have authored—which is also cosponsored by Senators D'AMATO, KENNEDY, and HELMS—which would suspend Panama's sugar quota until the same certification conditions are met.

The people of Panama are prepared to make sacrifices for democracy. They have demonstrated their determination, and I believe they want concrete evidence from Washington that the American people support their efforts.

This bill is a clear, unmistakable message of support to the Panamanian people. And it should be a clear signal to the venal, corrupt leadership of Panama's Defense Forces that we in the United States Congress will act against the oppression and the abuse of the Panamanian people. It is a message that we are siding with the Panamanian people and their right to free expression and free elections.

The legislation will not affect United States obligations under the Panama Canal treaties, despite General Noriega's attempts to convince the Panamanian people that we are trying to undermine the treaties and retain total control over the canal. As one of the leaders in the effort to get the Senate to ratify the Panama Canal treaties in 1978, I can assure the Panamanian people and the American people that that is simply not true.

For weeks now, the people of Panama have shown us that they want democracy despite General Noriega's ham-handed efforts to repress and discredit his opposition. In reaction to the strikes and demonstrations and the general unrest that have taken place in Panama, General Noriega has arrested members of the opposition, shut down La Prensa and two other opposition papers and imposed de factor censorship on radio and television news programs. He has sent his thugs against his opponents, against his fellow officers, against the Chamber of Commerce, against the American Embassy. The time has come to say "enough."

Mr. President, the current dictator in Panama is something right out of Conrad's "Heart of Darkness." Panamanians know this. White House and Congress agree on it. As evidenced by the extraordinary cosponsorship on these measures, liberals and conservatives in the Senate agree on it. Panamanians deserve democracy. They want it. They are ready for it. It is not for the United States to intervene. But we do want to send a strong signal. And the best signal is no business as usual with a truly vile dictator. Thus we in the Senate will get a vote as soon as possible to secure suspension of all aid, including even development assistance in the pipeline. We don't want Noriega's forces—who control these U.S. taxpayer dollars—to be able to exploit these funds in the weeks ahead.

I am also introducing legislation today which I intend to offer at an appropriate time as an amendment to the aid cut-off legislation. This measure would suspend all imports of sugar from Panama. At present, the Panamanian sugar quota is used to enrich the corrupt few who sit astride the Panamanian Government. We in the United States Senate want to make sure that these individuals understand that there will be no business as usual so long as Panama is ruled by a ruthless dictator.

Mr. President, I want to also indicate that the attempts by General Noriega's thugs to intimidate American diplomats in our embassy—especially personnel like Ambassador Davis and Deputy Chief of Mission Maisto—will not be tolerated. We are watching developments in Panama very closely. And we are prepared to take even stronger measures if the current despotism in Panama City continues.

Mr. HELMS. Mr. President, it is especially meaningful to me to join with Senator D'AMATO and others in introducing legislation on behalf of the people of Panama. I say that without any hesitation whatsoever because that is what it is. This proposal, as Senator D'AMATO has emphasized, would cut off military and economic aid to Panama until the President certifies the following: that there is civilian control over the Panama Defense Forces; that the Government of Panama has established an independent commission to investigate drug-related crimes by senior members of the military; that the Government of Panama has restored constitutional guarantees to its people, and that a nonmilitary transitional government is in power in Panama.

These are things, Mr. President, that the President must certify before military and economic aid to Panama can even be considered.

It is noteworthy that this proposal has attracted wide bipartisan support. At last count, in addition to Senator D'AMATO and this Senator from North Carolina, cosponsors included Senators CRANSTON, KERRY, DURENBERGER, MURKOWSKI, SYMMS, DECONCINI, KENNEDY, MCCAIN, and WILSON. There may be others, and I hope there will be.

I share the opinion expressed by the distinguished Senator from New York that it is regrettable that the Senate cannot vote on this matter today and thereby send an immediate message to Mr. Noriega in Panama.

I said at the outset, Mr. President, that this legislation is especially meaningful to me because for 10 years I have been pointing out as best I could the activities of members of the Panama Defense Forces that can be described only as criminal.

As early as February 1978, I stood in this Chamber and identified a list of names of high-ranking officials of the Panamanian Government who were then implicated in illegal dealings, primarily related to narcotics trafficking.

At the time we were debating the Panama Canal Treaty. I got out a copy of the CONGRESSIONAL RECORD of that time and I shall quote myself—I said:

> The American people will be justifably angered if it turns out that the Panamanian Government is controlled by international gangsters.

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Of course, I meant the gangsters in the Panamanian military.

In that statement on this floor in 1978, I presented evidence, including sworn statements and indictments, that the Panama Defense Forces were aiding, abetting and protecting the drug traffic in Panama.

Then, Mr. President, in October of 1979 in this Chamber, I advocated a prohibition on assistance to Panama. I recall saying that it was unthinkable to ask the American taxpayers to fund the "gangster leaders of Panama—men who have not held a free election in 15 years, men who have engaged in dope peddling, gunrunning, prostitution, and the skimming of profits from gambling enterprises for all that time."

Then almost 8 years later, to this day, I believe even more strongly than ever that the United States cannot and should not support, with either military or economic aid, that gang of thugs in Panama who have seized control from the Panamanian people. I have been long convinced that we must have strong solidarity with the people of Panama in this time of crisis.

Just this week, Mr. President, the Los Angeles Times revealed that Gen. Manuel Antonio Noriega, commander-in-chief of the Panama defense forces, is the focus of a major Federal drug conspiracy investigation.

I wish I could go into some of the classified information that has been made available to me in a series of hearings on Panama and on narcotics, but I cannot and will not. In any case, the revelation by the Los Angeles paper should not come as a great surprise to those of us who have watched Panama closely for a dozen years or more.

Unfortunately, drug trafficking is not the only problem confronting the Panamanian people. For more than 2 months now, the people of Panama have been fighting actively to overthrow General Noriega and his cronies. The people of Panama are accusing Noriega and other members of the Panama defense forces of complicity in murder—such as the Hugo Spadafora case in which a distinguished citizen was beheaded and his body dumped over the border; complicity in election fraud, complicity in money laundering, complicity in illegal business deals, and complicity in repressive measures against the people of Panama. Not surprisingly, the people of Panama have had enough of this corrupt dictatorship.

It is obvious, Mr. President, that the situation in Panama is deteriorating daily. Just yesterday the Government issued a warrant for the arrest of the six major leaders of the opposition Civic Crusade. All six have had to go underground. Of course, this is an obvious attempt to intimidate General Noriega's opposition on the eve of a well-organized rally, at which time protests against General Noriega and his cronies would have been emphasized once more.

The government, that is to say, the Noriega regime, restated that a decree was still in effect banning all rallies and all gatherings of people.

Nevertheless, the pro-Noriega forces, meanwhile, are holding rallies virtually every day promoting General Noriega and his regime.

There is no official state of siege in effect in Panama, but all the elements of such a state of siege are in place. All opposition newspapers and radio stations are closed. Even the Noriega-controlled television stations are under strict censorship regulations.

Col. Diaz Herrera, Noriega's former second in command, was arrested violently and jailed for speaking out against General Noriega. Nobody knows what fate awaits Col. Dave Herrera.

Mr. President, I am in regular contact with Panamanians from almost every sector, as has been the case for a long time. The Panamanian people are aware, I believe and certainly hope, that I am their friend. They are pleading, often through me, for the United States to help them by making it clear that the United States will not support General Noriega in any way. This Senator certainly will not share responsibility for propping up General Noriega's brutal dictatorship, nor will I share the responsibility for delaying an expression by the U.S. Senate in this regard. It is time for the Senate to go on record and say to those Panamanians who yearn for freedom that we stand with them.

I do hope, Mr. President, that, somehow, the legislation sponsored by Senator D'AMATO and me and others can be voted on tomorrow, if not this evening. However, I am convinced that the United States must cut off all aid to Panama until a civilian and democratic transitional government is in power.

By Mr. SIMON:

S. 1616. A bill to amend title XVIII of the Social Security Act and the Internal Revenue Code of 1986 to provide long-term home care benefits under the Medicare Program for chronically ill individuals and children, to provide quality assurance for home care services, and for other purposes; to the Committee on Finance.

MEDICARE LONG-TERM HOME CARE FAMILY PROTECTION ACT

● Mr. SIMON. Mr. President, I rise today to introduce legislation sponsored by our distinguished colleague and respected advocate of the Nation's elderly and their families, Representative CLAUDE PEPPER.

This legislation addresses what we believe is one of the true catastrophic needs facing our Nation's families—long-term care.

A common misconception is that large numbers of older Americans live in nursing homes. In fact, 1.3 million Americans—fewer than 5 percent of those over age 65—live there. Among the 95 percent who do not, 1 in 5 needs help performing at least one daily activity—dressing, bathing, walking, shopping. After age 85, at least 1 in 3 Americans needs help with the basic tasks of daily living.

Older Americans and their families spent $3.5 billion in 1984 for visiting aides, therapists and housekeepers—more than twice the $1.7 billion spent in personal outlays for hospital care. Eighty percent of catastrophic health care expenses are for long-term care provided outside of hospitals. More than 85 percent of Americans are uninsured or under-insured for long-term care.

Although most Americans do not realize it, Medicare has extremely limited coverage for long-term care. Not only are the benefits themselves limited, but recent trends indicate a tremendous denial rate for benefits. Before Medicaid can help, individuals or couples must exhaust their own resources, becoming poor enough to qualify by spending down their income, savings and other assets. Long-term care usually saps the life savings of even the thriftiest middle and lower income families with brutal speed and forces countless seniors to close out their lives as paupers.

Harvard Law School researchers, studying the issue of long-term care in nursing homes, found in 1985 that nursing home costs would bankrupt 46 percent of a sample of single 75-year-olds in Massachusetts in just 13 weeks. By the end of a year in a nursing home, 72 percent would have nothing left.

Of married Alzheimer's patients getting care at home, 47 percent are impoverished within the first year. And millions of seniors with crippling arthritis or other chronic conditions requiring long-term care at home get no protection. Simply stated, the costs of long-term care at home are beyond the reach of the typical working or retired household.

In a typical case, a Jackson, MS couple went through $49,000 in savings during the husband's 7 years of illness, including seven strokes and a heart attack. He died 5 weeks after entering a nursing home and his wife was left penniless. She had to sell his gardening tools and a small tractor to pay for his $1,600 funeral. Caring for chronically ill or disabled working age adults or children presents similarly impossible burdens on countless families.

Let us be honest with the American people about the catastrophic legislation pending Senate action. It is a much needed and necessary step. But

it simply will not provide the services most needed. We must continue our efforts in this area.

The Long-Term Home Care Family Protection Act tackles this huge unmet need by offering a new, self-financing, "Long-Term Home Care" benefit under part A of the Medicare Program to aid chronically ill seniors and disabled adults and children, while also relieving severe financial burdens on their families.

The Long-Term Home Care Family Protection Act defends families against the catastrophic costs of chronic illness for seniors, working-age Americans and children needing home care. The plan recognizes that long-term catastrophic home care costs are not simply a problem for the elderly but also for millions of young families crushed by debt in caring for parents or other family members. Home care assistance would be available under the act only when prescribed as essential by a physician and would be closely monitored and managed to assure efficiency and cost effectiveness. Such care could include:

Nursing care; homemaker/home health aide services; personal therapy/rehabilitation; physical therapy/rehabilitation; speech therapy/rehabilitation; respiratory therapy/rehabilitation; medical social services; personal care services; patient and family education and training; medical supplies and durable medical equipment.

Help would also be available to chronically ill seniors, disabled persons and children who have been certified by a doctor to require significant assistance with normal activities (eating, bathing, dressing, home mobility and toileting). Children dependent upon medical equipment would also be eligible for long-term home care.

Many of those eligible would need costly nursing home or hospital care in the absence of proper home health care. Examples of individuals who should benefit: Frail elderly persons with advanced Alzheimer's disease or Parkinson's disease, children born with chronic lung ailments, stroke victims, working-age Americans left paralyzed by accident, injury or disease, children and older Americans with long-term, debilitating cancer.

The strong quality assurance components of the Long-Term Home Care Family Protection Act include mandatory training and regular review of caregivers, a home care consumer bill of rights, community review boards and effective enforcement mechanisms to ensure compliance with quality of care standards.

Costs would be tightly controlled by holding monthly payments to 75 percent of the monthly Medicaid rate for skilled nursing facility services. Payments for children needing medical technology could not exceed the cost of providing similar services in a hospital or nursing home. Numerous national and State studies have shown the value of providing case-managed home and community-based care services that cost a fraction of the cost of institutional care.

The Long-Term Home Care Family Protection Act is fully self-financed. The new home care benefit would be completely financed by eliminating the cap ($45,000 in 1988) on income subject to the Medicare payroll tax of 1.45 percent. This change would affect only those 5 percent of workers who earn more than $45,000 in individual income (not family income). The change would generate approximately $6 billion each year over 5 years. The bill specifically prohibits use of any general revenue funds or other Medicare trust fund moneys to pay for long-term home care.

This legislation is a start toward a health care system that recognizes functional impairment, not just medical illness. It is a bill that recognizes the mental and social well-being of the person, as well as the family.

I am proud to be a part of it and I urge the support of my colleagues in this positive endeavor.●

By Mr. WALLOP (for himself, Mr. BAUCUS, Mr. DANFORTH, Mr. MOYNIHAN, Mr. CHAFEE, Mr. ROTH, Mr. PRYOR, Mr. BOREN, Mr. HEINZ, Mr. DURENBERGER, Mr. ARMSTRONG, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. SYMMS, Mr. COCHRAN, Mr. MCCAIN, Mr. WILSON, Mr. GRASSLEY, Mr. ADAMS, and Mr. GLENN):

S. 1617. A bill to amend the Internal Revenue Code of 1986 with respect to the allocation of research and experimental expenditures; to the Committee on Finance.

ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES

● Mr. WALLOP. Mr. President, to achieve greater economic competitiveness we must foster, not impede, U.S. investment in research and development. We must expand, not export, our technological base. With these goals in mind, Mr. BAUCUS, Mr. DANFORTH, and I are introducing legislation today which we are confident will permanently resolve the longstanding controversy surrounding suspended Treasury regulation section 1.861-8, which requires U.S. companies with foreign operations to allocate a percentage of their domestic research and development expenses to income earned abroad.

We are joined in this effort by a majority of our Finance Committee colleagues: Mr. MOYNIHAN, Mr. CHAFEE, Mr. ROTH, Mr. PRYOR, Mr. BOREN, Mr. HEINZ, Mr. DURENBERGER, Mr. ARMSTRONG, Mr. RIEGLE, AND Mr. ROCKEFELLER. We are also pleased to have Mr. SYMMS, Mr. COCHRAN, Mr. MCCAIN, Mr. WILSON, Mr. GRASSLEY, Mr. ADAMS, and Mr. GLENN join us as original cosponsors of this bill.

Mr. President, I have argued for many years that this regulation acts as a penalty on U.S. firms conducting research and development activities in the United States by effectively denying them a full deduction for domestic R&D expenses. No other industrialized nation imposes this penalty on R&D. On the contrary, other nations offer significant incentives for R&D. Section 1.861-8 provides firms with an incentive to move R&D overseas at a time when our drive for increased competitiveness demands that we do all we can to encourage domestic R&D initiatives.

Congress has long recognized the potentially harmful effect of section 1.861-8 on the economy. Until now, however, we have been unable to reach a consensus on the best long-term solution to the problem. As a result, we have repeatedly imposed temporary moratoria on implementation of the regulation. Most recently, a partial moratorium was included in the Tax Reform Act of 1986. That measure expired on July 31, 1987, and so we must once again take action on this issue.

Personally, I favor total elimination of the regulation. Together with Mr. BAUCUS and Mr. DANFORTH, I introduced legislation in March of this year which would do exactly that. In the interest of reaching a permanent solution to this difficult issue, and in recognition of severe fiscal constraints, we entered into compromise discussions with the Treasury Department beginning in late March of this year.

The bill I am introducing today embodies the agreement we reached through extensive negotiations with Treasury Department officials and other interested Members of Congress. I believe the agreement strikes an appropriate balance between our urgent need to maintain and expand our R&D infrastructure and the revenue constraints we are facing.

This compromise agreement is similar to the partial moratorium agreed to during tax reform. There are, however, several differences. First, the amount of U.S. R&D expenses companies may allocate exclusively to U.S. income has been increased from 50 to 67 percent. Second, companies will be forced to report on a consolidated basis rather than a company-by-company basis. This restricts the ability of companies to avoid the impact of the regulation through tax planning. The most significant aspect of the agreement, however, is that it is permanent. The stop-gap measures we have relied on until now have made it difficult for U.S. firms to implement long-range R&D plans.

Mr. President, this compromise enjoys bipartisan support in this Chamber, as reflected by the list of my Senate colleagues that are cosponsors of this legislation. The compromise also has the backing of the administration and strong support in the House, where similar legislation will be introduced by Mr. ANTHONY and Mr. FRENZEL.

I am, of course, delighted that so many of my colleagues have helped us reach this compromise. Unfortunately, reaching the compromise is only the beginning. We now must redouble our efforts to see that the compromise is enacted into law. I therefore urge my colleagues to work for passage of this legislation, and to thereby send a strong message to American firms that they may now rely upon stable and supportive public policy in the R&D field.

I wish to commend the Treasury Department officials involved in this issue for their cooperation in reaching this responsible and effective compromise agreement. I look forward to continuing to work with them to see that our agreement is properly enacted into law.

I now ask unanimous consent that the text of this legislation be printed in the RECORD.

I also ask unanimous consent that the statement of Senator BAUCUS appear in the RECORD immediately following the text of the bill.

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

S. 1617

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

SECTION 1. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) RULES FOR ALLOCATING RESEARCH AND EXPERIMENTAL EXPENDITURES.—Section 864 of the Internal Revenue Code of 1986 is amended by inserting at the end thereof the following new subsection:

"(f) ALLOCATION OF QUALIFIED RESEARCH AND EXPERIMENTAL EXPENDITURES.—

"(1) IN GENERAL.—For purposes of sections 861(b), 862(b), and 863(b)—

"(A) 67 percent of qualified research and experimental expenditures (other than expenditures to which paragraph (2) applies) shall be allocated and apportioned to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States; and

"(B) the remaining portion of such qualified research and experimental expenditures shall be apportioned, at the annual election of the taxpayer, on the basis of gross sales or gross income.

For purposes of subparagraph (B), no limitation related to apportionment on the basis of gross sales (or otherwise) shall be imposed on apportionment on the basis of gross income.

"(2) SPECIAL RULE FOR CERTAIN EXPENDITURES REQUIRED BY GOVERNMENTAL ENTITY.—

"(A) IN GENERAL.—In the case of any qualified research and experimental expenditures which—

"(i) are paid or incurred solely to meet legal requirements imposed by a governmental entity within or without the United States with respect to the improvement or marketing of specific products or processes, and

"(ii) are not reasonably expected to generate income (other than de minimis amounts) outside the jurisdiction of such governmental entity,

paragraph (1) shall not apply and such expenditures shall be apportioned to income from sources within or without the United States on the basis of where such governmental entity is located.

"(B) GOVERNMENTAL ENTITY.—For purposes of this paragraph, the term 'governmental entity' means—

"(i) the government of the United States, any State, or any foreign government, or political subdivision thereof, or

"(ii) any instrumentality of an entity described in clause (i).

"(3) AFFILIATED GROUP.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in determining the taxable income of each member of an affiliated group (as defined in subsection (e)(5)) from sources within and without the United States, qualified research and experimental expenditures shall be allocated and apportioned under paragraph (1) as if all members of such group were a single corporation.

"(B) SPECIAL RULES FOR TREATMENT OF INCOME FROM POSSESSIONS.—

"(i) IN GENERAL.—For purposes of the allocation and apportionment required by paragraph (1), there shall not be taken into account—

"(I) sales by an electing corporation (within the meaning of section 936(h)(5)(E)) (or gross income attributable thereto) from products produced in whole or in part in a possession and with respect to which an election is in effect under section 936(h)(5)(F); and

"(II) dividends from an electing corporation attributable to sales described in subclause (I).

"(ii) EXPENDITURES USED FOR COMPUTING COST-SHARING AMOUNT.—The qualified research and experimental expenditures taken into account for purposes of paragraph (1) shall be adjusted to reflect the amount of such expenditures included in computing the cost-sharing amount (determined under section 936(h)(5)(C)(i)(I)).

"(iii) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this subparagraph, including regulations providing for the source of gross income and the allocation and apportionment of deductions to take into account the adjustments required by clause (ii).

"(4) QUALIFIED RESEARCH AND EXPERIMENTAL EXPENDITURES.—For purposes of this section, the term 'qualified research and experimental expenditures' means amounts—

"(A) which are research and experimental expenditures within the meaning of section 174, and

"(B) which are attributable to activities conducted in the United States.

For purposes of this paragraph, rules similar to the rules of subsection (c) of section 174 shall apply."

(b) CONFORMING AMENDMENTS.—

(1) Sections 861 and 863 of the Internal Revenue Code of 1986 are each amended by adding at the end thereof the following new subsection:

"(f) CROSS REFERENCE.—

"For the allocation and apportionment of qualified research and experimental expenditures, see section 864(f)."

(2) Section 862(c) of such Code is amended by inserting "(1)" before "For" and by adding at the end thereof the following new paragraph:

"(2) For the allocation and apportionment of qualified research and experimental expenditures, see section 864(f)."

(3) Section 864(e)(6) of such Code is amended by inserting "and qualified research and experimental expenditures (within the meaning of subsection (f)(4))" after "interest".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after August 1, 1987.●

● Mr. BAUCUS. Mr. President, I am pleased to join with Senator WALLOP in introducing legislation which will finally resolve the longstanding controversy over the proper allocation of domestic research and development expenses under section 1.861-8 of the Tax Code.

The bill we are introducing today is the product of extensive negotiations between interested Members of Congress and Treasury Department officials. It represents strong efforts by those on both sides of the issue to reach a responsible compromise agreement which recognizes the need to enhance our economic competitiveness while remaining within legitimate fiscal constraints.

The controversial tax provision which this legislation seeks to modify requires U.S. companies with foreign operations to allocate a portion of their domestic R&D expenses to their foreign income. While the technical details of this provision are somewhat complex, the practical impact of its application is simple: Companies would be penalized for conducting research here in the United States, providing them with an incentive to move their R&D overseas.

Section 1.861-8 therefore does exactly the opposite of what we need to be doing to maintain our technological leadership in the international marketplace, and threatens to offset whatever advances we made in improving our economic competitiveness.

Rather than removing the provisions entirely, which would be an ideal solution, the compromise legislation we are introducing establishes a formula which will significantly reduce the impact of the regulation on the R&D operations of American companies, by requiring them to allocate a smaller percentage of their domestic R&D expenses to foreign source income than would be required under the original regulation.

This compromise is similar in many ways to the temporary compromise which took effect with the Tax Reform Act of 1986, but which expired on August 1 of this year. The most significant difference is that the compromise we are proposing would be per-

manent. Our bill would put an end to the unacceptable pattern that has developed of dealing with this issue on a year-by-year basis.

The year-by-year approach not only consumes an inordinate amount of time in Congress, but also sends the wrong message to the R&D community. If we are to encourage R&D planners to make the long-term commitment of resources which is so essential to successful research, we must be willing to provide the stable and supportive tax treatment of R&D expenses which is critical to R&D planning.

Mr. President, I see passage of this compromise legislation as a first step in providing coherent and stable public policy in the R&D field. Moreover, I believe boosting research and development is one of the most crucial tasks we must undertake to improve our competitive position among the industrialized nations. Therefore, although enacting this permanent solution to the section 1.861-8 controversy is but one of the many steps we must take to realize our goals, it is a very important step.

This legislation enjoys widespread support in this Chamber, in the House, and in the administration. I urge my colleagues to take advantage of the momentum that the compromise has generated and to work with us for quick passage of this bill.

I would like to commend Senator WALLOP, in particular, for his consistent leadership on this issue. I look forward to working with him to see that the compromise is enacted into law, and thereby providing a permanent research allocation rule that promotes America's international competitiveness.●

By Mr. LAUTENBERG:

S. 1618. A bill to amend the Airport and Airway Improvement Act of 1982, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS

● Mr. LAUTENBERG. Mr. President, I rise today to introduce a bill of great importance to southern New Jersey.

This legislation, which would amend the Airport and Airway Improvement Act of 1982, would break a political stalemate in south Jersey, and set the region on a path to significant economic growth. I am pleased to note that my distinguished and able colleague from New Jersey, Congressman BILL HUGHES, is today introducing the House companion to this bill.

The intent of this legislation is simple: To get the long process of planning, designing and constructing an enhanced, expanded regional airport in south Jersey off the ground.

Currently, the Atlantic City International Airport is an underutilized facility, located on 5,000 acres in an area of untapped potential. For some time now, there have been discussions and tentative plans to expand the airport into a modern facility capable of supporting significant commercial service. Those plans, however, have been stalemated while the city of Atlantic City and Atlantic County have been unable to work out a plan for managing the airport.

This legislation would break that stalemate. It would withhold fiscal year 1988 Federal funds, except those which are safety related, from the airport until such time as a regional authority is created to manage the airport. The pubic authority would have representation from Atlantic City, Atlantic County, the municipalities impacted by the airport, and other appropriate parties.

A developed airport will be a regional facility. It should be governed by the regional authority. This legislation would ensure that this takes place.

Mr. President, there is considerable basis for Federal action at this point. The majority of the property to be used is federally owned. The airport is on the grounds of the FAA's technical center, the Nations premiere aviation research facility. The Federal Government has a major stake in the future of the airport, and has a right to see that an authority is in place that will manage the airport, and manage the millions of dollars of Federal funds that are likely to flow to the facility in the years to come.

Mr. President, this morning Congressman HUGHES and I were in south Jersey, and flew over the airport. What we saw there was tremendous potential, waiting to be tapped. Adoption of this legislation would lay the groundwork to see this potential realized. I urge my colleagues to support the measure.

Mr. President, I ask unanimous consent that the text of this bill be included in the RECORD. I also ask unanimous consent that the text of editorials supporting a regional authority be included in the RECORD.

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

S. 1618

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Airport and Airway Improvement Act of 1982 (Title V of Public 97-248, 96 Stat. 677), as amended, is amended by adding at the end thereof the following new section:

"Sec. 530. Atlantic City Airport.

"(a) LIMITATION ON FUNDING OR TRANSFER OF PROPERTY.—

"Notwithstanding any other provision of law, with regard to the Atlantic City Airport, at Pomona, New Jersey, the Federal Aviation Administration shall not convey any interest in property (pursuant to section 516 of this title) to any municipality or any other entity operating such airport, nor shall any funds authorized by this Act be available to such municipality or entity for any planning, study, design, engineering, or construction of a runway extension, new runway, new passenger terminal, or improvements to or expansion of the existing passenger terminal at such Airport, until such time as:

"(1) the Master Plan Update for Atlantic City Airport and Bader Field, prepared pursuant to Federal Aviation Administration Contract FA-EA-2656, is completed and released; and

"(2) the Administrator of the Federal Aviation Administration finds that a public entity has been created to operate and manage the Atlantic City Airport, which entity has the following characteristics:

"(A) the authority to enter into contracts and other agreements, including contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States;

"(B) the standing to sue and be sued in its own name;

"(C) the authority to hire and dismiss officers and employees;

"(D) the power to adopt, amend and repeal bylaws, rules, regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised;

"(E) the authority to acquire, in its own name, an interest in such real or personal property as is necessary or appropriate for the operation and maintenance of the Airport;

"(F) the power to acquire property by the exercise of the right of eminent domain;

"(G) the power to borrow money by issuing marketable obligations, or such other means as is permissible for public authorities under the laws of the State of New Jersey;

"(H) adequate financial resources to carry out all activities which are ordinarily necessary and appropriate to operate and maintain an Airport;

"(I) a governing board which includes (but need not be limited to) voting representatives of the City of Atlantic City, the County of Atlantic, and the municipalities which are adjacent to or are directly impacted by the Airport;

"(J) a charter which includes (i) a requirement that members of the governing board have expertise in transportation, finance, law, public administration, aviation, or such other qualifications as would be appropriate to oversee the management, planning and operation of an airport; and (ii) procedures which protect the research and development mission of the Federal Aviation Technical Center at Pomona, New Jersey, and the defense functions of the Air National Guard; and

"(K) the authority to carry out comprehensive transportation planning to minimize traffic congestion and facilitate access to and from the Airport.

"(b) SAFETY FUNDS NOT SUBJECT TO LIMITATION.—

"The limitation on funds set forth in subsection (a) shall not apply to any expenditure which the Administrator of the Federal Aviation Administration determines is needed for safety purposes.

"(c) EFFECTIVE DATE.—

"The restriction set forth in subsection (a) shall be applicable only to funds which are authorized for the fiscal year beginning October 1, 1987, Notwithstanding any other provision of law, the funds restricted under subsection (a) shall become available at such time as the conditions set forth in subsection (a) are satisfied."

[From the Philadelphia Inquirer, July 20, 1987]

GET AIRPORT OFF THE GROUND

Until recently, Newark International Airport led the nation in the number of delays incurred by commercial aircraft. (A federally imposed schedule reorganization has alleviated the problem for the time being.) Philadelphia International Airport also ranks high on the list of the nation's overloaded air terminals, and delays there are frequent as well.

Late planes are not the only problem caused by the crowded conditions, however. The potential for major accidents increases as well.

Expansion of the Philadelphia and Newark airports is next to impossible. They don't have the land needed to grow. Unless there is some relief, however, delays will rise dramatically by the mid-1990s, according to the Federal Aviation Administration. The region needs another major airport. But where? Ideally, it should be located in an area accessible to large populations. Realistically, it can't be too near neighborhoods because of the noise and traffic. Pragmatically, it would have to be on a large tract of land, preferably one already used as an airport to keep costs under control.

South Jersey officials believe they've got the spot right in their backyard. The Atlantic City International Airport, located 12 miles west of the city in Egg Harbor Township, boasts the following: Spacious runways, including one long enough to handle a landing by the Concorde or the spaceshuttle; a 5,000-acre tract of undeveloped land surrounding the runways; easy access to highways; a location only an hour from Philadelphia.

At present, Atlantic City owns 83 acres there as well as the present terminal, which serves charter and freight flights. The FAA owns the remainder of the land and the runways, which it uses for flight testing. Those activities wouldn't be affected by major commercial development at the site, according to the agency. Atlantic County officials and others want the jetport there, believing it would boost casino business—most of which now arrives by car or bus—and help attract other business.

Atlantic City officials, however, have been unwilling to relinquish control over the airport, maintaining that the city can operate an expanded facility just as well or better than a regional authority. A recent report, prepared by the New Jersey Department of Transportation for Gov. Kean, finds differently. It recommends that the state operate the airport until a regional authority can take over.

The city's position is not a realistic one. It has done a poor job of providing adequate services within its own borders and has compiled a less than impressive management record. The new airport would serve the region, and therefore it ought to be managed by a regional agency.

Gov. Kean, who to-date has kept out of this jurisdictional dispute, ought to step in and help resolve it promptly. Delay now only ensures many more delays in the future.

[From the Atlantic City Press, May 13, 1987]

THE TIME AND PLACE

Atlantic City's municipal politicians have made themselves obsolete. That's the message in a four-part series by associate editorial page editor Michael Pollock on the changing power structure in Atlantic County.

By refusing to tackle tough problems, either from fear that some voters might be alienated or from sheer incompetence, local politicians forfeited the right to solve those problems. The tough tasks in Atlantic City—redevelopment, housing, transportation, convention facilities—are being solved by capable technocrats on independent authorities.

It is a welcome trend. Authorities have drawbacks, but they do attack problems, with money and expertise. The solutions probably won't please everyone, but there will at least be solutions.

Properly created, authorities are effective vehicles of change. They are goal-oriented, with a limited agenda. Success in achieving goals is measurable.

Local politicians have lost the initiative and the power to implement solutions to many of the problems facing the resort. But they haven't lost the ability to block the solutions being advanced by various authorities.

The powers left to Atlantic City government are primarily negative powers, the power to insert vetoes or delays over proposals. And there is, among most politicians, fear of success by others. They have an interest in making sure no one succeeds where they have failed. But exercising their veto powers out of such petty spitefulness may be a quick way to commit political suicide; who needs a government structure that exists only to stop other agencies from solving problems?

The trend to use authorities to solve specific problems is a welcome one, and one that should continue. The next specific problem is the city's airport in Pomona, which is going nowhere under the city's auspices. City officials, in fact, have a plan for building a new terminal that calls for "waiting" until 1998 or 1999.

Once again, the city isn't interested in solving a problem. An authority should now get the job. Once again, city politicians will watch as an authority goes around them and leaves them choking on the dust of their ineffectiveness.

There is a time and a place for authorities. Clearly, Atlantic City is the place and this is the time.

[From the Atlantic City Press, June 14, 1987]

AIRPORT DESERVES A UNITED EFFORT

Atlantic City isn't the easiest place to get to. Sure, 30 million people make it every year, almost all of them coming by bus or car. But what's missing is regular airline service aside from limited commuter flights.

Ever since the first casino opened in 1978, the city administrations of Mayors Joseph Lazarow, Michael Matthews and James Usry have talked about bringing regularly scheduled service into Atlantic City International Airport in Egg Harbor Township. Their efforts have been futile, but Usry and his administration still resist any attempt to take control of the airport away from the city.

An air traveler from anywhere outside the nation's Northeast corridor still has to come by way of Philadelphia, Newark or Washington.

Everyone involved acknowledges that good airline service is a must if Atlantic City is to continue its economic health. Yet, like virtually everything else, politics and fighting over turf have dominated the issue and blocked progress.

Every hint of progress seems like a major step, and one emerged last week. The Press learned that the New Jersey Department of Transportation will recommend to Gov. Thomas H. Kean that state government take over development of the airport. That puts Kean in a tough spot politically. He is close to both Usry and state Sen. William Gormley, who has pushed for control by the state or a regional authority.

Yet, considering the city's failure to move ahead, the governor's choice should be obvious.

Kean recognizes the importance of the airport to the entire state and has discussed development of it in recent months with both Gormley and Usry. He said in an Atlantic City appearance more than a year ago that development of the airport "is not moving the way I'd like to see it move." There's certainly been nothing since then to make him happy about the situation.

A $200,000 study to develop an airport master plan has been under way for months under joint sponsorship of Atlantic City, Atlantic County and the Federal Aviation Administration. There's a possibility that it will recommend continued control by the city, but the arguments against it appear overwhelmingly strong.

Usry's major objection to giving up control is that the city would lose a revenue producer. It's questionable whether the airport itself would make money for the city, no matter how it's run. But the city would gain revenue from an increase in visitors, not just those going to casinos but those attending conventions that now shy away from the city because of difficult air travel

The economic impact of the airport goes beyond Atlantic City, and its future should not be hindered by parochial viewpoints such as those now being expressed in City Hall.

If the state does take over the airport, as the Department of Transportation has recommended, it should not be looked upon as either a defeat for Usry or a victory for Gormley. It would be an attempt to get moving on a vital ingredient in Atlantic City's rebirth after nearly a decade of inaction.●

By Mr. KENNEDY (for himself and Mr. KASTEN):

S. 1619. A bill to amend the copyright law to secure the rights of authors of pictorial, graphic, or sculptural works to prevent the distortion, mutilation, or other alteration of such works, to provide for resale royalties, and for other purposes; to the Committee on the Judiciary.

VISUAL ARTISTS RIGHTS ACT

Mr. KENNEDY. Mr. President, today I am pleased to reintroduce the visual artists rights amendment. I first sponsored this legislation to improve copyright protections for visual artists last fall. In November the Subcommittee on Copyrights, Patents, and Trademarks held a field hearing in New York City to receive testimony on the bill.

Witnesses at that hearing offered compelling testimony substantiating the need for this legislation. We heard from artists, art historians, art lawyers, art dealers as well as service organizations representing thousands of

visual artists, including the AFL-CIO, Artists Equity, New York Artists Equity, New York Volunteers for the Arts, Graphic Artists Guild, Society of Illustrators and the Society of Magazine Photographers.

The issues addressed in the visual arts legislation are not new. Artists have waited too long for the Congress to respond to their legitimate aesthetic and economic needs and interests.

The visual arts bill addresses three major sources of concern for artists: copyright notice, moral rights and resale royalties.

The bill provides full copyright protection to all works of fine art without any requirement that a copyright notice be affixed to the work. Elimination of the notice requirement will guarantee artists the copyright protection they need; it will deter violators; and it will encourage artists to register their works more frequently.

The second component of the legislation recognizes the so-called moral rights of artists which include the right to be recognized as the creator of a work of art, and the right to prevent unauthorized alteration, destruction on mutilation of the art at the hand of future owners. Those who take such actions against works of art would be subject to full civil penalties available under copyright laws.

The bill also addresses the economic exploitation of art and permits artists to share in the commercial value of their work; other artists in the performing and literary arts benefit from such increasing value. The bill would provide visual artists with a royalty payment when their works are resold.

Although many other countries around the world guarantee these basic rights, the United States has been slow to embrace them. It is time for Congress to begin this debate and acknowledge America's responsibility to its creative artists.

In our country, as in every other country and civilization, artists are the recorders, and preservers of the national spirit. The creative arts are an expression of the character of the Nation—they mirror its accomplishments, warn of its failings, and anticipate its future.

This legislation will be a test of the value we as a nation place on the arts. With its passage, our laws will more faithfully reflect our commitment to the creative arts as an essential part of our heritage.

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. 1619

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Visual Artists Rights Act of 1987".

SEC. 2. Section 101 of title 17, United States Code, is amended by—

(1) inserting between the paragraph defining "pictorial works" and the paragraph defining "pseudonymous work", the following:

" 'Price' as used herein, is the aggregate of all installments paid in cash or in-kind for a work.";

(2) inserting between the paragraph defining "publicly" and the paragraph defining "sound recordings", the following:

" 'Sale' and 'resale' as used herein, shall include transactions essentially equivalent to a sale including long-term lease, lease-purchase arrangements, and the like."; and

(3) inserting between the paragraph defining "widow" and "widower" and the paragraph defining "work of the United States Government", the following:

"A 'work of fine art' is a pictorial, graphic or sculptural work of recognized stature. In determining whether a work is of recognized stature, a court or other trier of fact may take into account the opinions of artists, art dealers, collectors of fine art, curators of art museums, restorers and conservators of fine art, and other persons involved with the creation, appreciation, history, or marketing of fine art. Evidence of commercial exploitation of a work as a whole or of particular copies, does not preclude a finding that the work is a work of fine art.".

SEC. 3. Section 106 of title 17, United States Code, is amended by adding "(a)" before "Subject" at the beginning of the section and adding at the end thereof the following:

"(b)(1) Independent of the copyright owner's exclusive right provided in subsection (a), the author of a pictorial, graphic, or sculptural work of fine art, whether or not he is the copyright owner, shall have the right during his life to claim authorship of any of his works which are publicly displayed or to disclaim authorship of any of his works which are publicly displayed because of any distortion, mutilation, or other alteration thereof.

"(2) Upon the death of an author, his estate shall have the exclusive right, up to 50 years after his death, to exercise the rights granted to the author in paragraph (1) of this subsection.

"(c)(1) Subject to the limitation in section 113(d), the significant or substantial distortion, mutilation, or other alteration to a pictorial, graphic, or sculptural work, which is publicly displayed, caused by an intentional act or by gross negligence is a violation of the exclusive rights of the copyright owner where the author of the work is the copyright owner. Where the author is not the copyright owner, he shall still have the exclusive right during his lifetime, and the estate of such author shall have the exclusive right for up to 50 years after the death of such author, to assert infringement of the copyright, as described in this subsection.

"(2) Subject to the limitations in section 113(d), the destruction, by an intentional act or gross negligence, of a work of fine art is a violation of the exclusive rights of the author of the work. Where the author is not the copyright owner he shall still have the exclusive right during his lifetime, and the estate of such author shall have the exclusive right for up to 50 years after the death of such author, to assert infringement of the copyright, as described in this subsection.

"(d)(1) Whenever a pictorial, graphic, or sculptural work is sold, the seller shall pay a royalty to the author. Where the author is deceased at the time of the sale, and the sale occurs within fifty years after the death of the author, such royalty shall be paid to the estate of the author. Such royalty shall be equal to 7 percent of the difference between the seller's purchase price and the amount the seller receives in exchange for the work. The right of the author to receive this royalty may not be waived. An author may assign the right to collect this royalty payment, provided however, such assignment shall not have the effect of creating a waiver prohibited by this subsection. Failure of a seller to pay the author a royalty due under this section shall constitute an infringement of the copyright.

"(2) Paragraph (1) shall not apply to the following:

"(A) The resale of a work for a gross sales price of less than $1,000, or in exchange for property with a fair market value of less than $1,000.

"(B) The resale of a work where the seller receives less than 150 percent of the purchase price paid by the purchaser.

"(C) Any author who has not registered as an author with the Copyright Office prior to that resale.

"(e) The Register of Copyrights is directed to establish registration procedures, for subsection (d)(2)(C), by regulation.

"(f) All sales or other transfers of pictorial, graphic, or sculptural works by registered authors for which a royalty is due must be registered by the seller or transferor with the Copyright Office. The Register of Copyrights is directed to establish such registration procedures by regulation. Such registration may be limited to the name of the artist, the title of the work, name and address of the seller, the date of sale, and the fair market value of any property received in exchange for the work.

"(g) Failure of a transferor or a seller of a pictorial, graphic, or sculptural work by a registered author to register such transfer or sale with the Copyright Office within 90 days shall constitute an infringement of copyright and shall subject the seller to a penalty equal to treble the amount of the royalty owed.".

SEC. 4. Section 113 of title 17, United States Code, is amended by adding at the end thereof the following:

"(d)(1) If a pictorial, graphic, or sculptural work of fine art cannot be removed from a building without distortion, mutilation, or other alteration of such work, the author's rights under subsections (b) and (c) of section 106, unless expressly reserved by an instrument in writing signed by the owner of such building and the author of the work of fine art and properly recorded, in the applicable State real property registry for such building, prior to the installation of such work, shall be deemed waived. Such instrument, if recorded, shall be binding on subsequent owners of such building.

"(2) If the owner of a building wishes to remove a pictorial, graphic, or sculptural work of fine art which is a part of such building but which can be removed from the building without substantial harm to such work, the author's rights under subsections (b) and (c) of section 106 shall apply unless the owner has diligently attempted without success to notify the author, or, if the author is deceased, his heir, legatee, or personal representative, in writing of his intended action affecting the work of fine art, or unless he did provide notice and that

person failed within ninety days either to remove the work or to pay for its removal. If such work is removed at the expense of the author, his heir, legatee, or personal representative, title to such work shall be deemed to be in such person.".

SEC. 5. Section 401 of title 17, United States Code, is amended by adding at the end thereof the following:

"(d) The provisions of this section shall not apply to pictorial, graphic, or sculptural works.".

SEC. 6. The criminal penalties provided by section 506 of title 17, United States Code, shall not apply to infringement of the rights created in section 106 (b), (c), and (d) of such title.

SEC. 7. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 8. Nothing in this Act, or the amendments made by this Act, shall be construed to apply to a work made for hire as defined in section 101 of title 17, United States Code.

By Mr. PELL (by request) (for himself, Mr. EXON, Ms. MIKULSKI, Mr. HATCH, Mr. DASCHLE, and Mr. PRESSLER):

S. 1620. A bill to reauthorize and revise the act of September 30, 1950 (Public Law 874, Eighty-first Congress) relating to Federal impact aid, and for other purposes; to the Committee on Labor and Human Resources.

IMPACT AID REAUTHORIZATION ACT

● Mr. PELL. Mr. President, the measure Senators EXON, MIKULSKI, HATCH, DASCHLE, PRESSLER and I are introducing today would make important changes in the impact aid law. This bill was developed by the National Association of Federally Impacted Schools and I introduce it at their request. The association represents a broad cross-section of those who receive funds under this program. They should be commended for their efforts to forge a consensus proposal on how best to distribute the limited resources available through impact aid.

Impact aid provides important assistance to school districts that assume unusual financial burdens because of activities by the Federal Government in their area. For example, in my home State of Rhode Island, nearly 6,000 students from federally connected families are educated in our classrooms. These students' parents either live or work on Federal land, thus reducing the local property tax revenues available to the schools.

If enacted, this proposal would greatly simplify the categories of students served under impact aid. It would also establish a payment schedule for the program when it is funded below entitlement levels.

Mr. President, a hearing on this important proposal has already been held by the Subcommittee on Education, Arts, and Humanities. I am hopeful that we will be able to act favorably on major elements of this proposal when we reauthorize the impact aid law, which I anticipate we will do as part of the Elementary and Secondary Education Act reauthorization on which we are now working.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1620

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Impact Aid Reauthorization Act of 1987".

ADMINISTRATIVE AMENDMENTS

SEC. 2. (a) The first section of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) (hereafter referred to in this Act as the "Act") is amended by striking out "assistance" and inserting in lieu thereof "reimbursement".

(b) The heading of title I of the Act is amended by striking "ASSISTANCE", and inserting in lieu thereof "REIMBURSEMENT".

(c) The Act is further amended by striking out "the Commissioner" each time it appears and inserting in lieu thereof "the Secretary".

REAUTHORIZATION

SEC. 3. (a) The Act is amended by striking out "October 1, 1988" each place it appears in sections 2(a), 3(b), 4(a), and 7(a)(1) and inserting in lieu thereof "October 1, 1993".

(b) Section 3(d)(2)(E) of such Act is amended by striking out "1983 through 1983" and inserting in lieu thereof "1989 through 1993".

(c) There are authorized to be appropriated $760,000,000 for fiscal year 1989, $800,000,000 for fiscal year 1990, $840,000,000 for fiscal year 1991, $880,000,000 for fiscal year 1992, and $925,000,000 for fiscal year 1993, to carry out the provisions of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress).

PAYMENTS

SEC. 4. (a) Section 3(d)(1)(A) of the Act is amended to read as follows:

"(A) in the case of any local educational agency with respect to which the number of children is determined under subsection (a) an amount equal to 100 per centum of the local contribution rate multiplied by the number of children determined under such subsection plus the product obtained with respect to such agency under subparagraph (B); and".

(b) Section 3(d)(1)(B) of the Act is amended to read as follows:

"(B) in any other case, an amount equal to the sum of the product obtained by multiplying 25 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under subsection (b).".

(c)(1) Section 3(d)(2)(B)(i) of the Act is amended to read as follows:

"(i) the amount of payment resulting from paragraph (1), as is otherwise provided in this subsection with respect to any local educational agency for any fiscal year, together with the funds available including capital outlay funds, determined in accordance with subparagraph (E), to such agency from State and local sources and from other sections of this title, is less than the amount necessary to enable such agency to provide a level of education equivalent to the State average or to that maintained in three or more of the school districts of the State which are generally comparable to the school district of such agency, whichever is higher;".

(2) Section 3(d)(2)(B) of the Act is amended by inserting after the first sentence the following new sentences: "The increase computed under this subparagraph shall be sufficient to allow the school district of the local educational agency to have an operating cost (calculated in accordance with subparagraph (F)) no greater than the average of comparable school districts in the State, or if there are no comparable school districts, the State average operational cost. For the purpose of clause (ii), the Secretary shall determine that a reasonable tax effort has been made if the tax effort of the agency in the year for which the determination is made is an amount that is at least equal to 80 percent of the average taxes levied for operational purposes by not more than 3 comparable school districts for that year. Payments made to an agency under this subparagraph in any fiscal year shall be reduced by the percentage that the average operational tax rate of the comparable school districts, or, if none, the State average operational tax rate exceeds the actual tax levied by the school district of the agency.".

(3) Section 3(d)(2)(E) of the Act is amended to read as follows:

"(E) For the purpose of subparagraph (B)(i) of this paragraph, capital outlay funds qualify if such funds are accounted for separately in State payments to local educational agencies, but such funds may not include any cash balance at the end of a year allowed under State law, or, whenever no State law governing cash balance exists, may not include 30 percent of the local educational agency's operating costs.".

(4) Section 3(d)(2) of the Act is amended by adding at the end thereof the following:

"(F) For the purpose of the second sentence of this paragraph, the Secretary shall calculate the operating cost using the most recent data available at the time of calculation, adjusted for appropriate economic factors.".

(d) Section 3(h) of the Act is amended by adding at the end the following sentence: "For the fiscal year beginning October 1, 1987, and for each year thereafter, the local contribution rate for such coterminous agencies shall be not less than 70 per centum of the average per pupil expenditure in all States during the second preceding year prior to the fiscal year for which the determination is made.".

(e) Section 3 of the Act is amended by adding at the end the following new subsection:

"(i) Any local educational agency which is eligible under section 3(d)(2)(B) shall receive 100 per centum of the amount to which such agency is entitled under subsections (a) and (b).".

METHOD OF PAYMENT

SEC. 5. (a) The first sentence of section 5(b) of the Act is amended by inserting after "agency" a comma and the following: "rounded to the nearest whole dollar,".

(b) Section 5(c)(1) of the Act is amended to read as follows:

"(1)(A) The Secretary shall first allocate to each local educational agency which is entitled to a payment under section 2 an amount equal to 100 per centum of the

amount to which it is entitled as computed under that section for such fiscal year.

"(B) The Secretary shall reserve from the remainder of the sums appropriated for this Act (other than amounts needed for section 7) for such fiscal year—

"(i) 80 per centum for the purpose of allocating sums under paragraph (2) for entitlements made under section 3(a); and

"(ii) 20 per centum for the purpose of allocating sums under paragraph (3) for entitlements made under section 3(b).".

(c)(1) Section 5(c)(2) of the Act is amended to read as follows:

"(2)(A) For the purpose of allocating that part of such sums which remain after the allocation required by paragraph (1) and any allocation required by sections 5(e) and 3(h) for any fiscal year, and available for section 3(a) for such fiscal year, the Secretary shall determine the category to which a local educational agency belongs as follows:

"(i) Each local educational agency in which the number of children determined under section 3(a) amounts to at least 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (i).

"(ii) Each local educational agency in which the number of children determined under section 3(a) amounts to at least 15 per centum, but less than 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (ii).

"(iii) Each local educational agency in which the number of children determined under section 3(a) amounts to less than 15 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (iii).

"(B) The Secretary shall allocate the amounts described in subparagraph (A) according to the following schedule:

"(i) A first allocation shall be made as follows:

"(I) 80 per centum of entitlement to local educational agencies described in category (i);

"(II) 60 per centum of entitlement to local educational agencies described in category (ii); and

"(III) 40 per centum of entitlement to local educational agencies described in category (iii).

"(ii) Any sums remaining after the allocation pursuant to clause (i) shall be allocated as follows:

"(I) 20 per centum of entitlement to local educational agencies described in category (i);

"(II) 15 per centum of entitlement to local educational agencies described in category (ii); and

"(III) 10 per centum of entitlement to local educational agencies described in category (iii).

"(iii) Any sums remaining after the allocation pursuant to clause (ii) shall be allocated as follows:

"(I) 25 per centum of entitlement to local educational agencies described in category (ii); and

"(II) 50 per centum of entitlement to local educational agencies described in category (iii).

"(3)(A) For the purpose of allocating that part of such sums which remain after the allocation required by paragraph (1) for any fiscal year, and available for section 3(b), the Secretary shall determine the category to which a local educational agency belongs as follows:

"(i) Each local educational agency in which the number of children determined under section 3(b) amounts to at least 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (i).

"(ii) Each local educational agency in which the number of children determined under section 3(b) amounts to less than 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (ii).

"(B) The Secretary shall allocate the amounts described in subparagraph (A) according to the following schedule:

"(i) A first allocation shall be made as follows:

"(I) 20 per centum of entitlement to local educational agencies described in category (i); and

"(II) 10 per centum of entitlement to local educational agencies described in category (ii).

"(ii) Any sums remaining after the allocation pursuant to clause (i) shall be allocated as follows:

"(I) 30 per centum of entitlement to local educational agencies described in category (i); and

"(II) 5 per centum of entitlement to local educational agencies described in category (ii).

"(iii) Any sums remaining after the allocation pursuant to clause (ii) shall be allocated as follows:

"(I) 50 per centum of entitlement to local educational agencies described in category (i); and

"(II) 85 per centum of entitlement to local educational agencies described in category (ii).

"(4)(A) Whenever the additional amounts described in paragraphs (2)(A) and (3)(A) in each fiscal year are insufficient to provide the required percent of entitlement under clause (ii) or (iii) of paragraph (2)(B), or clause (ii) or (iii) of paragraph (3)(B), respectively, the Secretary shall allocate such additional amounts according to the following schedule for each such clause:

"(i) 72 per centum under clause (ii)(I) of paragraph (2)(B), 3 per centum under clause (ii)(II) of paragraph (2)(B), and 25 per centum under clause (ii)(III) of paragraph (2)(B), of the amount which the Secretary determines is available for clause (ii) of paragraph (2)(B);

"(ii) 75 per centum under clause (iii)(I) of paragraph (2)(B), and 25 per centum under clause (iii)(II) of paragraph (2)(B) of the amount which the Secretary determines is available for clause (iii) of paragraph (2)(B);

"(iii) 75 per centum under clause (ii)(I) of paragraph (3)(B), and 25 per centum under clause (ii)(II) of paragraph (3)(B) of the amount which the Secretary determines is available for clause (ii) of paragraph (3)(B); and

"(iv) 75 per centum under clause (iii)(II) of paragraph (3)(B), and 25 per centum under clause (iii)(II) of paragraph (3)(B) of the amount which the Secretary determines is available for clause (iii) of paragraph (3)(B).

"(B) For the purpose of subparagraph (A), the amount available in each fiscal year for each clause is the amount which bears the same ratio to the amount available in that fiscal year for subparagraph (A) for paragraph (2)(B) or paragraph (3)(B), as the case may be, as the full entitlement for each such clause bears to the full entitlement under paragraph (2) or (3), as the case may be.

"(C) Whenever the additional amounts allocated under subparagraph (A) are insufficient to meet the required per centum of entitlement under any clause in paragraph (2)(B) or (3)(B), the Secretary shall allocate the amount available in the manner prescribed under subparagraph (A).".

(2)(A) Section 5(c)(3) of the Act is repealed.

(B) The last sentence of section 5(c) of the Act is repealed.

(d)(1) Section 5(d)(2)(A)(ii) of the Act is amended by inserting before the period at the end a comma and the following: "and only if the formula used by the State ensures that the local educational agency will have sufficient funds available to that agency to equal or exceed the average per pupil expenditure for the State or the average per pupil expenditure for comparable districts, whichever is greater.".

(2) Section 5(d)(2)(A) of the Act is amended by inserting after the first sentence the following flush sentence: "The amount received under section 2, and the increase in payments described in sections 3(d)(2)(B), 3(d)(2)(C), 3(d)(2)(D), and 3(d)(3)(B)(ii) shall not be taken into consideration by the State for the purpose of this subparagraph.".

(e)(1) The first sentence of section 5(e)(1) of the Act is amended to read as follows: "For any fiscal year after September 30, 1987, the Secretary shall allocate to any local educational agency which received a payment under section 3(a) in fiscal year 1987, an amount which is not less than the product of 100 per centum of the per pupil amount paid to such agency in fiscal year 1987 and the number of children in average daily attendance for the fiscal year for which the determination is made under such subsection.".

(2) Section 5(e) of the Act is amended—

(A) by striking out "(1)" after the subsection designation; and

(B) by striking out paragraph (2).

CHILDREN FOR WHOM LOCAL AGENCY IS UNABLE TO PROVIDE EDUCATION

SEC. 6. Section 6 of the Act is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding any other provision of law, a local educational agency receiving funds under section 3 may also receive funds under section 6.".

REGULATION REVIEW PANELS

SEC. 7. The Act is amended by adding at the end thereof the following:

"REGULATION REVIEW PANELS

"SEC. 8. (a) The Secretary shall, before publication of proposed regulations for this Act in the Federal Register, establish regional panels to review the proposed regulations. Each regional panel required by this section shall be composed of Federal, State, and local education administrators, parents of elementary and secondary students, elementary and secondary teachers, and members of local educational agencies involved with implementing programs under this Act.

"(b) Whenever the Secretary needs to issue regulations in an emergency situation within a very limited time to assist State and local educational agencies with the operation of the program under this Act, the Secretary may issue a regulation without complying with subsection (a), but the Secretary shall immediately thereafter convene regional panels to review the emergency

regulation prior to issuing such regulation in final form.".●

ADDITIONAL COSPONSORS

S. 303

At the request of Mr. BRADLEY, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 303, a bill to establish a Federal program to strengthen and improve the capability of State and local educational agencies and private nonprofit schools to identify gifted and talented children and youth and to provide those children and youth with appropriate educational opportunities, and for other purposes.

S. 437

At the request of Mr. METZENBAUM, the names of the Senator from North Dakota [Mr. CONRAD], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 437, a bill to amend the Small Business Investment Act of 1958 to permit prepayment of loans made to State and local development companies.

S. 450

At the request of Mr. ARMSTRONG, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 450, a bill to recognize the organization known as the National Mining Hall of Fame and Museum.

S. 466

At the request of Mr. METZENBAUM, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 466, a bill to provide for a waiting period before the sale, delivery, or transfer of a handgun.

S. 566

At the request of Mr. KARNES, his name was added as a cosponsor of S. 566, a bill to amend the Tax Reform Act of 1984 to provide a special rule for mutual life insurance companies and to amend the Internal Revenue Code of 1986 to provide depositors in insolvent financial institutions the option of a one-time ordinary loss deduction.

S. 604

At the request of Mr. PRYOR, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 604, a bill to promote and protect taxpayer rights, and for other purposes.

S. 840

At the request of Mr. THURMOND, the names of the Senator from Delaware [Mr. BIDEN], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 840, a bill to recognize the organization known as the 82nd Airborne Division Association, Incorporated.

S. 887

At the request of Mr. MOYNIHAN, his name was added as a cosponsor of S. 887, a bill to extend the authorization of appropriations for and to strengthen the provisions of the Older Americans Act of 1965, and for other purposes.

At the request of Mr. KARNES, his name was added as a cosponsor of S. 887, supra.

At the request of Mr. MATSUNAGA, the names of the Senator from New Mexico [Mr. DOMENICI], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 887, supra.

S. 1085

At the request of Mr. GLENN, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 1085, a bill to create an independent oversight board to ensure the safety of U.S. Government nuclear facilities, to apply the provisions of OSHA to certain Department of Energy nuclear facilities, to clarify the jurisdiction and powers of Government agencies dealing with nuclear wastes, to ensure independent research on the effects of radiation on human beings, and for other purposes.

S. 1159

At the request of Mr. INOUYE, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 1159, a bill to establish the National Aviation Authority as an independent user-fee supported government corporation to operate, maintain and enhance an efficient and responsive national system for airways management and air traffic control, and for other purposes.

S. 1181

At the request of Mr. PRYOR, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1181, a bill to amend the Federal Salary Act of 1967 and title 5 of the United States Code to provide that the authority to determine levels of pay for administrative law judges be transferred to the Commissions on Executive, Legislative, and Judicial Salaries.

S. 1203

At the request of Mr. GRASSLEY, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1203, a bill to amend title 22, United States Code, to make unlawful the establishment or maintenance within the United States of an office of the Palestine Liberation Organization, and for other purposes.

S. 1220

At the request of Mr. KENNEDY, the names of the Senator from Michigan [Mr. RIEGLE], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

S. 1239

At the request of Mr. KARNES, his name was added as a cosponsor of S. 1239, a bill to amend the International Revenue Code of 1986 with respect to the treatment of certain short-term loans.

S. 1346

At the request of Mr. MATSUNAGA, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1346, a bill to amend the National Labor Relations Act to give employers and performers in the performing arts rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 1368

At the request of Mr. HEFLIN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1368, a bill for the relief of Meenakshiben P. Patel.

S. 1397

At the request of Mr. CRANSTON, the name of the Senator from Nebraska [Mr. KARNES] was added as a cosponsor of S. 1397, a bill to recognize the organization known as the Non Commissioned Officers Association of the United States of America.

S. 1440

At the request of Mr. EVANS, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from Nebraska [Mr. EXON], and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of S. 1440, a bill to provide consistency in the treatment of quality control review procedures and standards in the Aid to Families with Dependent Children, Medicaid and Food Stamp programs; to impose a temporary moratorium for the collection of penalties under such programs, and for other purposes.

S. 1464

At the request of Mr. CRANSTON, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 1464, a bill to amend title 38, United States Code, to provide eligibility to certain individuals for beneficiary travel payments in connection with travel to and from Veterans' Administration facilities.

S. 1479

At the request of Mr. BOSCHWITZ, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1479, a bill to provide funds and assistance to Farm Credit System institutions, to protect borrower stock, and for other purposes.

S. 1485

At the request of Mr. FORD, the names of the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 1485, a bill to amend the Federal Aviation Act of 1958 to provide various protections for passengers traveling by aircraft, and for other purposes.

S. 1501

At the request of Mr. CRANSTON, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 1501, a bill to amend title 38, United States Code, to eliminate the requirement that the Administrator of Veterans' Affairs carry out a transition under which community-based Vet Centers would be moved to Veterans' Administration medical facilities and to provide standards and procedures governing any closures or moves of Vet Centers, and for other purposes.

S. 1511

At the request of Mr. MOYNIHAN, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Arizona [Mr. DECONCINI], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Ohio [Mr. GLENN], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 1511, a bill to amend title IV of the Social Security Act to replace the AFDC program with a comprehensive program of mandatory child support and work training which provides for transitional child care and medical assistance, benefits improvements, and mandatory extension of coverage to two-parent families, and which reflects a general emphasis on shared and reciprocal obligation, program innovation, and organizational renewal.

S. 1518

At the request of Mr. ROCKEFELLER, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. CONRAD], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of S. 1518, a bill to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes.

S. 1519

At the request of Mr. LAUTENBERG, the names of the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 1519, a bill to authorize the President of the United States to award congressional gold medals to Lawrence Doby and posthumously to Jack Roosevelt Robinson in recognition of their accomplishments in sport and in the advancement of civil rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of those medals.

S. 1520

At the request of Mr. KARNES, his name was added as a cosponsor of S. 1520, a bill to amend the Internal Revenue Code of 1986 to allow certain entities to elect not to make changes in their taxable years required by the Tax Reform Act of 1986, and for other purposes.

S. 1554

At the request of Mr. FOWLER, the names of the Senator from West Virginia [Mr. BYRD], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 1554, a bill to provide Federal assistance and leadership to a program of research, development and demonstration of renewable energy and energy conservation, and for other purposes.

SENATE JOINT RESOLUTION 11

At the request of Mr. THURMOND, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of Senate Joint Resolution 11, a joint resolution proposing an amendment to the Constitution relating to Federal balanced budget.

SENATE JOINT RESOLUTION 59

At the request of Mr. THURMOND, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of Senate Joint Resolution 59, a joint resolution to designate the month of May 1987 as "National Foster Care Month".

SENATE JOINT RESOLUTION 106

At the request of Mr. BINGAMAN, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Virginia [Mr. WARNER], the Senator from Maine [Mr. COHEN], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 106, a joint resolution to recognize the Disabled American Veterans Vietnam Veterans National Memorial as a memorial of national significance.

At the request of Mr. D'AMATO, his name was added as a cosponsor of Senate Joint Resolution 106, supra.

SENATE JOINT RESOLUTION 111

At the request of Mr. HEINZ, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of Senate Joint Resolution 111, a joint resolution to designate each of the months of November, 1987, and November 1988, as "National Hospice Month".

SENATE JOINT RESOLUTION 148

At the request of Mr. D'AMATO, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Missouri [Mr. DANFORTH], the Senator from Connecticut [Mr. DODD], the Senator from Massachusetts [Mr. KERRY], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Rhode Island [Mr. PELL], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 148, a joint resolution designating the week of September 20, 1987, through September 26, 1987, as "Emergency Medical Services Week".

SENATE JOINT RESOLUTION 172

At the request of Mr. BRADLEY, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of Senate Joint Resolution 172, a joint resolution to designate the period commencing February 21, 1988, and ending February 27, 1988, as "National Visiting Nurse Association Week".

SENATE JOINT RESOLUTION 173

At the request of Mr. REID, the names of the Senator from Oklahoma [Mr. BOREN] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of Senate Joint Resolution 173, a joint resolution to commemorate the 200th anniversary of the signing of the United States Constitution.

SENATE JOINT RESOLUTION 181

At the request of Mr. WILSON, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Joint Resolution 181, a joint resolution designating the week beginning February 1, 1988, as "National VITA Week".

SENATE CONCURRENT RESOLUTION 23

At the request of Mr. CRANSTON, the names of the Senator from Michigan [Mr. RIEGLE], and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of Senate Concurrent Resolution 23, a concurrent resolution designating jazz as an American national treasure.

AMENDMENT NO. 591

At the request of Mr. DANFORTH, the names of the Senator from Illinois [Mr. DIXON], the Senator from Vermont [Mr. LEAHY], the Senator from Texas [Mr. BENTSEN], the Senator from Kansas [Mr. DOLE], the Senator from Idaho [Mr. SYMMS], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of amendment No. 591 intended to be proposed to S. 328, a bill to amend chapter 39, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

SENATE RESOLUTION 270—PAYING SPECIAL TRIBUTE TO PORTUGUESE DIPLOMAT DR. DE SOUSA MENDES

Mr. LAUTENBERG (for himself and Mr. PELL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 270

Whereas during the early days of World War II, France became the home of European refugees from Nazi persecution;

Whereas following the collapse of the French Republic in June 1940, thousands of refugees fled south to Bordeaux, away from invading armies;

Whereas their only escape route from France was over the Pyrenees Mountains through Spain to neutral Portugal;

Whereas Portuguese diplomats were under specific orders by the government of Antonio de Oliveria Salazar not to issue visas to Jews;

Whereas the Portuguese Consul to Bordeaux, Aristides de Sousa Mendes do Amaral e Abranches, remaining faithful to the dictates of his conscience, defied government orders and issued more than 30,000 Portuguese visas to stranded refugees, at least 10,000 of them Jews, saving them from almost certain death;

Whereas Portugal received international acclaim for its humanitarian treatment of Jews and other refugees during World War II;

Whereas Dr. de Sousa Mendes, the man responsible for saving more than 30,000 lives, was recalled to Lisbon, was dismissed from the Foreign Service, and unable to practice law, died in poverty in 1954.

Whereas in 1967, Yad Vashem, the Martyrs and Heroes Remembrance Authority in Israel, posthumously awarded Dr. de Sousa Mendes a gold medal inscribed with the Talmudic dictum: "One who saves a human life saves, as it were, a whole world";

Whereas Israel's gratitude to Dr. de Sousa Mendes was again proclaimed in 1985 with the planting of a tree in his name in the Garden of the Righteous at Yad Vashem in Jerusalem; and

Whereas Dr. de Sousa Mendes served as Portuguese Counsul to San Francisco in the 1920's, two of his children were born in California, and four of them are now residents and citizens of the United States; and

Whereas the Honorable Mario Soares, the President of Portugal, conferred posthumously on Dr. de Sousa Mendes the Ordem da Liberdade (the Order of Liberty), and presented this medal to the children of Dr. de Sousa Mendes at ceremonies at the Embassy of Portugal in the city of Washington, District of Columbia, on May 19, 1987: Now, therefore, be it

Resolved, That, the Senate pays special tribute to Portuguese diplomat Dr. Aristides de Sousa Mendes do Amaral e Abranches for his extraordinary acts of mercy and justice during World War II.

SEC. 2. The Clerk of the Senate shall transmit copies of this resolution to the President. The President is requested to transmit a copy of this resolution to the President of the Republic of Portugal and the President of the Assembly of the Republic of Portugal.

● Mr. LAUTENBERG. Mr. President, today, Senator PELL and I are submitting a resolution to pay special tribute to Portuguese diplomat Dr. Aristides de Sousa Mendes do Amaral e Abranches for his extraordinary acts of mercy and justice during World War II. I greatly appreciate the support of the chairman of the Senate Foreign Relations Committee in joining me in introducing this resolution.

This resolution would honor Dr. de Sousa Mendes for his service to humanity during the war, and it would request the President of the United States to transmit a copy of the resolution to the President of the Republic of Portugal and the President of the Assembly of the Republic of Portugal. It is similar to a resolution introduced in the House of Representatives, House Resolution 162, by Representative TONY COELHO.

Dr. de Sousa Mendes was the Portuguese Consul General in Bordeaux, France between 1938 and 1940 when the German armies were conquering Europe. At that time, France became the home of European refugees fleeing Nazi persecution. When the French Republic collapsed in June 1940, thousands of refugess fled invading armies by going south to Bordeaux. Many of those refugees were Jews. The only escape route for these individuals was over the Pyrenees Mountains through Spain to neutral Portugal.

As a Portuguese diplomat, Dr. de Sousa Mendes was given specific orders by the government of Antonio de Oliveira Salazar not to issue visas to refugees. But in defiance of his government's orders, Dr. de Sousa Mendes issued more than 30,000 Portuguese visas to stranded refugees. At least 10,000 of these refugees were Jews who were saved from almost certain death by Dr. de Sousa Mendes' humanitarian gesture.

Although Portugal later received international praise for its humanitarian treatment of Jewish and other refugees during World War II, Dr. de Sousa Mendes suffered for his acts of kindness and graciousness. For issuing these visas, he was recalled to Lisbon and was dismissed from the Foreign Service. Unable to practice law and barred from diplomatic service, he died in poverty in 1954.

Dr. de Sousa Mendes was a man of rare courage. Recognizing that the lives of thousands of desperate refugees were in his hands, he dared to help. At great personal risk and sacrifice, he followed his conscience and issued visas for these stranded individuals. He is one of the few righteous who stands out in that dark period in world history as a hero. A hero who stood for humanity, dignity, and respect.

Mr. President, in 1967, Yad Vashem, the Martyrs and Heroes Remembrance Authority in Israel awarded Dr. de Sousa Mendes a gold medal inscribed with a phrase from the Talmud: "One who saves a human life saves, as it were, a whole world." Israel again expressed its gratitude to Dr. de Sousa Mendes in 1985 by planting a tree in his name in the Garden of the Righteous at Yad Vashem.

The President of Portugal, the Honorable Mario Soares, has also honored Dr. de Sousa Mendes. President Soares awarded Dr. de Sousa Mendes with the Portuguese Ordem da Liberdade, the Order of Liberty, in recognition of his bold efforts to save thousands of lives during the war. On May 19 of this year, that award was presented to Dr. de Sousa Mendes' children at the Embassy of Portugal in Washington, DC.

The Senate should also join in honoring Dr. de Sousa Mendes for his courage and service to humanity. I urge my colleagues to join me in cosponsoring this resolution to honor Dr. de Sousa Mendes.●

● Mr. PELL. Mr. President, I am very pleased to join Senator LAUTENBERG in introducing this legislation paying tribute to Dr. de Sousa Mendes for his extraordinary efforts during World War II to help refugees escape Nazi persecution. Following the collapse of the French Republic in June 1940, thousands of European refugees fled south to Bordeaux to escape the Nazi armies. From there they tried to make their way over the Pyrenees Mountains through Spain to neutral Portugal.

At that time, Dr. de Sousa Mendes was the Portuguese consul in Bordeaux and found himself under strict orders from the Salazar government not to issue visas to escaping refugees, particularly Jews. He defied those orders and issued more than 30,000 visas to stranded refugees, including at least 10,000 visas to Jewish refugees. When the Salazar government learned that de Sousa Mendes had followed the dictates of his conscience rather than the demands of the regime, it closed Portugal's borders to anyone carrying a visa issued in Bordeaux. De Sousa Mendes then personally guided 500 refugees through a Portuguese border post that had not yet learned of the ban on visas issued in Bordeaux.

Ordered home by the Salazar government, Dr. de Sousa Mendes was dismissed from the Foreign Service and stripped of his right to practice law. He died in poverty in 1954.

Dr. de Sousa Mendes' extraordinary acts of courage and mercy have already been recognized by the Martyrs and Heroes Remembrance Authority in Israel and by the planting of a tree in his name in the Garden of the Righteous at Yad Vashem in Jerusalem. And on his recent trip to the United States, Portuguese President Mario Soares posthumously awarded de Sousa Mendes the Ordem da Liberdade—the Order of Liberty—and presented the medal to de Sousa Mendes' children during ceremonies at the Portuguese Embassy.

The time has come for the U.S. Congress to pay special tribute to Dr. de Sousa Mendes for the tens of thousands of lives which he saved during World War II. Representative COELHO has introduced companion legislation on the House side and I hope that the Congress will adopt this resolution in a timely manner.●

SENATE RESOLUTION 271—SENSE OF THE SENATE WITH RESPECT TO JAPANESE TRADE WITH VIETNAM

Mr. KASTEN (for himself, Mr. DOLE, Mr. HELMS, Mr. BINGAMAN, Mr. WILSON, and Mr. HEINZ) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 271

Whereas 140,000 Vietnamese troops invaded Cambodia in early 1978;

Whereas for the past 9 years, the vast majority of Western powers have pledged to maintain embargoes on developmental aid to Vietnam until these troops are removed;

Whereas Japan initially participated in this embargo, freezing some $135,000,000 in grants and concessionary loans, and reducing trade levels from $220,000,000 in 1978 to $120,000,000 the following year;

Whereas despite the fact that 140,000 Vietnamese troops continue to occupy Cambodia, Japan's economic ties with Vietnam have grown steadily since 1982, reaching a present day trade level of $230,000,000, and this includes developmental trade;

Whereas the Japanese government has consistently refused to take any action against its private business sector which initiates this trade;

Whereas the Honda Motor Company plans to build motorcycles in Vietnam and such motorcycles may enhance the mobility of the Vietnamese army; and

Whereas Vietnam's 65 million people are a tempting lure for investors seeking low wages and for traders seeking new markets: Now, therefore, be it

Resolved, That the Senate hereby—

(1) renews its condemnation of the continued Vietnamese occupation of the sovereign state of Cambodia, an activity which violates all standards of conduct befitting a responsible nation and contravenes all recognized principles of international law,

(2) condemns the trading policies of the Japanese government which—

(A) allow its private business sector to engage in developmental trade with the Socialist Republic of Vietnam, and

(B) previously granted a similar allowance enabling Japanese corporations to trade with the Republic of Cuba, and

(3) condemns specific Japanese trading practices with Vietnam which provide long-term credits and developmental equipment, including equipment for—

(A) oil and exploration development,

(B) forestry and fishery production,

(C) development of commodities for light industries, and

(D) the upgrading of production capacities for export purposes.

Mr. KASTEN. Mr. President, I rise today to submit a resolution on behalf of myself and Senators DOLE, HELMS, BINGAMAN, WILSON, and HEINZ, which condemns certain trading policies of the Japanese Government.

Nine years ago, 140,000 Vietnamese soldiers invaded Cambodia. In response, Japan immediately joined in a Western embargo of Vietnam, and froze all official economic aid to that country.

Similarly, Japanese exports to Vietnam fell from $220 million in 1978 to $120 million in 1979. Like its Western allies, Japan vowed to retain this embargo until Vietnamese troops left Cambodia.

Although these efforts to pressure a Vietnamese withdrawal from Cambodia have continued for 9 years, those troops still remain. Yet, in direct violation of their previously stated intent, Japan's exports levels to Vietnam have recently risen to a level of $230 million, while Japanese business ties with Hanoi have grown substantially.

The Japanese have become Vietnam's largest non-Communist trading partner. Japan provides developmental equipment and long-term credits. The areas of development include:

First, oil exploration and development;

Second, forestry and fishery production;

Third, development of commodities for light industries, and

Fourth, upgrading of production capacities for export purposes.

A prime example of Japanese corporate investment in Vietnam is the Honda Motor Co. plan to manufacture motorcycles there. A Vietnamese cooperative will receive from Japan all the necessary parts and assembly equipment for producing the motorcycles.

Not only will this provide jobs for Vietnamese citizens and capital for Vietnam's economy, but it will also involve the production of vehicles that will increase the mobility of the Vietnamese Army.

The Japanese Government disclaims reports that it supports these activities—yet Japanese foreign ministry officials have repeatedly visited Vietnam. In fact, a consortium representing 90 Japanese business firms has announced that it will build a trading center in Hanoi.

Reports of Japanese violations of trading agreements are not new to the Senate. Recent disclosures on the sale of sophisticated milling machines from a Japanese business firm to the Soviet military led to the ban of Toshiba imports into the United States.

Yet, it has become clear that these trading violations are not restricted to a specific firm, but in fact reflect the current mentality of many Japanese business firms.

Some of my colleagues have been reluctant to support this legislation because of concern that the Senate is overly engaged in "Japan bashing." However, Mr. President, the fact of the matter is that the Japanese are breaking a mutual agreement made with their Western allies.

Vietnam's 65 million people are a tempting lure for investors seeking low wages and for traders seeking new markets. Yet, while Japanese firms reap the benefits of an economy prime for the taking, such efforts break the embargoes we are trying to foster against Vietnam.

This resolution does not include sanctions against Japan—there are already existing legislative efforts to apply such sanctions. However, it sends a strong message to Japan, that they still have much to do in getting their house in order regarding trade.

I support free trade. I do not support a government which irresponsibly vies for untapped markets at the expense of its allies.

I ask my colleagues to join me in cosponsoring in this sense of the Senate resolution.

I ask unanimous consent that an article from the Journal of Commerce be printed in the RECORD.

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

[From the Journal of Commerce, June 16, 1987]

VIETNAM TO MAKE HONDA MOTORCYCLES

TOKYO.—Honda Motor Co., Japan's major motorcycle maker, said Monday it has signed a contract with an enterprise cooperative in Vietnam to produce small-sized motorcycles on a knock down basis there.

Honda spokesman Toru Nakauchi said the contract was recently signed between a Japanese trading company representing Honda Motor and a group of bicycle and motorcycle makers in Ho Chi Minh City formerly Saigon.

Under the contract, the Vietnamese cooperative will produce 2,000 Honda Super Cub models 50cc and 70cc, Mr. Nakauchi said. He said the date of motorcycle production and its future production target have yet to be fixed.

The Vietnamese cooperative will receive supplies of all necessary parts and assembly equipment for producing motorcycles in the first knock down production of motorcycles in Vietnam, Mr. Nakauchi said. Honda's latest move was taken to "reduce its export cost" of motorcycles to Vietnam because of the yen's appreciaton against the dollar, he said.

Mr. Nakauchi said Honda exported 12,410 small motorcycles to Vietnam on a spot-contract basis last year compared to 5,882 motorcycles shipped to Vietnam in 1985. In Vietnam, some home electrical appliance products, including television sets, are being assembled in cooperation with Japanese and South Korean companies, according to a local news report.

Last month, officials from the United States and the six-member Association of Southeast Asian Nations protested Japan's increasing trade with Vietnam. The United States said it feared an improved Vietnamese economy could hamper efforts to settle the question of U.S. servicemen still missing as a result of the Vietnam war.

SENATE RESOLUTION 272—AUTHORIZING TESTIMONY BY CERTAIN SENATE EMPLOYEES AND REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. BYRD (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

91-059 O-89-45 (Pt. 16)

S. RES. 272

Whereas in State of Arkansas v. Christoper Kupper, et al., Case Nos. 87-3404 through 87-3413, now pending in the Criminal Division of the Municipal Court, City of Little Rock, Arkansas, three employees of the Senate, Don Floyd, Martha Perry, and Beverly Stover, have been supoenaed on behalf of the defendants to appear and to testify at the trial;

Whereas the three employees have information which may be relevant to that trial;

Whereas pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a) (1982), the Senate may direct its counsel to represent employees of the Senate with respect to subpoenas issued to them in their official capacities;

Whereas by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas when it appears that testimony by Senate employees in their official capacities may be needed in any forum for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Don Floyd, Martha Perry, and Beverly Stover in connection with their testimony in State of Arkansas v. Christopher Kupper, et al.

SEC. 2. That Don Floyd, Martha Perry, and Beverly Stover are authorized to testify at proceedings in State of Arkansas v. Christopher Kupper, et al., except concerning matters which are privileged.

AMENDMENTS SUBMITTED

OLDER AMERICANS ACT AUTHORIZATION

HATCH (AND OTHERS) AMENDMENT NO. 660

Mr. DOLE (for Mr. HATCH, for himself, Mr. INOUYE, Mr. GARN, and Mr. BRADLEY) proposed an amendment to the bill (S. 887) to extend the authorization of appropriations for and to strengthen the provisions of the Older Americans Act of 1965, and for other purposes; as follows:

On page 126, after line 14, add the following:

TITLE VI—HEALTH CARE SERVICES IN THE HOME

SHORT TITLE

SEC. 601. This title may be cited as the "Health Care Services in the Home Act of 1987".

PROGRAM AUTHORIZED

SEC. 602. (a) IN GENERAL.—Part A of title XIX of the Public Health Service Act is amended by adding at the end thereof the following:

"SUBPART 2—HEALTH CARE SERVICES IN THE HOME

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 1910C. For the purpose of allotments to States to carry out the activities described in section 1910F, there are authorized to be appropriated $100,000,000 for fiscal year 1988, $100,000,000 for fiscal year 1989, and $100,000,000 for fiscal year 1990.

"ALLOTMENTS

"SEC. 1910D. (a)(1) Except as provided in paragraph (2), the Secretary shall allot to each State for each fiscal year from the amounts appropriated under section 1910C for such fiscal year an amount equal to the product of—

"(A) the population of the State, multiplied by

"(B) the relative per capita income of the State.

For purposes of subparagraph (B), the term 'relative per capita income' has the same meaning as in the last sentence of section 1913(a)(1).

"(2) Notwithstanding paragraph (1)—

"(A) the total amount of the allotment for each of the several States, the District of Columbia, and Puerto Rico for each fiscal year shall not be less than one-half of 1 percent of the total amount appropriated under section 1910C for such fiscal year;

"(B) the total amount of the allotment for each of the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands for each fiscal year shall not be less than one-fourth of 1 percent of the total amount appropriated under section 1910C for such fiscal year; and

"(C) the total amount of the allotment for each of American Samoa and the Commonwealth of the Northern Mariana Islands for each fiscal year shall not be less than one-sixteenth of 1 percent of the total amount appropriated under section 1910C for such fiscal year.

"(b) To the extent that all the funds appropriated under section 1910C for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

"(1) one or more States have not submitted an application or description of activities in accordance with section 1910G for such fiscal year;

"(2) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) some State allotments are offset or repaid under section 1906(b)(3) (as such section applies to this subpart pursuant to section 1910G(d)),

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for such fiscal year without regard to this subsection.

"(c)(1) If the Secretary—

"(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this subpart be provided directly by the Secretary to such tribe or organization, and

"(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this subpart,

the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (a) for a fiscal year the amount determined under paragraph (2).

"(2) The Secretary shall reserve for the purpose of paragraph (1) from amounts that would otherwise be allotted to such State under subsection (a) an amount equal to the amount which bears the same ratio to the State's allotment for the fiscal year involved under subsection (a) as the population of the Indian tribe or tribal organization bears to the population of the State.

"(3) The amount reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(4) In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe.

"PAYMENTS UNDER ALLOTMENTS TO STATES

"SEC. 1910E. (a) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under section 1910D (other than any amount reserved under subsection (c) of such section) from amounts appropriated for that fiscal year.

"(b) Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

"USE OF ALLOTMENTS

"SEC. 1910F. (a)(1) Except as provided in subsections (b), (c), and (d), amounts paid to a State under section 1910E from its allotment under section 1910D for any fiscal year may be used to provide health care services in the home for eligible individuals. Such amounts may be used to—

"(A) pay compensation for the services of physicians, nurses, and social workers who plan, manage or provide or arrange for the provision of, health care services in the home for eligible individuals;

"(B) identify and locate eligible individuals needing the provision of health care services in the home;

"(C) develop proper standards and quality assurance mechanisms for the provision of health care services in the home for eligible individuals;

"(D) coordinate health care services provided in the home for eligible individuals under this subpart with other supportive social services provided for such individuals;

"(E) coordinate other long-term care services provided for eligible individuals by public and private institutions and voluntary organizations in order to ensure the provision of such services and to maximize the use of funds provided under this subpart and under other Federal laws; and

"(F) provide training to health professionals (other than physicians, nurses, and social workers), particularly training for health professionals who work within hospitals to educate individuals who may benefit from the provision of health care services in the home, and training in advanced discharge planning.

"(2) A State may use amounts paid to it under section 1910E to provide health care services in the home for eligible individuals through grants to health care organizations. In making such grants, a State shall give priority to home care programs, including home care programs based in hospitals. As a condition of receipt of a grant under this paragraph, a State shall require a health care organization to use amounts provided under such grant only for the provision of health care services in the home for eligible individuals.

"(b) Of the total amount paid to a State under section 1910E for a fiscal year—

"(1) at least 85 percent of such total amount shall, in the case of fiscal year 1988, be used by the State to pay compensation under subsection (a)(1)(A);

"(2) not more than 10 percent of such total amount may, in the case of fiscal year 1988, be used by the State for activities under this subpart other than the payment of compensation under subsection (a)(1)(A); and

"(3) not more than 5 percent may, in the case of a fiscal year beginning after September 30, 1988, be used by the State for activities under this subpart other than the payment of compensation under subsection (a)(1)(A).

"(c) Not more than $2,500 per year may be used by a State, with respect to any eligible individual, to pay compensation for the services of physicians, nurses, and social workers under subsection (a)(1)(A).

"(d) A State may not use amounts paid to it under section 1910E to—

"(1) provide inpatient services, except services involving advanced discharge planning;

"(2) make cash payments to intended recipients of services;

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds;

"(5) provide services under this subpart to an individual if the total cost to the Federal Government of providing such services would exceed the total cost of institutionalization of such individual;

"(6) provide reimbursement for services performed by any individual other than a physician, nurse, or social worker; or

"(7) provide supportive social services for which planning and management is conducted under subsection (a)(1)(D).

"(e) The Secretary, if requested by a State, shall provide technical assistance to the State in planning and operating activities to be carried out under this subpart.

"APPLICATION AND DESCRIPTION OF ACTIVITIES; REQUIREMENTS

"SEC. 1910G. (a)(1) In order to receive an allotment for a fiscal year under section 1910D, each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require.

"(2) Each application required under paragraph (1) for an allotment under section 1910D for a fiscal year shall contain assurances that the State will meet the requirements of subsection (b).

"(b) As part of the annual application required by subsection (a) for an allotment for any fiscal year, the chief executive officer of each State shall—

"(1) certify that the State agrees to use the funds allotted to it under section 1910D in accordance with the requirements of this subpart;

"(2) provide assurances that such chief executive officer will designate or establish a State agency to administer funds provided under this subpart;

"(3) certify that the State will coordinate the provision of health care services in the home with funds provided under this subpart with activities conducted to provide such services by voluntary, religious, and community organizations and local governments;

"(4) provide assurances that the State will make reasonable efforts to provide health care services in the home under this subpart through home care programs in the State, including home care programs based in hospitals; and

"(5) provide assurances that the State will, to the maximum extent feasible, provide health care services in the home under this subpart to individuals who are low income individuals and who are not receiving equivalent home health care services under the State's medicaid plan approved under title XIX of the Social Security Act.

"(c) The chief executive officer of a State shall, as part of the application required by subsection (a) for any fiscal year, also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State will receive under section 1910E for the fiscal year for which the application is submitted, including information on the programs and activities to be supported and services to be provided. The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal. The description shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this subpart, and any revision shall be subject to the requirements of the preceding sentence.

"(d) Except where inconsistent with the provisions of this subpart, the provisions of section 1903(b), section 1906(a), paragraphs (1) through (5) of section 1906(b), and sections 1907, 1908, and 1909 shall apply to this subpart in the same manner as such provisions apply to subpart 1 of this part.

"(e) Each report submitted by a State to the Secretary under section 1906(a)(1) (as such section applies to this subpart pursuant to subsection (d) of this section) shall include an analysis of the cost effectiveness of providing health care services in the home for eligible individuals under this subpart.

"EVALUATIONS

"SEC. 1910H. The Secretary shall conduct, or arrange for the conduct of, evaluations of services provided and activities carried out with payments to States under this subpart.

"DEFINITIONS

"SEC. 1910I. For purposes of this subpart—

"(1) The term 'eligible individual' means an individual who—

"(A) resides at home and is at risk of institutionalization because of medical limitations on the ability of such individual to function independently;

"(B) is a patient in a hospital who is at risk of prolonged hospitalization, and who could be cared for in a long-term care institution or who could return to the community if health care services in the home are available; or

"(C) is a patient in a skilled nursing facility or an intermediate care facility who could return to the community if health care services in the home are available.

"(2) The terms 'Indian tribe' and 'tribal organization' have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.".

(b) TECHNICAL AMENDMENTS.—Such part is further amended—

(1) by striking out the heading of such part and inserting in lieu thereof the following:

"PART A—PREVENTIVE HEALTH SERVICES, HEALTH SERVICES, AND HEALTH SERVICES IN THE HOME";

(2) by inserting after the heading of such part the following:

"Subpart 1—Preventive Health and Health Services"; and

(3) by striking out "this part" and inserting in lieu thereof "this subpart" each place it appears in sections 1902(d)(1)(A), 1902(d)(1)(B), 1904(a)(1), 1904(a)(3), 1904(b), 1905(c)(1), 1905(c)(2), 1905(c)(3), 1905(c)(4), 1905(c)(6), and 1905(d).

EFFECTIVE DATE

SEC. 603. This title and the amendments made by this title shall take effect on October 1, 1988.

On page 10, after item "Sec. 507", insert the following:

"TITLE VI—HEALTH CARE SERVICES IN THE HOME

"Sec. 601. Short title.
"Sec. 602. Program authorized.
"Sec. 603. Effective Date.".

MATSUNAGA AMENDMENT NO. 661

Mr. MATSUNAGA proposed an amendment to the bill S. 887, supra; as follows:

On page 18, line 7, strike out "Federal" and insert in lieu thereof "National".

On page 62, line 15, strike out "section 139(b)" and insert in lieu thereof "section 139(b) and 141(b)".

On page 62, line 17, strike out "(6)" and insert in lieu thereof "(7)".

On page 62, line 19, strike out "(7)" and insert in lieu thereof "(8)".

On page 62, line 21, strike out "(7)" and insert in lieu thereof "(8)".

On page 62, line 22, strike out "(8)" and insert in lieu thereof "(9)".

On page 75, lines 8 and 9, strike out "section 154(b)" and insert in lieu thereof "section 155(b)".

On page 78, line 3, strike out "(3)" and insert in lieu thereof "(4)".

MELCHER AMENDMENT NO. 662

Mr. BYRD (for Mr. MELCHER) proposed an amendment to the bill S. 887, supra; as follows:

On page 80, after line 24, insert the following:

INFORMATION ON AGE DISCRIMINATION PROHIBITIONS

SEC. 163. Section 503(b) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by inserting at the end thereof the following:

"(2) The Secretary shall distribute to grantees under this title, for distribution to program enrollees, and at no cost to grantees or enrollees, infomational materials developed and supplied by the Equal Employment Opportunity Commission and other appropriate Federal agencies which the Secretary determines are designed to help enrollees identify age discrimination and understand their rights under the Age Discrimination in Employment Act.".

On page 81, line 2, strike out "SEC. 163." and insert in lieu thereof "SEC. 164.".

On page 81, line 7, strike out "SEC. 164." and insert in lieu thereof "SEC. 165.".

On page 81, line 15, strike out "SEC. 165." and insert in lieu thereof "SEC. 166.".

Amend the table of contents accordingly.

MELCHER (AND PRESSLER) AMENDMENT NO. 663

Mr. BYRD (for Mr. MELCHER, for himself and Mr. PRESSLER) proposed an amendment to the bill S. 887, supra; as follows:

On page 101, after line 23, insert the following:

PART G—CONSUMER PRICE INDEX FOR OLDER AMERICANS

INDEX AUTHORIZED

SEC. 191. The Secretary of Labor shall, through the Bureau of Labor Statistics, develop, from existing data sources, a reweighted index of consumer prices which reflects the expenditures for consumption by retired Americans aged 62 and over. The Secretary shall furnish to the Congress the index within 180 days after the date of enactment of this Act. The Secretary shall include with the index furnished a report which explains the characteristics of the reweighted index, the research necessary to develop and measure accurately the rate of inflation affecting older Americans, and provides estimates of time and cost required for additional activities necessary to carry out the objective of this section.

On page 9, in the table of contents, after item "Sec. 182." insert the following:

"PART G—CONSUMER PRICE INDEX FOR OLDER AMERICANS

"Sec. 191. Index authorized.".

MELCHER AMENDMENT NO. 664

Mr. BYRD (for Mr. MELCHER) proposed an amendment to the bill S. 887, supra; as follows:

On page 114, strike out lines 1 through 14 and insert the following:

TITLE IV—NATIONAL SCHOOL LUNCH ACT AMENDMENT

PARTICIPATION OF OLDER PERSONS AND CHRONICALLY IMPAIRED DISABLED PERSONS IN CHILD CARE FOOD PROGRAM

SEC. 401. Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended by adding at the end the following:

"(p)(1) For purposes of this section, adult day care centers shall be considered eligible institutions for reimbursement for meals or supplements served to persons 60 years of age or older or to chronically impaired disabled persons, including victims of Alzheimer's disease or other neurological and organic brain disorders of the Alzheimer's type. Reimbursement provided to such institutions for such purposes shall supplement, not supplant, funds provided for such purposes on the effective date of this subsection, unless the quality of meals or level of services provided is improved through participation in the program.

"(2) For purposes of this subsection—

"(A) the term 'adult day care center' means any public agency or private nonprofit organization, or any proprietary title XIX or title XX center, which—

"(i) is licensed or approved by Federal, State, or local authorities to provide adult day care services to chronically impaired disabled adults or persons 60 years of age or older in a group setting outside their homes on a less than 24-hour basis; and

"(ii) provides for such care and services directly or under arrangements made by the agency or organization whereby the agency or organization maintains professional management responsibility for all such services; and

"(B) the term 'proprietary title XIX or title XX center' means any private, for-profit center providing adult day care services for which it receives compensation from amounts granted to the States under title XIX or XX of the Social Security Act and which title XIX or title XX beneficiaries were not less than 25 per cent of enrolled eligible participants in a calendar month preceding initial application or annual reapplication for program participation.

"(3)(A) The Secretary of Agriculture, in consultation with the Commissioner on Aging, may establish separate guidelines for reimbursement of institutions described in this subsection.

"(B) The guidelines shall contain provisions designed to assure that reimbursement under this subsection shall not duplicate reimbursement under C of title III of the Older Americans Act of 1965, for the same meal served.".

On page 126, after line 14, insert the following:

TITLE VI—GENERAL PROVISIONS

EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 601. (a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on October 1, 1987.

(b) APPLICATION OF AMENDMENTS.—The amendments made by title I of this Act shall not apply with respect to—

(1) any area plan submitted under section 306(a) of the Older Americans Act of 1965, or

(2) any State plan submitted under section 307(a) of such Act,

and approved for any fiscal year beginning before the date of the enactment of this Act.

Amend the table of contents accordingly.

MILITARY RETIREMENT REFORM ACT AMENDMENTS

NUNN AMENDMENT NO. 665

Mr. BYRD (for Mr. NUNN) proposed an amendment to the bill (H.R. 2974) to amend title 10, United States Code, to make technical corrections in the provisions of law enacted by the Military Retirement Reform Act of 1986; as follows:

On page 3, line 9, strike out "1410(a)" and insert in lieu thereof "1410".

PUBLIC HEALTH SERVICE ACT

INFANT MORTALITY AMENDMENTS

KENNEDY AMENDMENT NO. 666

Mr. BYRD (for Mr. KENNEDY) proposed an amendment to the bill (S. 1441) to reduce the incidence of infant mortality; as follows:

On page 5, line 15, insert "in areas of the Pacific Basin Region," before "and in".

On page 7, line 9, insert ", public health, or medicine" before "for the".

NOTICES OF HEARING

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Subcommittee on Mineral Resources Development and Production of the Committee on Energy and Natural Resources on Friday, September 18, 1987, at 10 a.m. in room 366 of the Dirksen Senate Office Building. The purpose of the oversight hearing is to discuss the National Coal Council's Reserve Data Base Report and the state of information relating to the quality and recoverability of U.S. coal reserves.

Those wishing to submit written testimony should address it to the Committee on Energy and Natural Resources, room 364, Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Patricia Beneke at (202) 224-2383.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources on Thursday, September 10, 1987, at 9:30 a.m. in room 366 of the Dirksen Senate Office Building. The purpose of the hearing is to consider S. 801, the Coal Distribution and Utilization Act of 1987.

Those wishing to submit written testimony should address it to the Committee on Energy and Natural Resources, room 364, Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Patricia Beneke at (202) 224-2383.

SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a field hearing before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources.

The subcommittee would welcome testimony from State and local officials, as well as interested citizens regarding ground water resources and related management and regulatory activities in the State of New Jersey. The hearing will be held on September 14, 1987, in the vicinity of Camden, NJ. The time and exact location have yet to be determined but will be announced as soon as possible for the information of the Senate.

For further information regarding the hearing, you may wish to contact Russell R. Brown of the subcommittee staff at 224-2366. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Subcommittee on Water and Power, Room SD-364, Dirksen Senate Office Building, Washington, DC 20510.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. FORD. Mr. President, I would like to announce for the Senate and the public that a hearing has been scheduled before the Senate Subcommittee on Energy Research and Development.

The purpose of this hearing is to receive testimony concerning S. 1480, the "Department of Energy National Laboratory Cooperative Research Initiatives Act."

The hearing will take place on Tuesday, September 15, 1987, at 2 p.m. and Thursday, September 17, at 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to submit written statements should write to the Committee on Energy and Natural Resources, Subcommittee on Energy Research and Development, U.S. Senate, Washington, DC 20510.

If you have any questions concerning this hearing, please contact Teri Curtin on 224-7569.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Thursday, August 6, 1987, to hold a hearing on S. 1475, a bill to establish an effective clinical staff recruitment and retention program, and for other purposes.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, August 6, 1987, at 4:00 p.m. to hold a hearing on intelligence matters.

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

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resource be authorized to meet during the session of the Senate on Thursday, August 6, 1987, to receive testimony concerning S. 1320, the Solar Development Initiative Act of 1987; and S. 1554, the Renewable Energy and Energy Conservation Technology Competitiveness Act of 1987.

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

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on August 6, 1987, to hold a hearing on judicial nominations.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, August 6, 1987, to conduct hearings on the nomination of Deborah Gore Dean to be an Assistant Secretary of Housing and Urban Development.

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

ADDITIONAL STATEMENTS

THE 100TH ANNIVERSARY OF JAMESBURG

● Mr. BRADLEY. Mr. President, I am pleased to offer my congratulations to the Borough of Jamesburg as it celebrates its 100th anniversary.

Jamesburg was incorporated in 1887 by James Buckelew, a major landowner in the area, and during the early 1900's, it was a prosperous railroad town, with more than half of the men employed by the railroad. Although Jamesburg is only 1 square mile in size, it served as a major crossroads between the north, south, east, and west rail lines. Today, Jamesburg remains a hub in southern Middlesex County, offering its 7,000 residents easy access to the New Jersey Turnpike and other major routes in the State. Jamesburg continues to share in the tremendous growth that has enveloped Middlesex County in the last few years, bringing many valuable services to the town.

Jamesburg will be celebrating its 100th anniversary on August 15 with a series of special events. I join the residents of Jamesburg in celebrating 100 years of progress, and I extend my best wishes to them for continued success in the future.●

RETIREMENT OF THEODORE J. SAENGER

● Mr. WILSON. Mr. President, on September 1, 1987, Theodore J. Saenger will retire as president and chief executive officer of Pacific Bell, and vice chairman of the Bell Operating Cos., of the Pacific Telesis Group, after a distinguished 25-year career.

Mr. Saenger, a native Californian, was born in Pomona in 1928, and received his bachelor of science degree in business from the University of California at Berkeley in 1951.

Mr. Saenger's career at Pacific Bell has been marked by a series of increasingly responsible management positions. Joining the company in 1953, Mr. Saenger rose from various line and staff positions until his election as vice president in 1974. He became president and chief operating officer in 1977, and assumed the vice chairmanship in 1984.

In addition to his stellar professional career, Mr. Saenger has been active in educational and community activities. He serves on the board of trustees of both Occidental College and the University of California at Berkeley Business School, as well as the Charles R. Drew Medical School Foundation, the San Francisco Theology Seminary, the California Economic Development Corp., and the United Way of the Bay Area.

Through his innovation, imagination, and steady leadership, Mr. Saenger successfully guided Pacific Bell through the aftermath of the AT&T divestiture. His stewardship has allowed Pacific Bell to thrive in the waters of increased competition while maintaining the company's tradition of efficiency and dependability. His diligence, integrity, and durability has helped set high standards of professionalism in the communications industry. His career has been exemplary, and one that has demonstrated the opportunities provided by the free market for those bright enough to capitalize on it. In addition, he is astute enough to have encouraged his son, Jeff, to be an intern in my Washington, DC office this summer.

I want to express my personal thanks to him for a job well done. I know that my colleagues join me in wishing Mr. Saenger well as he retires from Pacific Bell.●

THE BICENTENNIAL ADMISSION CEREMONY

● Mr. BRADLEY. Mr. President, in this year of the bicentennial anniversary of the Constitution of the United States and as the historical date of September 17, 1987, approaches, governmental, business, civic, and community entities are embarking on initiatives commemorating this special event.

In this regard, I would like to share with you, and extend congratulations to members of the legal profession from across the Nation who participated in a bicentennial admission ceremony sponsored by the National Conference of Women's Bar Associations at the Supreme Court of the United States in Washington, DC, on Monday,

May 18, 1987. This special event was highlighted by a personal appearance and greetings from the Honorable William J. Brennan, Jr., Associate Justice of the Supreme Court, who served in a presiding capacity on May 18, in the absence of Supreme Court Chief Justice William H. Rehnquist. The more than 100 attorneys also received personal greetings from Associate Justice Sandra Day O'Connor.

The Honorable Marilyn Loftus, judge in the Superior Court of New Jersey and chair of the New Jersey Supreme Court Task Force on Women in the Courts, a first in the Nation, had the distinction of sponsoring 37 bar candidates in open court. Participants represented the judiciary, governmental, business and private sectors of the legal profession and included male colleagues. Admitted to the bar of the Supreme Court of the United States were the following candidates, and their respective States:

Linda Susann Perry of Alabama; Diane Jeanne Dykema, Christina Bemko Littlefield, Nancy Wallace Page and Barbara J. Paulson of California; Linda Ellen Christenson of Colorado; Barbara David Solomon of the District of Columbia; Patricia Ann Ash, Susan Clasrk Durré, Theresa Bland Edwards, Hon. Lynn Tepper and Teresa Cooper Ward of Florida; Emily Arnow Alman, Grissele Camacho-Pagan, Virginia Class-Matthews, Colette A. Coolbaugh, Hon. Sheryl A. DeSantis, Margarita Echevarria, Susan Lynne Goldring, Bonnie Blume Goldsamt, James A. Key, Jr., Beth Toni Kruvant, Patricia K. Nagle, Janice Marie Newman, Judith Maureen Donnelly-O'Leary, E. Joan Oliver, Ruth Rabstien, Danielle Ellen Reid, Phoebe Williams Seham, Pamela Ann Spinelli, Stafford Wington Thompson, and Joyce Madeline Usiskin of New Jersey; Eve Baer of New York; Mary Godfrey Nash of Ohio; Maryda Swanstrom Colowick of Tennessee and Lisa C. Germano and Judy Raye Moats of Virginia. Other candidates who responded to this bar admission initiative, but did not appear in open court included an associated justice of a State Supreme Court and candidates from the States of Louisiana and Massachusetts. In short, over 50 candidates responded to this initiative.

Welcoming the candidates and their guests to this auspicious occasion in Washington, DC, were Dolores Pegram Wilson, Esquire, president of the National Conference of Women's Bar Associations, from the firm of Lomurro and Eastman in Freehold, NJ, and ceremony chairpersons Carol Rabenhorst and Susan Ellis Wild, esquires, from the firm of Sachs, Greenebaum and Tayler in Washington, DC. Also present to extend greetings to the candidates were Irene Redstone, president of the National Association of Women Lawyers, and one of its former presidents, Hon. Mattie Belle Davis (retired), both from the State of Florida.●

THE AGRICULTURAL NITROGEN MANAGEMENT ACT OF 1987

● Mr. KARNES. Mr. President, I rise today to state my intention to introduce legislation immediately after the Senate reconvenes in September regarding agricultural nitrogen in our Nations water supplies.

The title of this bill will be "The Agricultural Nitrogen Management Act of 1987." This is a companion bill to H.R. 3069 which was introduced in the House by Congressman STANGELAND on July 30, 1987.

Mr. President, this bill will require the U.S. Department of Agriculture to establish an Agricultural Nitrogen Best Management Practices Task Force. This task force will be composed of various agency heads—Agricultural Research Service, Soil Conservation Service, Extension Service, Environmental Protection Agency, Tennessee Valley Authority, and so forth—and a farmer representative to: First, identify best management production and conservation practices which maximize agricultural nitrogen utilization and minimize leaching and runoff; second, develop educational and training materials outlining use of these practices; and third, disseminate these educational materials to producers through county soil conservation service and extension service field offices.

The thrust of this effort is to work toward assuring future supplies of safe water by preventing nitrates from entering ground and surface water through informed producers using the most efficient, effective nitrogen application techniques combined with the best soil and water conservation practices to minimize nitrogen leaching and runoff into ground water supplies.

It is our intention to not have this bill embroiled in the FIFRA debate. This bill is designed to be a voluntary, preventive measure, and not a regulatory measure. The central theme of this bill could be most clearly labeled "technology transfer." This legislation requires the development of technology and the transfer of this technology to producers.

I believe this to be a very constructive, reasoned approach to one aspect of assuring future supplies of safe water. While the Senate is in recess, I will be working with many of you to explain and develop a broad base of support for this legislation. I look forward to introducing this legislation and to working with my colleagues toward successful passage of this most important legislative initiative.●

CUMBERLAND, MD, CELEBRATES ITS BICENTENNIAL

● Mr. SARBANES. Mr. President, it is a great pleasure to bring to the attention of my colleagues in the U.S. Senate the celebration of the 200th anniversary of the city of Cumberland, MD, particularly during "Cumberland 'Gateway to the Promised Land' Week" as proclaimed by Maryland's Governor Schaefer. A picturesque mountain town of some 25,000 people situated on the upper reaches of the Potomac River in Allegany County, Cumberland has a history important to that of our Nation and today remains the economic center for its entire area.

For 200 years the city of Cumberland has served as a remarkable example of a community working together for the common good. Cumberland has not only created an outstanding environment in which hardworking citizens raise their families, but also a pleasant quality of life. American Demographics magazine recently listed Cumberland as the best place to live in the country. A recent poll of 226 readers by Money magazine, ranked Cumberland 15th among 300 U.S. cities on the basis of livability. These surveys pay well-deserved tribute to its many impressive attributes.

Although Cumberland was chartered in 1787, its history goes back even further. While George Washington was at Fort Cumberland, a frontier outpost during the French and Indian War, he wrote in 1755 to Governor Sharpe:

> * * * to the right of our camp * * * is a wondrous site for a city and as I muse by the campfire, I imagine that here will be the metropolis of His Excellency's Lord Baltimore's Colony.

Thomas Beall purchased and cleared the land, and in 1785 laid out the village he called Washington Town. Settlers purchased the lots and in 1787, 35 heads of family petitioned for incorporation. On January 20, 1787, the Maryland Legislature passed "an act for erecting a town at or near the mouth of Will's Creek." The town was to be called Cumberland.

In the 1800's Cumberland prospered greatly as a major transportation center, so much that it was second only to Baltimore as the largest city in Maryland. The home of the western Maryland railroad station, Cumberland played an instrumental role in our Nation's railroad industry. The "Narrows", a natural 1,000 foot breach in Will's Mountain near Cumberland, began as a trader's trail, was converted to a military wagon road in 1806, and became the national road, the first federally financed highway in the United States. Later, in the mid-19th century, the Narrows became the passage for America's first east-west railroad. This transportation route,

known as the "Gateway to the West", has played a major role in the development of the area west of Allegany County. Although replaced by modern freeways, this spectacular break in the Allegheny Mountains remains one of the most picturesque sites in our State.

Cumberland played another significant role as the terminus for the C&O Canal, in operation from 1850 to 1924 and reaching from western Maryland to the tidewater at Georgetown. The canal, which is designated a national historical park, was an important part of the country's transportation system in the last half of the 19th century. This delightful park is today a national treasure enjoyed by thousands of visitors to the Cumberland area.

Mr. President, Cumberland not only enjoys natural scenic beauty, but a rich architectural heritage made possible through the wise stewardship of the city's citizens, local government, and private industry. The beginnings of Cumberland's Washington Street Historic District can be traced back to the construction of Fort Cumberland, with the stockade encompassing the eastern end of what is now Washington Street and Prospect Square. Washington Street was named in 1973 to the National Register of Historic Places and boasts building styles spanning American architectural history from the Federal style through Georgian revival. Cumberland has successfully revitalized the downtown area where city residents enjoy beautiful fountains, open mall areas, and parks while shopping or strolling. George Washington's cabin in Fort Cumberland has been made accessible to the public through preservation efforts of the city and Daughters of the American Revolution. The old western Maryland railroad station is being restored to its original place of prominence in the community and will function as a transportation museum, a cultural resource center, and a visitor's center for the C&O Canal National Historical Park. The community is warmly welcoming steam railroading which will return to Allegany County, operating from Cumberland along the old western Maryland main line to its end in Frostburg. These are only a few examples of how Cumberland's citizens work together in the name of history to keep alive symbols of their city's important past.

I am confident that the next 200 years will prove to be years of further great achievement for the city of Cumberland. Mr. President, I ask my colleagues to join in saluting this great city during its bicentennial year as its citizens celebrate this significant milestone in their town's history.●

THE NEED FOR FEDERAL TAKEOVER LEGISLATION

● Mr. BOSCHWITZ. Mr. President, when the 100th Congress convened at the beginning of this year, "competitiveness" seemed to be the catchword of the day and for the future. The emphasis was going to be on making American business more competitive in a global economy. Certainly that is a worthwhile goal, which I very much support. In fact, "competitiveness" is like mom and apple pie—it's not something you can easily be against.

Unfortunately, 7 months into the 100th Congress, the goal may still be competitiveness but the practice has become protectionism. Both Houses of Congress have passed protectionist trade legislation. Under the guise of protecting some workers the Senate has enacted plant closing legislation which will hurt American competitiveness and cost jobs. On the horizon looms minimum wage and mandated benefits legislation which will protect relatively few workers at the expense of many jobs, and, American competitiveness.

Mr. President, I have spoken against such protectionist measures in the past, and will continue to do so. Today, I would like to talk about protectionism of a different kind which occurs at a different level of government—State legislation designed to protect in-State corporations from unwanted takeover bids.

The issue involved here is not whether mergers and acquisitions are good or bad. That is an entirely different debate. My own view is that mergers and acquisitions are generally good for the economy. The available evidence seems to indicate that such transactions, even when hostile, can improve efficiency, transfer scarce resources to more productive uses and help stimulate effective corporate management. It is obviously better to restructure inefficient operations through mergers than through bankruptcy.

But again, that is not the debate. The issue I am addressing is the increasing tendency of State legislatures to protect in-State corporations from unwanted takeovers.

My own State of Minnesota presents the classic example. Earlier this summer when the Dayton Hudson Corp. was under an unwelcome attack a special session of the legislation was quickly called and in no time—I believe there was only 1 day of hearing—a harsh antitakeover law which will help protect Dayton Hudson and other Minnesota businesses from unwanted takeovers was pushed through. The same thing is happening in other States. Everyone wants to protect local industry. I can understand the motivation of Minnesota legislators as Daytons is such a well managed company and active community participant.

At the current pace we will soon have 50 different antitakeover laws to contend with. Conflict and confusion will be the order of the day. Investors will not only have to study the income statement and balance sheet of the corporation, but the takeover laws of its State of incorporation and the States in which it does business as well.

Mr. President, the States have a conflict of interest in passing antitakeover legislation. They want to protect jobs and preserve tax dollars, even if it means protecting bad management or is otherwise not in the best interests of national economic growth.

Because the States cannot always be objective in this area, it is time for the Federal Government to get involved and preempt State laws. In that way only will there be consistency and fairness which will address abuses but yet not disrupt markets and national economic growth.

Mr. President, I am aware that there are several proposals now pending before the Banking Committee which touch on this issue. I am also trying to develop a reasonable solution to the problem. I understand and do not want to disrupt the current system of allowing each State to set its own rules of corporate governance. But in this area, where the States have a conflict of interest, the Federal Government does need to step in to protect American competitiveness and the American economy.●

NAUM MEIMAN

● Mr. SIMON. Mr. President, once again, I would like to speak out on behalf of the many Soviet refuseniks wishing to emigrate from the Soviet Union. Repeatedly, their hopes are raised upon application for exit visas, but then quickly lowered with yet another denial from the Soviet Government.

These talented and worthwhile lives are being wasted as they wait, in vain, for permission to leave. These Soviet Jews have committed no crime, yet they are continually subjected to political harassment and religious persecution. These people are forced to endure severe injustice simply because they have chosen to live elsewhere.

Naum Meiman is a Soviet refusenik. He has been subjected to extreme emotional hardship for the past 11 years. He is an elderly man with one wish left—to emigrate to Israel. Naum poses no threat to the Soviet Government, yet his requests for an exit visa are denied repeatedly and only vague reasons for his refusal are provided.

The Soviet Government speaks of improved relations between our two countries and promises of glasnost, but

we have seen no evidence of this. The emigration rates today are lower than ever.

Something must be done to increase these low emigration levels. I strongly urge the Soviet Union to take action and allow Naum Meiman and other refuseniks to emigrate. These human rights violations must not be allowed to continue.●

FARMERS AND THE CIVIL RIGHTS ACT

● Mr. KARNES. Mr. President, I take the floor today to send a warning signal to farmers across the country. I fear that the Senate may be preparing to pass legislation that could, perhaps unwittingly, establish new regulations affecting the day-to-day operations of most farms in America.

The Senate soon may turn to consideration of S. 557, the Civil Rights Restoration Act of 1987. A number of questions have been raised about the effects of this legislation. There is widespread belief that it will expand the scope of coverage beyond that which existed before the Grove City decision—to the fields and farmsteads of the Nation.

Of particular concern to me is the possibility that individual farmers would be brought under the broad civil rights laws simply because they participate in Federal farm programs. The Department of Agriculture administers a number of programs involving Federal payments or other aid to farmers and ranchers, such as loan guarantees, commodity loans, deficiency payments, disaster payments, price supports, and so forth. Significant questions have been raised as to what the effect of the legislation would be on the recipients of these benefits.

Section 7 of the bill states that none of its amendments shall be construed to extend the application of the civil rights laws to ultimate beneficiaries of Federal financial assistance excluded from coverage before enactment. It does not, however, make clear which ultimate beneficiaries are now excluded, nor does it address the issue of exclusion of those persons receiving benefits from programs that may be enacted in the future. Comments in the committee report are not adequate to address these concerns because the bill substantially rewrites the statutes and adds a new definition of programs and activities covered by the statutes.

What that means to me is that there is no guarantee that S. 557 might not ultimately have a dramatic impact on farming.

Mr. President, what sort of effect could the new legislation have on the operations of a farmer? We have no way of knowing all the impacts, but if we pause a moment to think about it, the possibilities are varied and quite disturbing. A recent court decision found that persons with infectious diseases are handicapped. Therefore, farmers might have to attempt to accommodate persons with TB or AIDS as employees. Under existing regulations, they might have to restructure jobs, modify or install equipment to make it usable by handicapped persons, modify work schedules, provide readers or interpreters, and similar actions. New buildings or additions to existing structures would have to comply with physical accessibility standards.

Many farmers are also employers who exceed the definition of "small providers"—entities with fewer than 15 employees. It is entirely possible that these farmers would have to comply with a whole new set of demands that they never dreamed of. Their operations could be subject to requirements such as making structural alterations to facilities, like installing ramps or widening doors, or any number of other physical changes that seem bizarre in a farm setting.

What about the possibility of requiring farmers to establish grievance procedures that incorporate appropriate due process standards? Would a farmer have to give an employee notice and a hearing before letting a worker go if he simply doesn't do the job? Mr. President, as somebody who has personal experience with farming, I can tell you that things just don't work that way on a farm. Requiring a farmer to implement formal grievance procedures is as ridiculous to him as standing out in the rain—it isn't necessary and it just doesn't make sense.

How about the concept of a farmer hiring an interpreter? I wouldn't want to be the one who had to explain to a farmer that he has to hire an interpreter to accommodate his employees.

Even small operations could be subject to increased Federal paperwork requirements, random onsite compliance reviews, and numerous other regulatory burdens. Mr. President, the last thing farmers need is more regulation and more paperwork to take them away from their principal activity—farming. It is getting to the point where farmers will need to spend money on secretaries and Xerox machines instead of tractors.

What all this means is that we really don't know for certain what impact S. 557 could have on farmers. Until someone can tell this Senator otherwise, I have to assume the possibility exists that passage of this bill could make farming a whole new ballgame, a game that I know Nebraska farmers do not want to play. The impact that these provisions could have on the average farm operation border on the bizarre when you consider the current customs and practices on farms.

It is not enough just to say that the bill does not alter or affect who is a recipient of Federal financial assistance. The language must be modified to erase all doubts. The belief that the bill expands civil rights coverage is so widespread that it should not be ignored.

It would be a mistake to believe that those who are opposed to this bill are opposed to civil rights or want to turn back the clock to the times and the events that necessitated the enactment of these laws. Such is not the case. However, if these predictions prove to be true, it would be disastrous for agriculture. The goal of the 1985 farm bill was to reduce Government involvement in the life of the American farmer. An unnecessary expansion of the civil rights requirements would be in direct contravention of that goal. Farmers are experiencing the most devastating farm crisis in history. They are already overburdened with low commodity prices, excess surplus stocks, and the lack of affordable financing. To be faced with additional statutory and regulatory requirements could jeopardize their continued existence as economic entities.

Mr. President, I think we should think long and hard before bringing this bill to the floor in its present form.●

HIROSHIMA DAY

● Mr. SIMON. Mr. President, today is the 42d anniversary of the atomic destruction of Hiroshima. Three days later, on August 9, 1945, Nagasaki was destroyed by the second nuclear weapon and the world was forever changed.

The anniversary of Hiroshima is an important symbolic reminder of the overwhelming power and destructiveness of a single nuclear weapon. Today, in the United States and Soviet arsenals, the average nuclear weapon is 30 times more powerful than the one bomb dropped from the *Enola Gay* that leveled the entire city of Hiroshima. Hasn't the time come to stop the arms race and give the human race a chance to survive?

On this day we ought to rededicate ourselves to securing peace. It is our responsibility to make sure we don't get into a situation where we contemplate using these horrible weapons. To this end we must negotiate a verifiable end to nuclear weapons testing for all time. We have to greatly reduce the huge numbers of nuclear weapons in the world's arsenals.

We also have to get serious about the spread of nuclear weapons, and here the first step is to acknowledge the proliferation problem as an urgent threat to our national security. And we have to lay the basis for genuine peace by improving the United States-Soviet relationship wherever it makes sense to do so. If we do these things, America will become a much stronger

nation and commemorating Hiroshima Day will not be in vain.●

AGRICULTURAL PRODUCER AND FARM CREDIT SYSTEM BORROWER ACT OF 1987

● Mr. KARNES. Mr. President, I have joined as an original cosponsor of S. 1486, the Agricultural Producer and Farm Credit System Borrower Act of 1987, which was introduced on July 10, 1987. This legislation would create a mechanism for providing Federal assistance to the Farm Credit System and would establish a secondary market for agricultural mortgages.

The comprehensive approach taken in this bill is designed to provide assistance to System institutions within existing Federal budget realities.

One of the issues of great concern to farmers who borrow from the System is the safety of the stock they own in System associations. The bill would provide a guaranty of existing borrower stock, to be paid out in 5 years. This should relieve much of the concern that has contributed to farmers leaving the System. In addition, the bill would assure that those farmers holding stock in associations which were recently put into liquidation would receive full value on their stock. In my State, this would mean that farmers of production credit associations in Valentine and O'Neill, NE, would not suffer approximately $6 million of losses which would otherwise result on their stock as a result of the liquidation of those associations.

The bill addresses the issue of financial assistance through the establishment of a reserve fund, as a vehicle to channel and target assistance to System institutions. The reserve fund would operate under the direction of a Reserve Fund Board, which would have broad authority to administer assistance, and to oversee recovery plans for System institutions. The members of the Board would be the Secretary of the Treasury, the Secretary of Agriculture, the Chairman of the Federal Reserve Board and two public members appointed by the President of the United States. The fund would replace the existing Farm Credit System Capital Corporation, and would be capitalized with assets of the Capital Corporation.

Additional resources for providing assistance to System institutions would come from several sources. The Reserve Fund would be authorized to issue bonds backed by the guaranty of the United States. The Fund would also have the authority to issue guaranteed bonds backed by a pool of real estate transferred to the Fund from the Farmers Home Administration. Those bonds could include provisions which would let investors participate in any appreciation realized on the disposition of the real estate. The bill would also provide a way to deal with the most pressing problem facing the System—the ability of banks to continue to collateralize their own bond obligations. The Reserve Fund would have access to $2 billion of CCC-owned commodities which could be used to issue net worth certificates to any under collateralized bank.

An important role of the Reserve Fund Board would be to oversee loan restructurings by institutions. The legislation would require that institutions prepare plans for restructuring problem loans. It sets standards on which restructurings would be done. It provides a method for assuring the necessary expertise for restructuring would be available at the district level. And the Reserve Fund Board would have authority to assure that restructuring programs are carried out in business-like manner. The restructuring of loans would serve to return assets to performing status and thus strengthen the condition of System institutions.

This legislation would also create a Farm Credit System Insurance Corporation to insure the obligations of System banks and credit enhancement provided for mortgage backed securities by a new Federal Agricultural Insurance Corporation. The Insurance Corporation would be modeled after the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation. It would have broad powers to deal with defaults on obligations and credit enhancements, and to liquidate and assist defaulting institutions.

Title V of the bill would create a secondary market in agricultural mortgages through the chartering of the Federal Agricultural Mortgage Corporation. The Mortgage Corporation, which would be an insured institution within the System, would be authorized to provide credit enhancement to pools of qualified agricultural mortgages. The Mortgage Corporation would have a board of directors comprised of representatives of commercial banks, insurance companies, loan originators, Farm Credit System institutions, and the public. The board would be balanced to assure that no group of lenders dominate. A secondary market for agricultural mortgages can provide many benefits to farmers and bring to the agricultural sector many of the innovative financing approaches that have benefited residential housing in our Nation.

Mr. Chairman, I commend Senator RICHARD LUGAR for his leadership in putting this legislation together. He has taken the initiative in dealing with the need for financial assistance to the System, but to do so with a clear vision of existing budget realities. I have been using my experience in private business, at the Federal Home Loan Bank System and at the Federal Home Loan Bank Board to contribute in efforts to resolve the issues Congress faces in connection with the System. I have been privileged to work with Senator LUGAR in these efforts and I will continue to work to bring this legislation to enactment.

It is important to the farmers of Nebraska, and farmers across our Nation, that they continue to have access to credit at market terms from competitive sources. This legislation will further that objective in a number of significant ways.●

TOO MANY WHITE HOUSE ADVISERS

● Mr. ADAMS. Mr. President, as we conclude the public phase of the Iran-Contra hearings, people are busy "drawing conclusions from" and "learning the lessons of" this tragic affair. Clearly one conclusion and one lesson relate to the power assumed by the President's staff, particularly the staff of the National Security Council and the National Security Adviser. As the Iran-Contra Committees develop their final report, I assume that they may make some suggestions designed to curb the power of staff.

In that context, I would call to their attention, and the attention of my colleagues, a recent op-ed piece written by James W. Symington. As a former member of the House, Jim has a sense of the role that staff should—and should not—play; and as a long time "insider" in Washington, he certainly has a sense of how power can be used and abused in this city. My personal experience convinces me that his assessment of the tension between staff and Cabinet is correct. I ask that the text of his article appear in the RECORD at this point so that my colleagues may review it.

The article follows:

[From the St. Louis Post-Dispatch, Feb. 12, 1987]

A TRIMMER, BETTER WHITE HOUSE—TOO MANY ADVISERS WITH TOO MUCH POWER HURT PRESIDENT AND COUNTRY

(By James W. Symington)

President Abraham Lincoln had two private secretaries, John G. Nicolay and John Hay. Nearly two decades later President-elect James Garfield asked Hay to serve as secretary to the president. He declined, observing that no man takes the same job twice.

Garfield offered to upgrade the title to assistant to the president with policy implications. Hay respectfully declined again, noting that in such a capacity he might get between the president and members of his Cabinet, creating uncertainty and antagonism. Hay concluded, "There are some problems you must face alone."

In subsequent years the reluctance of presidents to face problems alone or in the company of their Senate-confirmed Cabinet officers has caused them to bring into the White House confidants of one kind or another with or without portfolio. The portfolios in general ascendance over the past few presidencies have been those of chief of

staff and national security adviser. Each has expanded from an individual to a well-staffed office.

Whatever the advantages and disadvantages of such arrangements, they have certainly become fixtures of presidential governance. And inasmuch as "executive privilege," the cloak of presidential immunity from testifying before Congress, extends (unless he removes it) over the entire apparatus, the opportunities for concealment of executive initiatives are grealty multiplied.

That some people, especially persons of imagination and daring, might take advantage of such opportunities is understandable in the light of their several determinations to bring success to the broadly defined goals of the president they serve. Nor are their interrelationships structured or predictable. Not long after the president's men have gotten to know one another they develop an instinct for selective information sharing based on the capacity for trust they perceive in each colleague. Thus, the impulse of a single presidential mind—such as could cause Lincoln to wake Hay in the small hours of the morning to share an idea, grief or a joke—is multiplied by the number of surrogate "presidents," who are less inclined to share misgivings.

Each is, in fact, secure in his allocated portion of the presidential conscience to manage his allocated portion of presidential policy without disturbing the sleep of the president. A comforting anonymity stimulates the spirit of adventurism.

Of course, the power they have derives explicitly as well as inferentially from the president himself. The key to the manner in which they use that power might be discoverable in their private conversations with the president as they embark on their duties. This would include the parameters of accountability he outlines, the cross-checking among colleagues and the personal updating he requires.

Like other mysteries, these will not be revealed to us in this life. But at long last we've come out from under the illusion that great matters of state and of peace and war are always the exclusive province—on the executive side—of the president. Yet we do hold our president responsible for such matters. How can we then satisfy ourselves that the responsibility is met?

The power to review the presidential state of mind—what he knows, when he knew it, what he thought—resides nowhere on this side of the veil. Were he only the head of government we might get some of it. But he is also head of state, and the pain of inquiry we inflict on him comes back to us. Preempted then by law and awe from formally interrogating the president, we join the rest of mankind on the edge of our chairs when the president meets the press.

We have traded the illusion of the take-charge president for the wistful hope that his office arrangements, plus his own inclinations and requirements, will enable him to know the kind of things he ought to know, in time to prevent gross error. If the hope is modest, the expectation surely is.

There is absolutely no way to determine if the growing stable of presidential horses is in check. Nor is there any constitutional limit on the presidential prerogative to select and maintain advisers outside the loop of Senate-confirmed departmental officers.

Congress routinely approves appointments for presidential staff as a matter of comity. Nor are such private advisers subject, unless voluntarily, to formal congressional inquiry. Those who are so subject—Cabinet and subcabinet officials—cannot bring to congressional hearings understandings and initiatives of which they know nothing.

An informed citizenry is the first requirement of any democracy. And as confidence in our own government is rooted in our perception of being properly informed, it remains very sensitive to that perception. The arrangements stemming from the Constitution's confirmation process—the continuing accountability to Congress of the resulting appointees—have been our way of assuring ourselves that we had the information necessary to make sound political and other relevant judgments.

It was presumed that a close congressional watch over the operations of their administrations would hold presidents to a satisfactory degree of accountability. Their tendency then to circumvent that original framework by assigning equivalent tasks to individuals, and now entire offices with no such obligation to report to Congress has inevitably resulted in a diminution of the public's perception of being kept informed.

Lt. Col. Oliver North's escapades are not the first of their kind, but they provide the opportunity to review the problem, not from a constitutional perspective exactly but a political one with the Constitution in mind.

Much has been said of the duty to support and defend the Constitution. We might welcome a candidate for president who proposes to do just that by elevating his Cabinet secretaries to their former and intended status as keepers of his conscience in the departments they run and as a corollary, reducing the White House staff in both authority and numbers.

I do not think government would suffer by more frequent and intimate contact between the president and his Cabinet, individually, as well as collectively. Nor do I think the public would feel deprived by any such arrangement.

The president does need someone to help him with the traffic, a private secretary, with an office and sufficient staff. He will always need political confidants, friends and advisers both in and out of office whom he can see whenever he wishes. But to set any one or more of them up as persons of such power and authority that a visit with them is tantamount to a visit with him is a mistake Lincoln seldom, if ever, made.●

TOWARD DEMOCRACY ON TAIWAN

● Mr. PELL. Mr. President, the lifting of martial law on Taiwan on July 14 removed the most prominent symbol of repression and represented an important step toward greater democratization. We must now do what we can to encourage continued progress toward democracy in Taiwan.

Further progress will require the enactment of political reforms which ensure that the people of Taiwan can freely and fairly choose their representatives. At present, the President of Taiwan is chosen by the National Assembly, a thoroughly undemocratic institution where only 9 percent of the members are periodically elected. The people of Taiwan have never had any say in choosing the remaining 91 percent of the members of that body and therefore have never had an opportunity to freely choose their own President.

There are several different ways the existing system might be changed to ensure a democratic outcome in Taiwan. One approach would be to ensure that the members of the National Assembly, who ultimately elect the President, are themselves freely and fairly elected. Another approach would be a system of direct Presidential elections. Either of these approaches could bring representative democracy to Taiwan.

In a recent article in the Christian Science Monitor, Dr. Trong Chai, a professor of political science at the City University of New York, outlines the defects in the existing structure of the National Assembly and proposes a system of direct Presidential elections. Without supporting one particular approach to political reform over another, I ask that a copy of that article appear in the RECORD.

The article follows:

[From the Christian Science Monitor, July 23, 1987]

TAIWAN NEEDS DIRECT PRESIDENTIAL ELECTIONS, TOO

(By Trong R. Chai)

Last year, Taiwan's southern neighbor, the Philippines, overthrew dicator Ferdinand Marcos through a popular presidential election. On July 1 of this year, Taiwan's northern neighbor, South Korea—after three weeks of fierce street fights between riot police and students in major cities—finally decided to let its people directly elect their next president. In light of these new developments in the Pacific region, it is time to call for direct presidential elections in Taiwan.

Since its retreat from China in 1949, the Kuomintang (KMT), the ruling party in Taiwan, has continued to proclaim itself the sole legitimate government of China; its fundamental policy is the recovery of the Chinese mainland. Thus, political institutions established in China in 1947 are all maintained in Taiwan. Members of the National Assembly, whose major function is to elect the president of Taiwan once every six years, were elected by the people on the Chinese mainland four decades ago and still remain in office in Taiwan today.

According to the Constitution, there are 3,136 members of the National Assembly. Because of the civil war between Chinese Nationalists and Communists, only 2,841 members were actually elected in November 1947. Two years after the election, the KMT was defeated by the Communists and 1,576 members came to Taiwan, while the rest either remained on the Chinese mainland or went abroad. Through a 1954 interpretation of the Constitution by Taiwan's rubber-stamp supreme court, these members have lifetime tenure.

At present, because of natural deaths, the number of Assembly members has decreased to 984. Nine hundred of them (or 91 percent), including those who replaced the deceased members, have a life term. Only 84 members (or 9 percent) are periodically elected by the people on Taiwan through a complicated, inequitable system of occupational, gender, and areas representations.

The argument often made by the KMT to justify the methods employed to retain and select Assembly members is not tenable, for the following elements:

Original representatives (498 in number, or 51 percent). It is false to argue that these original members still represent the Chinese people on the mainland. The people who elected them 40 years ago are now at least 60 years old and constitute less than 5 percent of the present-day Chinese population. In addition, since 1949 the KMT has cut off communication with the Chinese mainland, so these legislators could hardly know the wishes of their "constituents" on the other side of the Taiwan Strait. Moreover, most members are more than 80 years old and in poor health. It is physically difficult, if not impossible, for them to assume legislative responsibilities.

Replacing representatives (402 in number, or 41 percent). When an original member dies, the candidate from his district who lost the election in 1947 is selected to replace the deceased member with lifetime tenure. The number of votes a replacement received was so low that he does not even represent the small percentage of mainlanders his predecessor claimed to represent. For example, Mao Song-nien, the former ambassador from Taiwan to Tokyo, lost his election to Wang Chu-wan by receiving only 2,500 votes, but last year, when Wang died, Mao replaced him as an Assembly member.

Occupational representation (16 in number, or 1.6 percent). Today, no major democratic government uses this system, by which members of various occupational groups elect their own congressmen. The KMT chose this electoral system largely because it tightly controls occupational associations and can thus send more representatives to the Assembly.

This system, however, violates the one-man, one-vote rule. One and a half million members of occupational groups elect 16 representatives, while 10 million citizens of Taiwan who do not belong to any occupational association elect only 61 members. The ratio between voters and representatives for occupational groups is twice as high as that for the people not belonging to any occupational group. Such an unequal representation was declared unconstitutional in the United States when, in 1964, the Supreme Court ruled that "as nearly as possible" congressional districts must be so drawn that district populations are approximately equal.

Gender representatives (7 in number, or 0.7 percent). The Chinese Women's Association, founded by Mme. Chiang Kai-shek, is highly supportive of the KMT. With a membership of a quarter million, it elects seven representatives—a ratio twice as high as the disproportional occupational ratio. This again violates the one-man, one-vote rule.

Area representatives (61 in number, or 6 percent). Area representation in Taiwan's elections is closer to the democratic principle than any previously discussed approach. Unfortunately, the election law prevents candidates from launching effective campaigns. For example, the use of mass media is prohibited, and the candidate is allowed to campaign for only 15 days in a district with a population of several million—a far cry from the free and fair campaign characterizing congressional elections in the US.

From the above analysis, it is clear that the National Assembly is now atrophied and unrepresentative. Both its members and the president they elect represent neither China nor Taiwan. Unless the existing system of indirect elections of the president by the Assembly is changed to direct elections by the people on Taiwan, there will be no democracy and representative government on the island.●

PARK OVERFLIGHT LEGISLATION

● Mr. DECONCINI. Mr. President, the House of Representatives recently sent to the White House H.R. 921, legislation to require a study of the effects of aircraft flights over certain of our national parks. Included in that legislation is a separate section which requires the implementation of an aircraft management plan for flights over the Grand Canyon National Park. I support the legislation as passed by the Congress and believe we need to set in motion a plan for the management of aircraft over the Grand Canyon.

The longstanding conflict over aircraft use and environmental concerns must be resolved. While I do not and would not support any legislation requiring an outright prohibition on aircraft flights over the Grand Canyon, I am convinced that there are legitimate concerns over the safety risks and the environmental experience due to these flights. The emotions and feelings of those who treasure the magnificent canyon should not be spoiled by the noise of helicopters and fixed wing aircraft. At the same time, those who choose to view the Canyon from aircraft should be afforded the opportunity to do so.

One of the major concerns expressed throughout the consideration of this legislation was the need to ensure the appropriate role of the National Park Service and the Federal Aviation Administration with respect to the formulation of a plan for aircraft management. The bill, as passed by the Senate, would require the Secretary of the Interior to develop recommendations for inclusion in an aircraft management plan. Those recommendations would include a plan for the restoration of substantial quiet within the canyon, prohibit the flight of aircraft below the rim of the canyon, and require the establishment of flight-free zones. The Federal Aviation Administration would define the rim of the canyon and then implement the Park Service recommendations unless it found that the Park Service recommendations would have an adverse impact on aviation safety. Mr. President, this is the proper role for both of these Federal agencies. The Park Service should not be in the business of regulating airspace—that is the responsibility of the FAA. And, the FAA should not be expected to develop a plan which responds to the environmental consequences of overflights in our national parks.

With H.R. 921, we now have a framework for the agencies to develop a management plan which addresses safety and environmental concerns, for all types of aircraft. Once enacted, it will allow all interests to have input into the Park Service recommendations. Mr. President, I would have preferred to see both the Department of the Interior and the Department of Transportation work out a responsible solution to overflights. Unfortunately, this has not been possible and the need for the legislation has become critical to resolving the continuing use conflicts.

H.R. 921 is a responsible approach to the overflight issue. It is my hope that the President will sign H.R. 921 at the earliest possible date.●

LONG-TERM REFUSENIKS IN THE SOVIET UNION

● Mr. DECONCINI. Mr. President, during my 11 years as a U.S. Senator, I have spoken many times in this Chamber about the plight of thousands of Soviet citizens who are struggling to exercise their right to basic human freedoms. For some of these thousands, freedom means an end to unfounded and unjust incarceration in the inhumane underworld of the Gulag. For others, it means freedom of expression without fear of cruel reprisals such as being abused by a sadistic use of "psychiatric treatment." Today I am going to speak about those who ask nothing more than to be reunited with their families.

Earlier this week I was visited by the families of four refuseniks who have been given the sad label of "Families of long-term refuseniks". A long-term refusenik is a Soviet citizen who has been denied permission to emigrate for more than 10 years. These cases are unfortunately not new to me. I have met personally in Moscow with two of the people whom I speak of today.

I would like to review the specific cases of these four to illustrate the type of mindless persecution which the Soviet Union is still engaging in despite Mr. Gorbachev's much publicized glasnost.

Grigory and Natalia Rozenshtein were refused an exit visa in 1974 based on Grigory's alleged access to "state secrets" in 1965—9 years earlier. It is now 22 years later and the Rozenshteins are still being denied the right to emigrate. Grigory's so-called sensitive work was the use of computer applications in his research on the structure of the human brain. His work, however, has been allowed to be published in scientific journals in both the Soviet Union and the West.

The Rozenshteins are two of Moscow's leading Jewish activists and, over the years, despite never-ending harassment have continued to raise

their children as Orthodox Jews. I met Grigory in Moscow in 1983 and came away from our meeting with tremendous admiration for his spirit and refusal to compromise his beliefs.

Kim Fridman has been denied permission to leave since 1973. On what grounds? Alleged classified work in the Kiev Radio Plant which was conducted almost 15 years ago. Kim has been arrested several times and harrassed by the authorities for teaching Hebrew and the history of Russian Jews.

I first met Vladimir Prestin in 1978 in Moscow and again in 1985 and his extraordinary courage had not diminished in spite of the fact that he and his wife have been consistently denied permission to emigrate because Vladimir worked on computers.

Computers which became obsolete in 1969. The information to which he had access was also published in 1975. This Alice in Wonderland logic would be laughable if it were not being applied in real life to real people by a major world power. One has to question the superpower status of a country that considers technologies which are 10, 20 and even 30 years old so advanced that they still need protecting.

Vladimir Prestin is also a Jew and he speaks of the psychological effects of being a long-term Jewish refusenik:

> * * * There are several levels in this isolation: first of all, we do not believe we are free; the main feeling of every Jew is fear. It is an illness, a serious sickness * * * we suffer from phobias and paranoias and it destroys our minds.

This attempt to destroy the human spirit has perhaps reached the ultimate in cynicism in the case of Ilya Vaitsblit. Mr. Vaitsblit retired from his job as a radio engineer in 1973 because of declining health due to multiple sclerosis. He and his family applied for an exit visa but were refused because of his access to "classified" material. This is now 1987 and Mr. Vaitsblit's disease has rendered him deaf, dumb, blind and completely paralyzed and yet he cannot leave because he is considered a security risk. What kind of a government would deny Ilya Vaitsblit and his wife the only source of strength and love left to them, the right to be with their son in Israel?

Twelve years ago the Soviet Union along with the United States and 33 other countries signed an agreement known as the Helsinki Final Act. By doing so it pledged to resolve humanitarian problems and respect human rights and fundamental freedoms. For several months now delegates from the 35 signatory nations have been engaged in multilateral talks in Vienna to review the implementation record of the participating states in relation to these principles. In September they will begin drafting a document aimed at reinforcing and strengthening the Helsinki Final Act.

As Cochairman of the Helsinki Commission which was established by Congress to monitor compliance with the Helsinki Accords, I have been following the Vienna meeting very closely. Our Ambassador to the talks, Warren Zimmerman, has repeatedly challenged the Soviets to honor its Helsinki commitments. I second this challenge and pledge to make every effort to see that before a concluding document is signed in Vienna, sustained measureable progress is evident in the Soviet Union's human rights performance. In particular, there must be a significant resolution of outstanding emigration cases, a release of all prisioners of conscience and a reunification of divided families.

The Soviet Union would like to bypass these issues and place greater emphasis on the military security aspects of the Helsinki accords. But we must not accept any negotiation which permits security issues to overshadow the foundation of the Helsinki accords, human rights and fundamental freedoms. I intend to monitor this next critical phase in the Vienna talks carefully to ensure that the promotion of these freedoms which constitute the heart of the Helsinki process is not sacrificed for any reason. We must remain committed to our central focus on human rights until I no longer have a reason to stand in this Chamber and relate tales of suffering and oppression as I have today.●

RECOGNIZING DONALD AND DUDLEY WEBB

● Mr. McCONNELL. Mr. President, I rise today to recognize two outstanding Kentucky business leaders—Donald and Dudley Webb of Lexington, KY. The Wall Street Journal recently ran an article describing the real estate activities of these two brothers.

Donald and Dudley direct the Webb Companies, which, according to the Journal article, is the Nation's third largest diversified real estate development firm. It is certainly an honor for Kentucky that the Webb Companies are located in our Commonwealth.

The success of Donald and Dudley demonstrates that vision, dedication, and determination can have positive results. They come from a small community in eastern Kentucky and attended Georgetown College and the University of Kentucky Law School, where I was fortunate to have first met them. Both worked during college to help finance their education. Their record of accomplishment epitomizes the rewards of hard work in our free enterprise system.

Mr. President, I hope my colleagues share my sentiments in congratulating and recognizing Donald and Dudley Webb for their business and civic leadership. I ask that the Wall Street Journal article to which I have referred be printed in the RECORD for the benefit of my colleagues.

The article follows:

[From the Wall Street Journal, July 15, 1987]

TWO KENTUCKY BROTHERS MINE REAL ESTATE

(By Dana Canedy)

LEXINGTON, Ky.—Dudley Webb pushes a button and the boardroom curtains close. A huge screen appears from behind mahogany and brass walls. It's time for the slide show.

With the excitement of someone showing scenes from last summer's vacation, the 44-year-old Mr. Webb flips through slide after slide of real estate projects his firm has completed or begun. "This is like a big toy," he says as he operates the slide projector.

The large stack of slides explains why Webb Cos., run by Dudley and his 48-year-old brother Donald, has emerged in the past decade as the nation's third largest diversified real estate developer, according to the ranking of an industry magazine. Last year, Webb had projects under way valued at $908.3 million.

Because major U.S. markets are overbuilt, an increasing number of developers like the Webbs have been concentrating on midsized metropolitan markets. The Webb empire is in markets such as Winston-Salem, N.C.; Toledo, Ohio; Springfield, Mass.; Riverside, Calif.; and Raleigh, N.C.

The profits can be impressive, but so can the problems. The Webbs currently are negotiating to sell half of their real estate interests for an estimated $100 million to a pension management firm. But as bulldozers edge more and more into farmland and residential areas, such developers find themselves spending more time facing angry groups at public meetings.

To make the way smoother, the Webbs try to link up with local partners who know particular markets, says Dudley. These "second-tier markets are still good ol' boy networks" where local contacts "are very important," he adds.

In Toledo, for example, the Webbs linked up with SeaGate Community Development Corp. on a $32 million office and retail complex. In Charleston, W.Va., when the city's largest law firm needed new offices and wanted to own a portion of the space it occupied, the Webbs leveraged the firm's lease into a bigger building, established a development company, and sought out deals. The result: the $35 million Laidley Towers, the largest office building in town.

The Webbs, says Dudley, a high-spirited, soft-spoken bachelor, are themselves "good ol' boys" who grew up in Hot Spot, Ky., a coal mining camp (population 200) in the mountains of eastern Kentucky that was owned by the company that employed their father as office manager. "I had a shoeshine box when I was six," recalls Donald, whose first taste of currency was coal-mine company script. Donald is married and has one son.

Their parents scrimped to send the brothers to college. Both attended Georgetown College in Georgetown, Ky., and both later graduated from law school at the University of Kentucky. To pay for law school, Donald took a job in state government, while Dudley worked in the tire department of Montgomery Ward & Co. and also made extra money on weekends as a little league football referee.

A $3,000 LOAN

After working separately as lawyers for a few years, they began their real estate pursuits. It was a modest beginning: with a $3,000 loan and a mortgage from the owners, they bought a $32,000 single-family house and sold it for $37,000 four months later. They soon graduated from purchasing small houses to building duplexes, warehouses and eventually office buildings.

"When we paid the first $3,000 loan back, we showed the lender we would do what we said, and the next time they gave us a $10,000 loan, and the next a $100,000 loan." says Donald.

The Webbs moved into the industry's big leagues when they developed the Radisson Hotel and Vine Center in this city of 220,000.

Their fervent support of the University of Kentucky basketball team helped spark that project. In 1980, before the National Collegiate Athletic Association selection committee arrived here to review the city as a possible site for the 1985 NCAA basketball finals, the brothers moved to dispel any doubts that the city couldn't provide enough hotel rooms. "We accelerated our schedule a little bit, rented a bulldozer, put up a sign that said, 'Coming Soon, 400-Room Radisson' and started pushing dirt around," says Dudley.

CITY LANDS NCAA FINALS

Lexington landed the NCAA finals, and the Webbs soon seemed to land every pending development project in the city. Their slogan—"Building Tomorrow's Landmarks"—became familiar. In 1980, Dudley also decided to expand outside Lexington because, he says, "you start to step on your own toes in a small town."

Dudley became the firm's national partner, arranging projects throughout the country, while Donald focused his attention on further development in Kentucky. Their projects are now in 64 cities.

The Webbs' operations hub is the top floors of the new 30-story, $60 million Lexington Financial Center that they developed—plush quarters that include a winding brass staircase and brass elevators with viewing screens that display the date, day of the week, time, latest stock market report, weather, and the top news stories.

While few take issue with the Webbs' contribution to a once-lackluster downtown Lexington, some residents say the brothers are building too much too fast. They worry that development will begin to adversely affect the region's renowned thoroughbred horse farms. At a recent public hearing, residents protested the proposed location of a Webb shopping center project on a largely residential road where horses still graze.

"We're just running out of good farm land," asserts Alice Hadley Chandler, who along with her husband, owns Mill Ridge Farm. "One of our great tourist attractions is horses, and 20 years from now I wonder if we're going to have any place to put them." William Thomason Jr., Mill Ridge's financial officer, contends Lexington doesn't fit typical development trends and says the Webbs had better take note of that.

In response, Dudley says, "You're always going to have your doubting Thomases, but obviously the market speaks for itself. If there weren't demand for the projects, we wouldn't do them."

Some residents also say the Webbs have forgotten their humble roots. They cite a letter Donald Webb wrote to the Salvation Army responding to its request for advice on expanding their downtown facility for the homeless. The local newspaper later printed the letter in which Donald advised, "move them out to a rural site where they can raise vegetables and get fresh air."

Dudley says that having to account publicly for business decisions "isn't desirable" and that the Webbs intend to stay privately owned.

"I have enough accountability problems to my brother without taking on the world at large," he says.●

MONEY SAYS NASHUA IN NEW HAMPSHIRE IS BEST

● Mr. HUMPHREY. Mr. President, I was very pleased to see the August issue of Money. The financial magazine had been conducting a survey of metropolitan areas in order to determine which were the "most livable." Not surprisingly, at least to this Senator, the No. 1 area is located in the State of New Hampshire. The winner? Nashua, NH.

Money states that Nashua came out on top primarily because of the area's strong economy, first-rate schools, and proximity to both Boston and the bountiful recreation spots in New Hampshire's White Mountains.

Mr. President, the strength of the New Hampshire economy can be seen in the unemployment rate. At 2.5 percent, New Hampshire has had the lowest unemployment rate in the entire Nation for the past several months. The quality of education in my State is testament to local control over our schools. In fact, again in 1986, New Hampshire students ranked No. 1 in the Nation in overall SAT scores. Our quality of life is enhanced by the White Mountain National Forest, just one of the many jewels among New Hampshire's natural resource treasures.

Mr. President, in addition to Nashua coming out on top, southeastern New Hampshire was ranked No. 27 out of the 300 areas surveyed. I congratulate the Nashua area and the Southeastern Triangle, and I am certain that the areas will remain among the top of the "most livable metropolitan areas."

Mr. President, I ask that the article from Money detailing the results of its study, entitled "The Best Places to Live in America," appear in the RECORD.

The article follows:

[From Money, August 1987]

THE BEST PLACES TO LIVE IN AMERICA

(By Richard Eisenberg and Debra Wishik Englander)

If you could live anywhere in the U.S., where would it be? San Francisco? New York City? Plains, Ga.? Various surveys, such as Rand McNally's Places Rated Almanac, have attempted to identify the most livable metropolitan areas. But those previous lists have a serious flaw: they do not give extra weight to the key characteristics—such as safety, the weather, the local economy—that are most important to the public. Instead, they assume everyone cares equally about all factors.

In reality, of course, different factors do matter more to different people. With that in mind, Money's editors set out to determine what characteristics our readers prize. We then ranked 300 metropolitan areas by their preferences. Specifically, Money's poll asked a representative sample of 226 readers (median age: 42; median household income: $56,000) to score each of 60 variables on a scale of 1 to 10. Their three most important variables: safety of property, personal safety and the likelihood that houses will appreciate in value. The three least important: proximity to an Amtrak station, availability of household help and closeness to a bus terminal.

We then gathered data about the largest Metropolitan Statistical Areas, as the Census Bureau calls them, using both government and private sources. Working closely with Bert Sperling, a Portland, Ore. researcher who designed a computer software package called Places, U.S.A., we awarded the appropriate amount of points to each area.

The winner was Nashua, N.H. and its neighboring towns, primarily because of the area's strong economy, first-rate schools, and proximity to both Boston and the bountiful recreation spots in New Hampshire's White Mountains. Only one criterion required a subjective judgment: the definition of good weather. We decided the ideal was in San Diego, where the sun shines about 270 days a year, and it never snows. Undoubtedly, this choice helped boost two California areas into our top 10 list: Oxnard/Ventura and Anaheim/Santa Ana.

A strong local economy mattered enormously to our respondents. Therefore, it was no surprise that seven of our best 10 places are in the booming Northeast, in or near large metropolitan areas. Unemployment is 3% to 4% in many northeastern cities. And house prices appreciated 10% to 25% in 1986 in most of the area, compared with 7.4% nationwide.

Our two top 10 surprises are Wheeling, W.Va. and Scranton, Pa., where the local economies are sluggish at best. Both areas, however, boast low crime rates (fewer than three murders per 100,000 residents annually) and inexpensive houses ($20,000 to $80,000 for typical three-bedroom units).

NO. 1—NASHUA, NH

Attractions: growth economy, proximity to Boston and the White Mountains, no state income or sales taxes, high house-price appreciation, safety from crime.

Detractions: cold weather, lack of arts, high house prices.

Typical three-bedroom house: $100,000 to $250,000.

Paradise for Dennis and Nancy Daly and their three children is this New England family community, located just over the Massachusetts border, that 10 years ago people just drove through to get somewhere else. In 1979, when Mazda Motors Corp. transferred Dennis, a district manager, the Dalys had the choice of moving from Middletown, NY to Maine, New Hampshire or Vermont. "We wanted New Hampshire because of its central location," says Dennis, 43. "We quizzed people in New Hampshire hotels where we stayed, Mazda dealerships and real estate offices, and began hearing a lot about the well-regarded youth programs in Merrimack." That town is eight miles west of Nashua. Sports buffs, the Dalys became hooked after they realized that the area was an hour from Boston Garden,

home of the basketball Celtics and hockey Bruins.

"I'd never move back to New York. I'm here to stay," says Nancy, 38, a teacher's aide for learning-disabled students. Or at least she is until Mazda calls Dennis for his next regional assignment.

Many people associate New Hampshire with great skiing and rustic charm. Nashua (pop. 75,000) and its neighboring towns offer that—and a great deal more.

Practically anyone who wants a well-paying job can have one. The unemployment rate is a mere 3% and has been among the nation's lowest consistently since 1980, through salaries are 5% below those of comparable jobs in Boston, 35 miles away.

Nashua is the second largest city in the only U.S. state without an income tax or a sales tax. Now that sales taxes are no longer deductible on federal income tax returns, New Hampshire is that much more attractive. Nashua's new million-square-foot Pheasant Lane Mall, the state's biggest, acts as a magnet to Massachusetts shoppers escaping their state's 5% sales tax. The mall's parking lot is in Massachusetts but its 150 stores are safely over the line.

Nashua is only an hour's drive from White Mountain skiing and outlet-store shopping to the north and Boston and Atlantic Ocean resorts to the east.

Area house prices have doubled since 1982 and are expected to increase another 12% this year, says Jim Drivick, who runs two local ERA real estate offices. The priciest houses—typically $200,000 to $250,000 for three bedrooms—are in the outlying rural towns of Amherst and Hollis. Condominiums generally sell for $75,000 to $150,000.

Nashua is the 20th safest metropolitan area in the country, according to the U.S. Justice Department. Residents cheer the lack of crime. Nancy Daly says, "I'll leave my pocketbook overnight in my unlocked car in the driveway and never think of anything happening."

The cost of living is low. A pay-phone call still costs a dime, and you can lunch on, say, a plate of scallops in a downtown restaurant for $6. A yearlong war for market share by two grocery chains is keeping food prices down. The average daily charge for a semi-private room in the 188-bed Nashua Memorial Hospital is $166, roughly 10% below the national average, according to the American Chamber of Commerce Researchers Association.

And few areas can compete for sheer beauty and outdoor activities. Says martha Oxner, 36 a credit-card representative who skis and hikes near her family's mountain cabin two hours from their Merrimack home: "There is everything but surfboarding."

A former textile-mill town that all but shut down in the late 1940s, Nashua has been on a slow, steady comeback ever since. Technology companies, aided in large measure by President Reagan's defense buildup, now propel the local economy. Today, 40% of local jobs are in high-tech.

The region's job stability was further enhanced last year when Lockheed, the enormous defense contractor, bought Sanders Associates, the biggest employer in Nashua and the state. Sanders, based in Nashua, has 7,600 workers. Says Roger Brown, vice president of human resources at Sanders: "We doubled or tripled our career opportunities for employees the day we became a member of the Lockheed family." Other big regional employers include Digital Equipment, Kollsman and the Nashua Corp.

Electronics firms also dot Routes 495 and 128 in nearby Massachusetts, giving area residents various job choices. For example, Sue Will, 28, left her position as a program administrator at Sanders in January to become a manager at Sof-Tech, an MIT spin-off computer software company in Waltham, Mass. A 10 percent raise lifted her annual salary to about $38,000. Sue's husband, Eric, 29, is a Sanders electrical engineer earning roughly $45,000 a year.

No place is perfect, of course. Property taxes eat up about 5.6 percent of personal income compared with a 3.5 percent take nationwide. Arts enthusiasts will find no galleries in Nashua, and the two movie theaters rarely show anything but the latest stuff aimed at local teenagers. Local mass transit does not exist, unless you count the mass of cars on Route 101A that can turn a 20-minute trip into a 50-minute drag during rush hour. Low annual starting salaries of $13,000 three years ago deterred some teachers from moving in. But a new contract that raised starting pay to $18,000 this year has begun attracting teachers.

Nature sometimes gets revenge too. The ground is blanketed by three or four snowstorms annually (about 15 inches per winter month), and winter temperatures often stay in the teens and 20s for days. A toxic-waste dump near the Nashua River is the first Superfund site—part of the federally established hazardous-waste cleanup program. Fortunately, Nashua's drinking water is considered safe from the small, contained toxic site.

Summing up the Nashua area, parents there say it's a spectacular place to raise a family. Says Nancy Daly: "I don't think my kids would have all the options for skiing, swimming and playing other sports without crowds if we lived in a bigger area. We've got a lot of space to enjoy ourselves."

NO. 2: NORWALK, CT

Attractions: growth economy, health care, waterfront, no state income tax, community spirit, abundant arts, proximity to New York City.

Detractions: high house prices, property taxes, cost of living.

Three-bedroom house: $250,000 to $400,000.

For years, snooty neighbors called Norwalk (pop. 78,000) "the hole in the doughnut" because it lacked the cachet of the tony southern Connecticut towns that surrounded it—Greenwich, Darien and Westport. But seldom is heard a disparaging word about Norwalk these days. The local economy is humming, and a new tourist attraction called the Maritime Center, with an aquarium, a museum and restaurants on Long Island Sound, will open next spring. Roughly 10 percent of residents brave the 58-minute one-way train commute to New York City's Grand Central Terminal.

The future looks promising. Sales and Marketing Management magazine forecasts that in 1990 the average household income in Norwalk, Danbury and nearby Fairfield County cities will reach $71,628, the highest in the U.S. and a 41 percent increase from the 1985 figure. The latest company considering moving its headquarters to the area from New York City: the national accounting firm Deloitte Haskins & Sells.

Another strength is community spirit. City planners, residents and local business owners are converting a rundown former South Norwalk slum into a chic, artsy neighborhood dubbed SoNo. Last August, the 10th annual SoNo Art Celebration, featuring 135 local and national artists, attracted 30,000 people, many from the New York City metropolitan area and eastern Connecticut. In addition, some 45 local companies, including Pepperidge Farm and Richardson-Vicks, actively urge employees to join Norwalk's Adopt-a-School program and teach classes in the public schools.

The lack of affordable housing is the biggest drawback in Norwalk and the nearby ritzy three W's—Wilton, Weston and Westport. Even one-bedroom condos, the typical starter homes, usually go for $175,000. Shrewd investors snapped up the first SoNo studio condos in 1982 for about $80,000; prices since have more than doubled.

NO. 3: WHEELING, WV

Attractions: safety, diverse leisure activities, low house prices

Detractions: chronic unemployment, deteriorated downtown

Three-bedroom house: $20,000 to $80,000

Wheeling is still feeling the slowdowns at Wheeling-Pittsburgh and Weirton Steel companies along with diminished production in local coal mines. Unemployment remains at 9.5%, about three percentage points higher than the national average. So how does it rank third on Money's survey? There is no safer place to live in the U.S., and safety was the most important factor among the readers we polled. Wheeling (pop. 43,000) has topped the Justice Department's list of safe cities for the past two years. The low crime rate is primarily because of effective community watch programs, says police chief Edward Weith, Jr. Weith adds that the criminals are often young, out-of-work repeat offenders, who are well known to local police.

Wheeling's appeal is enhanced by its magnificent parks. Some 3 million tourists and locals a year visit the 1,500-acre Oglebay Park, about a 10-minute drive from downtown. Its lush rolling acres offer vistas and accommodations few other public parks can rival. For minimal fees as low as 50¢, you can picnic, hike, play tennis, or golf. In addition, other leisuretime offerings include: Wheeling Park, the other city park; Jamboree USA, a country-and-western show held at Capitol Music Hall every Saturday night; and Wheeling Downs, a popular dog-racing track.

Hoping to capitalize on its many Victorian homes, Wheeling has petitioned the state historic preservation office to declare certain additional sections of the city as historic districts. This would let the city get federal and matching state funds. Such support, along with private investments, would be used to redevelop the downtown Ohio River waterfront and—some residents hope—eventually turn the city into another Williamsburg.

Local business leaders are working to boost the economy in other ways too. Patrick Lyle, marketing director of the Ohio Valley Industrial & Business Development Corp., a group trying to attract industry, says, "Our future growth lies in light manufacturing, distribution, service industries and tourism." Two first steps: a joint project between Wheeling-Pittsburgh Steel and the Nisshim Steel Co. of Japan is expected to provide some 100 assembly-line and office jobs next year; and HessCo Industries, a La Habra, Calif. bathtub and shower manufacturer, expects to expand to an abandoned steel factory within a year, creating 400 jobs over three years. It will take five to 10 years to see if Wheeling's strides continue and produce a boomtown. Meantime, patient real estate investors could be

richly rewarded. Some downtown Victorian homes are for sale for as little as $10,000.

NO. 4: BEAVER COUNTY, PA

Attractions: safety, low house prices, proximity to Pittsburgh

Detraction: chronic unemployment

Three-bedroom house: $30,000 to $100,000

Even people who hate sports know that Joe Namath hails from Beaver Falls, a town in an area so football crazy that it closes down for Friday night high school games. What else happens in Beaver County (pop. 190,300)? Not much. But the Ohio River area, with its charming small towns and farmland, is evolving into nearby Pittsburgh's back bedroom. The city and all it offers—the Pirates, Steelers, symphony, universities, museums, large shopping centers and jobs—is a one-hour highway drive away.

Ultimately, Beaver County would like to lure away some of the 640 high-tech companies that have helped revitalize Steeltown, U.S.A. since 1981. Several economic organizations have been spawned to find service and manufacturing companies as well. The Southwest Pennsylvania Economic Development District created a new-business incubator in Vanport Township two years ago.

Unemployment has fallen to about 9%. "It's very difficut to lose a major industry like steel," says Clair Searfoss, president of the Beaver County Corp. for Economic Development. The hope for the future is the expanding Pittsburgh International Airport, the 15th busiest in the country. Beaver County is building several industrial parks within 15 minutes of the airport to attract major new employers keen on buying land some 20% cheaper than at the airport or in Pittsburgh.

The slow times have kept house prices about 25% lower than those in nearby Allegheny County. For less than $100,000, you can get a five-bedroom Spanish-style house or a remodeled farmhouse with 10 acres.

NO. 5: DANBURY, CT

Attractions: strong economy, scenic beauty, public schools, no state income tax, health care.

Detractions: high house prices, property taxes, cost of living, long commute to New York City.

Three-bedroom house: $175,000 to $400,000.

For the past five years, corporate executives and managers have been migrating to the rolling hills surrounding Danbury, 25 miles north of Norwalk and a two-hour car and train trip to Manhattan. The flight to Danbury (pop. 67,000) began when Union Carbide moved its 3,000-person headquarters there from New York. As the starched-shirt crowd has settled into the nearby towns, a mix of Chinese, Cambodians, and South and Central Americans have moved into downtown Danbury and filled jobs largely at small businesses.

The population growth has produced a vibrant local economy. "If you drive down the street and don't see a help-wanted sign, you need glasses," said local real estate agent Fred Koontz. Continued low unemployment of around 4% and high job growth of 2.5% a year appear likely. Even the local hangout is a cafe called Rosy Tomorrows.

House price appreciation has been phenomenal—25% a year, on average, in 1985 and 1986—before cooling to the national average of 7% to 10% this year. You can still get a small three-bedroom colonial for $200,000, roughly $30,000 more than a comparable home 10 miles west in high-tax New York's Putnam County.

Area school systems and medical care are exceptional. The public schools are especially noteworthy in the Danbury suburbs of Ridgefield, New Fairfield and Bethel. The 450-bed Danbury Hospital is pioneering for a medical center its size. For example, it is one of only three in Connecticut allowed by the Food and Drug Administration to give heart-attack patients Genentech's experimental pain-killer called t-PA, designed to stop damage to heart tissue.

Leisure activities feature beauty and the beast. The 11-mile Candlewood Lake delights families who swim, sail and fish in the summer and skate and ice-fish in winter. Fans of jazz, country and other American music need not travel to New York City to tap their toes. Danbury's three-year-old, 39-acre, outdoor Charles Ives Center for the Arts has booked Ray Charles, jazz greats Miles Davis and Chick Corea and Broadway star Barbara Cook.

NO. 6: LONG ISLAND, NY

Attractions: well-regarded schools and colleges, health care, waterfront, strong economy, proximity to New York City.

Detractions: high house prices, cost of living, commute to New York City, taxes.

Three-bedroom house: $140,000 to $250,000.

The world's biggest suburb—the 120-mile stretch east of New York City, comprising Nassau and Suffolk counties—appears routinely in surveys of great places to live. For example, American Demographics magazine recently chose Long Island as the best metropolitan area for blacks, largely because of Long Island's high median black income ($18,826) and home ownership rate (61%).

Many towns on the island remain as affluent as Jay Gatsby's East Egg. Three of the 10 wealthiest U.S. locales (medium income: about $70,000) are on Long Island's North Shore—Great Neck, Roslyn and Manhasset. The price of affluence is steep. House prices rose an average of 15% to 30% last year. The owner of a $200,000 house might have to pay $3,000 a year in property taxes. Long Island's auto insurance rates are among the nation's highest, averaging about $650 a year. And the 38 hospitals, including some noteworthy ones, charge nosebleed rates: a semiprivate room at Nassau County Medical Center in East Meadow costs $345 a day.

The quality of life depends mostly on whether residents work on the island or commute to New York City. Long Island, which has no central city, houses more residents (2.6 million) than 21 other states, and nearly 80% of them work in Nassau and Suffolk counties, many at 1,000-odd high-tech companies. The unlucky 20% who commute to New York suffer endless aggravation. Some drive in on the Long Island Expressway, often called "the world's largest parking lot." Other take the Long Island Railroad, usually a 1½-hour trip door to door at 30 miles an hour each way.

Education gets high marks. Since 1984, the U.S. Department of Education has cited six Long Island public elementary and secondary schools for excellence; most are on the North Shore. Long Island also has 19 colleges, including intimate Adelphia and striving Hofstra.

Long Island is fun suburb to New York's fun city. The island's 1,600 miles of shoreline, featuring the Hamptons, Fire Island and other beach communities earned Long Island its designation as the 21st best vacation spot in the U.S., according to *Vacation Places Rated* (Rand McNally, $12.95). Other entertainment includes Belmont racetrack and the Nassau Coliseum, home of the New York Islanders hockey team. Newsday, considered one of the nation's best newspapers, is the local paper.

NO. 7: OXNARD/VENTURA, CA

Attractions: sunny weather, diverse leisure activities, proximity to Los Angeles.

Detractions: high house prices, cost of living.

Three-bedroom house: $120,000 to $200,000.

Who would like to enjoy prosperity on the Pacific coast, in sunny 70° weather, about an hour's drive north of Los Angeles? Some 639,000 residents do now, and the Southern California Association of Governments predicts that the Oxnard/Ventura population will grow by 70% to hit 1 million in 20 years as people move from cities south of the area.

The economy seems strong enough to withstand the growth. The Woods & Poole economics firm says the metropolitan region is only one of 16 in the country that has not suffered a recession since 1969. Tourism is the big business. The Channel Islands National Park, along with the other beaches, parks and boating facilities, generate enough visitors to fill nearly 196,000 rooms each year. In addition, two naval facilities, Port Hueneme Naval Construction Battalion and the Pacific Missile Test Center at Point Magu, employ more than 18,000. Several downtown industrial sites are being developed for offices and malls.

Growth is so rapid that the largely rural residents are worrying about urbanization and its byproducts, traffic jams and air pollution. Oxnard officials rejected a business park near the city airport recently that would have added traffic, despite the fact that all new developers must already pay a tax based on estimates of increased road use.

Still, many area leaders keep plugging away for growth. The cities of Oxnard, Ventura and Port Hueneme have asked the America's Cup Defense Committee to consider the area to host the America's Cup Yacht Race in 1990. Jack Stewart, director of economic development for Oxnard, says: "We want to be the Fremantle of the future. We have the winds, the hotels and the boat slips." And the booster spirit.

NO 8: BOSTON'S NORTH SHORE

Attractions: scenic beauty, safety, waterfront, proximity to Boston.

Detractions: high house prices, property taxes.

Three-bedroom house: $150,000 to $200,000.

Few places in America combine waterfront charm and an easy train commute to a great city as well as the surprisingly unheralded 20 miles of coastline north of Boston. The towns from Salem to a few knots beyond Gloucester, once primarily fishing villages, now largely attract Back Bay defectors and retirees. Most outsiders know Salem (pop. 38,000) only for its witch trials and Gloucester (pop. 28,000) as home of the Gorton's sea captain with his familiar yellow slicker.

Prices of the area's handsome 18th- and 19th-century clapboard houses are expensive and getting pricier. Massachusetts Bay waterfront homes in Marblehead, Manchester and Gloucester generally start at $400,000. Average appreciation last year was 20% to 25%; another 10% to 15% increase is expected this year.

Proximity to Boston gives North Shore residents access to some of the country's finest medical care. Best known of Boston's 27 hospitals is Massachusetts General, the

largest hospital in New England and a pioneer in treating heart patients as well as burn and stroke victims. Well-regarded specialty medical centers include the Joslin Diabetes Clinic, the Massachusetts Eye and Ear Infirmary and the Dana Farber Cancer Institute.

Leisure activities shine. Rockport's artist colony is world renowned, and Cape Ann offers some of the country's best whale watching. Museums celebrate Salem's maritime history and witch lore, as well as native author Nathaniel Hawthorne. Seafood lovers feast on what may be the best fresh lobster in the U.S., netted off Gloucester's shore.

NO. 9: SCRANTON/WILKES-BARRE, PA

Attractions: safety, low house prices, short commute to jobs, cost of living, many nearby colleges.

Detractions: high unemployment, far from big cities.

Three-bedroom house: $35,000 to $80,000.

These two quiet northeastern Pennsylvania cities, 20 miles apart, in the heart of the coal region are truly underrated treasures. This region—and Wheeling, W.Va.—boasts the lowest crime rate in the country. Housing prices, though slowly rising, are still a steal; they are about 65% less than in Philadelphia and 75% less than in New York City. The average commute to work is less than 20 minutes. And the lush Pocono mountains and lakes are only 45 minutes away.

Northeastern city dwellers eager for a slower pace are starting to discover the area. One former Philadelphia resident said, in amazement: "Being stuck in traffic here for 10 minutes is considered a big deal." And Francois Ysambart, who opened Le Paris, a French restaurant, in the town of Kingston about a year ago, says he is willing to work hard to make his business go because "I want my children raised in the fresh air."

The drawback: unemployment is about 7% in Scranton (pop. 82,000) and Wilkes-Barre (pop. 50,000), though that's down from around 13% four years ago. New employers are gradually compensating for the loss of the old coal producers. For instance, Martin Holdrich, an economist with the forecasting firm Woods & Poole, says: "The area's service industry, helped by the boom in recreational facilities, has grown from 12% in 1970 to 19% in 1983."

Tourist developments remain strong. Montage, a three-year-old $14 million ski center and office park that is just five minutes from downtown Scranton, offers year-round recreation for tourists as well as quick lunchtime runs down its slopes for the local office workers. The abandoned Erie Lackawanna Railroad Station was converted into a $13 million Hilton in 1983. Steamtown USA, a historic park, features train rides to the Poconos, as well as a railroad museum.

A dozen nearby colleges, led by the University of Scranton and Wilkes College, offer undergraduate, graduate and technical degrees. And Wilkes-Barre, once considered devoid of culture, got a boost in 1986 when community leaders raised $3 million to create the F.M. Kirby Center for the Performing Arts, a restored 1930s movie house that now features Broadway road companies, orchestras and dance companies such as the Ballet Gran Folklorico de Mexico.

NO. 10: ANAHEIM/SANTA ANA, CA

Attractions: sunny weather, diverse leisure activities, booming economy.

Detractions: high house prices, congestion, health-care costs.

Three-bedroom house: $100,000 to $200,000.

Sunny weather and Mickey Mouse mean jobs. This region (pop. 2,317,800) will have the third largest increase in employment, behind Los Angeles and Washington, DC., by the year 2010, according to the National Planning Association. Anaheim's major attractions remain Disneyland and Anaheim Stadium, home of the California Angels and Los Angeles Rams. In addition, last year, 10% of California's entrepreneurs, mainly in high-tech and light manufacturing, opened businesses or announced plans to do so in Orange County.

Some 800 acres of industrial area near Anaheim Stadium are being converted to office space. Development in Santa Ana's ethnically diverse downtown (44% Hispanic) is booming: half a dozen major projects are under way, including Main-Place, a $400 million 100-store mall, hotel and office complex; and MacArthur Place, a $600 million urban village of homes, hotels, offices and public areas.

Orange County offers terrific weather, though its annual average rainfall of 12 inches tops San Diego's by three inches. (By contrast, Seattle's annual rainfall is 39 inches.)

It's increasingly difficult to find affordable housing. In some areas such as posh Newport Beach, three-bedroom homes can cost as much as $500,000. And the roads are often jammed. The area, known as the Golden Triangle, is surrounded by Interstate 5 and Freeways 57 and 91, all suffer chronic congestion. Accidents happen. The average annual auto insurance rate of $663 is one of the highest nationwide.

One other worry: some experts say there is a 50% chance of a major earthquake within the next 30 years.

THE BOTTOM 10

These places, dominated by five in Michigan, scored worst in Money's survey of 300 areas, largely due to their high crime rates, weak economies and relatively few arts and leisure activities.

300. Flint, Mich.
299. Muskegon, Mich.
298. Benton Harbor, Mich.
297. Atlantic City
296. Rockford, Ill.
295. Odessa, Texas
294. Jackson, Mich.
293. Wilmington, N.C.
292. Saginaw, Mich.
291. Mansfield, Ohio

THE TOP 100 PLACES TO LIVE

1. Nashua, N.H.
2. Norwalk, Conn.
3. Wheeling, W.Va.
4. Beaver County, Pa.
5. Danbury, Conn.
6. Long Island, N.Y.
7. Oxnard/Ventura, Calif.
8. Boston's North Shore, Mass.
9. Scranton/Wilkes-Barre, Pa.
10. Anaheim/Santa Ana, Calif.
11. Houma/Thibodaux, La.
12. San Francisco.
13. Central New Jersey.
14. Rochester, Minn.
15. Cumberland, Md.
16. Johnstown, Pa.
17. Los Angeles.
18. Burlington, Vt.
19. Johnson City/Kingsport, Tenn.
20. Binghamton, N.Y.
21. San Jose.
22. San Diego.
23. Monmouth/Ocean counties, N.J.
24. Danville, Va.
25. Stamford, Conn.
26. Lancaster, Pa.
27. Southeastern New Hampshire.
28. Fargo, N.D.
29. Riverside/San Bernardino, Calif.
30. St. Cloud, Minn.
31. Altoona, Pa.
32. Wausau, Wis.
33. Santa Cruz, Calif.
34. Utica-Rome, N.Y.
35. Manchester, N.H.
36. Bismarck, N.D.
37. Bridgeport/Milford, Conn.
38. Orange County, N.Y.
39. Bergen/Passaic counties, N.J.
40. Eau Claire, Wis.
41. York, Pa.
42. Lafayette, Ind.
43. Pittsburgh.
44. Santa Rosa/Petaluma, Calif.
45. Boston.
46. Oakland, Calif.
47. Duluth, Minn.
48. Chicago.
49. Parkersburg, W.Va.
50. Sioux Falls, S.D.
51. Green Bay
52. Vallejo/Fairfield/Napa, Calif.
53. Appleton/Oshkosh, Wis.
54. Williamsport, Pa.
55. Philadelphia.
56. Steubenville, Ohio.
57. Bangor, Maine.
58. Honolulu.
59. Provo/Orem, Utah.
60. Seattle.
61. Fort Walton Beach, Fla.
62. Florence, Ala.
63. Minneapolis/St. Paul.
64. La Crosse, Wis.
65. Harrisburg, Pa.
66. Fayetteville, Ark.
67. Olympia, Wash.
68. Newark, N.J.
69. Milwaukee.
70. Washington, D.C.
71. Asheville, N.C.
72. Lowell, Mass.
73. Allentown/Bethlehem, Pa.
74. Knoxville, Tenn.
75. Reading, Pa.
76. Lorain/Elyria, Ohio.
77. Madison, Wis.
78. Kenosha, Wis.
79. State College, Pa.
80. Albany/Schenectady, N.Y.
81. Dallas.
82. New York City.
83. Cleveland.
84. Ann Arbor.
85. Lake County, Ill.
86. Raleigh/Durham, N.C.
87. Bremerton, Wash.
88. Lawrence, Mass.
89. Charlottsville, Va.
90. Worcester, Mass.
91. Jersey City, N.J.
92. Gary/Hammond, Ind.
93. Aurora/Elgin, Ill.
94. Santa Barbara.
95. New Orleans.
96. Buffalo.
97. Fort Meyers, Fla.
98. Atlanta.
99. Lafayette, La.
100. Wilmington.●

AIR TRANSPORTATION

● Mr. BURDICK. Mr. President, I rise today to bring my colleagues' attention to some very informative material

recently released by the Air Transport Association.

We all know that there has been tremendous growth in air transportation over the past decade. Unfortunately, spending for improved air traffic handling capabilities has not kept pace with this growth, even though the aviation trust fund has an uncommitted surplus of almost $6 billion.

As frequent travelers, we are well aware of problems associated with airline service. Certainly, the airlines need to take prompt action to improve consumer service. But, that is only part of the problem. The airlines do not own or operate the country's airports or airways. To obtain improvements in these areas, Congress should see to it that the aviation trust fund revenue is spent for its intended purpose.

I ask that the attached materials be printed in the RECORD.

The materials follow:

[Charts not reproducible for the RECORD.]

CHART 1

From 1976 to 1986 the number of passengers increased from 223 million to 418 million—an 87% increase in demand.

This increase in passenger demand was accommodated with a 30% increase in the number of aircraft departures.

Departures increased from 4.8 million in 1976 to 6.4 million in 1986.

The airlines also purchased larger aircraft to satisfy demand. The average aircraft in the 1986 fleet is now 18% larger than those in service in 1976.

U.S. air carriers have placed firm orders for over 400 additional aircraft and have options on 500 more. This commitment to capital investment will cost the airlines more than $30 billion.

In addition, the number of filled seats increased from 55.4% in 1976 to 60.4% in 1986.

There were economic recessions in 1980, 1981, and 1982. Passenger demand and the number of aircraft operations declined during this period. It was not until 1984 that the number of passengers and departures increased to above the record levels established in 1979.

CHART 2

During the '81-'82 pause in growth of the number of passengers and aircraft departures, the FAA began to rebuild the air traffice control system following the 1981 controllers strike.

The number of controllers, however, remains 12 percent below 1976 levels even though the number of aircraft departures has increased 30 percent.

At the end of 1986 there were 14,800 controllers. Of these, about 10,000 were fully qualified and the remaining were at various stages of training. By May, 1987, the number of controllers had grown to 15,100.

The growth in the number of controllers since the strike has not kept pace with the growth in the number of departures since that time. Since 1982 the number of controllers has increased 18 percent and the number of departures increased 29 percent.

CHART 3

In addition to shortfalls in air traffic control manpower, capital spending has not been adequate.

Aviation Trust Fund committed funds have grown slowly to the $4 billion level while payments to the fund from passengers and shippers continued to grow.

The uncommitted trust fund balance is expected to stand at nearly $6 billion by the end of FY87.

Since FY83, National Airspace System (NAS) appropriations have fallen nearly $2 billion short of authorized funding of over $7 billion.

CHART 4

An 87 percent growth in passenger demand was met efficiently and productively by a 30 percent increase in the number of flights.

However, funding for airports and airways facilities and operations have not kept pace with the growth in the system.

The result has been a disappointing increase in the number of air traffic control delays.

ATC delays in 1986 averaged 1,144 per day, an increase of 154 percent over the level estimated for 1976.

The level of delays in 1986 was only slightly less than the peak level established in 1981, the year of the controllers strike.

It has been estimated that these delays cost the airlines over $1 billion per year in direct operating expenses and, in addition, cost travellers and shippers $1 billion per year.

CHART 5

Passenger complaints, although increasing, are still considerably below levels established when the airlines were regualted.

Complaints per 100,000 passengers have been slowly increasing since 1983, but are still less than half the 1976-1979 levels.

Complaints in the first half of 1987 continued to rise. However, it is felt that, as in 1979, this was due in part to a heightened awareness of the DOT's complaint services.

During the past year, almost 70 percent of the industry was involved in mergers or acquisitions. Such action appears to have resulted in at least a temporary increase in service problems and a steady rise in consumer complaints during this transition period.

In 1986, four airlines accounted for 46 percent of the complaints.

In the first half of 1987, four airlines accounted for 66 percent of the complaints received.●

NATIONAL MINING HALL OF FAME CHARTER

● Mr. D'AMATO. Mr. President, I rise today in support of legislation to grant a Federal charter to the National Mining Hall of Fame and Museum, Inc. This Nation owes a great deal to the mining industry and I thank my colleague from Colorado, Mr. ARMSTRONG, for introducing S. 450.

Mining is one of the earliest and most basic industries in the United States. We are, and have always been, dependent on the raw materials derived from the earth. Minerals are the foundation of all manufacturing and they are the materials on which all modern technology is based. Mining is an important part of our American heritage as well as an important part of America's future.

The National Mining Hall of Fame and Museum, Inc., is an organization which has as its chief objective the education of the American public to the historical role that mining has played in the development of our country and its importance today in maintaining a healthy and secure economy in the United States.

The National Mining Hall of Fame and Museum, Inc., is organized exclusively for charitable, educational, and scientific purposes. It will promote and encourage a better understanding of the origins and growth of mining in the United States, it will offer a comprehensive library on the mining industry, and it will honor the memory of the men and women who participated actively in the founding and development of the American mining industry.

Granting a Federal charter for the National Mining Hall of Fame and Museum, Inc., will codify the importance of the organization and its goals. Furthermore, a Federal charter will enable it to be a site specific tourist attraction which is noted on road maps and tourist information. This will give the National Mining Hall of Fame and Museum, Inc., the exposure necessary to make it the foremost showcase and literary center for the mining world.

The headquarters for the National Mining Hall of Fame and Museum, Inc., will be in Leadville, CO. Leadville is known throughout the Nation as one of the richest mining camps ever developed. The facility will be accessible for use by the general public, scholars, and mining professionals.

The National Mining Hall of Fame and Museum, Inc., is an organization worthy of recognition. I am pleased to support this legislation. I encourage my colleagues to take note of the significance of the National Mining Hall of Fame and Museum, Inc., and to join me in supporting S. 450.●

POLISH REFUGEES IN CONNECTICUT

● Mr. DODD. Mr. President, about 2 weeks ago, I joined several of my colleagues in cosponsoring S. 1424, the Polish Permanent Resident Adjustment Act of 1987. In my statement made on that occasion I mentioned the fact that approximately 300 of the Polish refugees who got stranded in our country as martial law was declared in Poland reside in my State, Connecticut. I also paid tribute to the rich contributions of the Polish-American community of Connecticut to the economic, cultural, and social life of our State.

In response, yesterday I received a heartwarming thank you letter from the president of the Connecticut district of the Polish American Congress, Mr. Stanley Zebzda. I ask that Mr. Zebzda's letter be printed in the RECORD following my remarks.

The letter follows:

AUGUST 4, 1987.

Hon. CHRISTOPHER J. DODD,
U.S. Senator, Senate Office Building, Washington, DC.

DEAR SENATOR DODD: As the Statue of Liberty came into view, tear-welled eyes and tingled sensations were inspired within the refugees who fled to the United States from communist-dominated Poland before and during the period of Martial Law in Poland.

Characteristic of their Polish religiosity, the refugees silently recited divine thanksgiving for their arrival in America.

This typifies the experience of about 7,000 Polish refugees who found new hope; job opportunities; and untrammeled liberties. They became solid residents.

The indecision of their status in the United States has been a deep concern to them. The possibility of their new lives and new freedom being shattered by deportation back to oppression always uppermost in their minds.

The Polish American Congress, District of Connecticut, commends you, Senator Dodd, for co-sponsoring S. 1424, the Polish Permanent Resident Adjustment Act of 1987.

As you so eloquently stated in your remarks in the United States Senate on July 21, 1987, the legislation "will provide an orderly way for this group to become permanent residents and eventually U.S. citizens if they so desire."

Please accept our appreciation for your concern and active support of this humanitarian legislation. Be assured of our continued interest and support.

Respectfully,

STANLEY ZEBZDA,
State President,
Polish American Congress,
District of Connecticut, Inc.●

DAV VIETNAM VETERANS NATIONAL MEMORIAL

● Mr. DOMENICI. Mr. President, I would like to take this opportunity to commemorate the Disabled American Veterans Vietnam Veterans National Memorial in Angel Fire, NM. This breathtaking memorial was the subject of a cover article entitled "Where Eagles Soar" in the August issue of the Retired Officer.

This monument was constructed by Dr. and Mrs. Victor Westphall and their younger son, Douglas, following the tragic death of their first born son and brother, 1st Lt. David Westphall, in the Southeast Asian conflict. Construction was begun in 1968, and the chapel was opened in 1971 as a memorial to all Vietnam veterans: the living, the dead, and the maimed in body and spirit.

It consists of a chapel and a visitor's center which stand at the base of the Sangre de Cristo Mountains in the Moreno Valley of northern New Mexico. Architecturally inspiring and beautiful, and with a silhouette that points dramatically skyward, the DAV Vietnam Veterans Memorial's design and its serene location evoke internal reflection and an unmistakable feeling of pride.

While the view from the chapel overlooks the fertile Moreno Valley, the chapel interior provides a quiet, uncomplicated atmosphere where thousands have come to pause for a time and remember. Next to the chapel is a visitor's center containing photographs, maps, murals, poems, and banners which represent the different units that fought in the Vietnam war.

There can be no more fitting tribute to the fallen men and women and the brave survivors of the war in Southeast Asia. All who have visited the memorial join together in the feeling of awe and compassion for what this memorial represents. We in Congress may not each have the opportunity to visit the DAV National Vietnam Veterans National Memorial, but we owe it to the thousands of veterans of this Nation and we owe it to ourselves to take a moment and contemplate the meaning behind such a magnificent monument.

Mr. President, I ask that the article be printed in the RECORD.

WHERE EAGLES SOAR

By Shanti K. Khalsa

The sound of chopper blades beat the air in a familiar cadence of "whappa whappa whappa." The two men in green camouflaged uniforms abruptly stopped their conversation and cringed slightly.

"Man, that brings it all back, doesn't it?" His friend smiled at him and shook his head, "Way it was, my friend, way it was."

We all looked skyward as three medical evacuation helicopters did a flyover for the Memorial Day ceremonies at the Disabled American Veterans Vietnam Veterans National Memorial in Eagles Nest, N.M. With inspired architectural lines that rise 50 feet to a double peak, the memorial chapel a newly constructed visitor's center form a special sanctuary set in an environment of unparalleled beauty. At the base of the monument lies the Moreno Valley, a green band of fields running off to the mountains on the horizon. Behind it rises the Sangre de Cristo Mountains, capped with snow and shrouded with clouds. But what makes this truly a sanctuary is not only the physical beauty that surrounds it but the spirit that flows through it. It is not simply a memorial to the fallen but a tribute to all the soldiers of Southeast Asia. It is a quiet and deep symbol of honor and respect to the soldier of Vietnam—the living, the dead and the maimed in body and spirit.

DESIGN EVOKES REFLECTION

The chapel is architecturally beautiful in its sweeping lines and commanding nature. Inside, the walls curve inward to form a triangular shape, enclosing the chapel itself. At its tip is a narrow window extending from floor to ceiling looking out across the valley. Although devoid of any traditional religious symbols, its simplicity and serenity evokes internal reflection; there is no question why this memorial building is called a chapel.

In front of the window is a simple array of flowers and candles. The special memory held deep inside of a lost loved one comes floating into mind here, bidden or unbidden. After that first aching emotion of loss passes comes the knowledge of how empty life would be without that remembering.

Outside the chapel to the left is the visitor's center. It is thoughtfully designed and skillfully constructed. When you enter this subterranean building, you come upon a map of Vietnam and a brief written history on an artistic latex display. Directly below is a small table with an enormous collection of photographs filed alphabetically of young soldiers who died in the war. Not just names carved on a black marble wall, these pictures speak of hope, promise and brave youth cut short. These are boys loved by the families who brought the pictures to the center, and it is difficult to keep a dry eye as you scan through them.

To the left is a gallery full of pictures. Large murals on the four walls depict the war, the life of the soldier, Vietnam and its people. Suspended from the ceiling are banners of the different units that fought in the war, more photographs and poems about the Vietnam experience. Amidst the banners and pictures are seats where you can sit and become absorbed by the emotions that the room evokes. Surrounded by friends of a common experience and philosophy, there is a special combination of brotherhood, serenity and shared grief.

Vietnam was a war that brave soldiers fought and died in, but it was also a war that equally brave soldiers fought and came home from. Home to a country that didn't understand their sacrifice and didn't share their pride. As I sat in the visitor's center, I could feel the powerful sentiments of the veterans, their families and friends as they moved through the pictures, the banners, the poems. "Here in this room I can show my family with pride what I did in Vietnam. . . . Here I can see pictures of the life of my son whom I will never see again. . . . Here I can show my child the war his dad died in and make his memory really come to life. . . . Here I can share with my friends the memory of the good times and the bad times."

ONE FAMILY'S EFFORTS

Part of what makes the memorial so special is that it was not built by an organization, a government committee or a city council. The chapel was constructed singlehandedly by the efforts of Victor Westphall, his wife and younger son, Douglas, after their first-born son and brother, David, was killed in an enemy ambush in Con Thien, South Vietnam, on May 22, 1968. Lt David Westphall was the rifle platoon commander, Bravo Company, 1st Battalion, 4th Marines. At the end of the last day of a sweep around the Con Thien area, Lieutenant Westphall's platoon was walking point through waist-high grass. The terrain was broken by rolling ridges and patches of heavy brush and hedgerow. After a few of David's men crossed over a long low rise, an L-shaped ambush was unleashed under them followed by an assault of more than 100 North Vietnamese Army soldiers. Bravo Company opened fire and aggressively moved up into position. The officers and non-commissioned officers quickly formed a firing line to break the momentum of the assault. Exposed to the enemy fire, the line was cut to pieces but effectively bought precious time for the company, saving it from heavier losses. The engagement was quickly terminated, but in those 10 long minutes, 27 were wounded and 13 were killed, including David.

With the proceeds from David's military life insurance policy, the Westphall family was determined to build a structure to honor his spirit and that of the 12 others killed in the ambush. "If those who died can, in any measure, become a symbol that

will arouse all mankind and bring about a rejection of the principles that defile, debase and destroy the youth of this world, perhaps they will not have died in vain," David's father said. Knowing that it would take much more money than they had in their personal resources, the Westphalls sought grants and government support but were shut out at every turn. Vietnam memorials were not a popular cause in 1968, so they struck out on their own. Ted Luna, a talented architect from Santa Fe, N.M., skillfully designed the building. In the summer of 1968, the family completed the walls and added the roof the following year. The project was completed in 1971 and named the Vietnam Veterans Peace and Brotherhood Chapel. On the wall were the pictures of David and his 12 brothers in arms, but its message reached out clearly to honor all soldiers.

Because of the tremendous financial burden the memorial had placed on the Westphall family, there came the time that they simply could not go it alone with the meager contributions received from the public. In 1982, the DAV formed a separate non-profit organization, the DAV Vietnam Veterans National Memorial Inc., which assumed full ownership and financial responsibility for maintaining the memorial as a national landmark. Since that time, they have added a guest house, visitor's center and handicapped access to the buildings. People in growing numbers visit the memorial from all parts of the country.

CEREMONY UNITES VISITORS

May 26, 1986, marked the dedication of the visitor's center and a Vietnam vets reunion as part of Memorial Day services. More than 1,000 people from throughout the United States came to share in the reunion. They came to renew acquaintances not only with the living but also with the dead. They came to share with their families this symbolic place of pride in the midst of a public that still doesn't realize the sacrifice that was made. "As I look out, I see wives, girlfriends, children and vets. We are friends of the heart, the mind and the soul. . . . [This chapel] is a focal point of all that is good. It belongs to anyone who ever has said to a Vietnam vet, 'my life is your life,'" said Dennis Joyner, president of the DAV Vietnam Veterans National Memorial Inc.

During the service, the smiling support of new friends and the deep affection of old ones wove a tight fabric of proud strength through those who attended. As Diane Evans, a Vietnam vet and a coordinator for the Vietnam Women's Memorial Project, put it, "You were the boys on my ward who would not stay in bed with your wounds but hobbled around helping your buddies who could not help themselves. You were the kids who pleaded with me not to let you die there. . . . I am the one who cried when my first boy died but thereafter held my tears. . . . We feel this common bond, and we all draw strength from it."

For all who still hold a strong view on the war in Vietnam, here is a place to make a statement and actively show support. There is still a lot to do before the memorial is complete and that, like all things, takes money. Through this beautiful shrine, a symbol of one father's love for his fallen son," perhaps our country will come to a fuller understanding of who its Vietnam veterans are . . . why they fought and why so many died . . . that these men and women are heroes, just as truly as the veterans of all America's wars."

Tax-deductible contributions may be sent to: DAV Vietnam Veterans National Memorial Inc., 3725 Alexandria Pike, Cold Spring, KY 41076. For information about visiting the shrine, write: DAV Vietnam Veterans National Memorial, P.O. Box 608, Angel Fire, NM 87710.

And for all touched by the Vietnam War in any way, don't miss this opportunity to spend some time "where eagles soar" and share in the proud brotherhood of the Vietnam vet.●

DIGITAL AUDIO TAPE

● Mr. KERRY. Mr. President, I rise to alert my colleagues to an issue that must receive our high-priority attention when we return from recess: the Digital Audio Tape problem. DAT technology presents a grave threat to American music, and all who rely on it for employment and entertainment because DAT recorders are capable of cloning prerecorded music. That displaces sales, and undermines the whole foundation of compensation and incentives upon which the American music industry is built.

The DAT manufacturers' insistence upon introducing their machines into the United States without effective protection for copyrighted American music makes the problem an urgent one. We must act promptly upon our return on S. 506, a bill that would require DAT machines sold in the United States to contain circuitry that would provide for our music the protection from unauthorized copying to which it is entitled under U.S. law.

Our colleagues in the House recently reported out of subcommittee H.R. 1384, which is S. 506's companion bill. As noted in a recent Wall Street Journal article "House Panel Approves Measure to Block Sale of Digital Audio Tape Recorders", August 4, 1987, the Members were spurred to action in part by the manufacturers' refusal to comply with the subcommittee's request that they delay marketing their machines in the United States pending completion of a technical study by the National Bureau of Standards. The NBS study is expected to be completed by the end of the year, so the subcommittee was asking for a delay of only a few weeks.

In the face of this glaring evidence that the manufacturers share no interest in working toward a solution, the subcommittee decided it was time to act. I agree with that judgment, and I will be quick off the blocks when we return to urge swift action on S. 506.

I might add that I intend, when I go home to Massachusetts, to talk with my constituents about this issue. The DAT manufacturers claim to be consumer spokesmen, but I think it's fairly apparent that it is their own economic interests that they truly represent. This is, above all, an issue of fairness. It's about the right of women and men who make music for a living to receive compensation for their efforts. I would urge my colleagues to keep in mind the deep equities that run with this issue.●

S. 1438, MEDICARE RURAL HOSPITAL PAYMENT EQUITY ACT OF 1987

Mr. DOMENICI. Mr. President, I am pleased to cosponsor S. 1438, the Medicare Hospital Payment Equity Act of 1987. It will help prevent the financial decline of many hospitals in rural America. I applaud Senator DURENBERGER's fine work and leadership in this area.

Many of the 2,700 rural hospitals in this country are in severe financial distress; some to the point of anticipated closure. The problem is most severe among small hospitals with less than 50 beds. These facilities serve nearly 95 million people. About 345 of them are their communities' sole source of health care.

New Mexico is representative of this situation. Nearly 40 percent of the hospitals in the State have been identified as their communities' only source of health care. Half of them are located in "frontier" areas with populations of less than 6 persons per square mile. If one of these facilities were to close, the residents would be greatly disadvantaged in their access to needed health services.

There are various reasons for the plight of rural hospitals. One is the continued economic recession in rural America and the effect that it has had on indigent care and lost tax revenue. Another is the decline in the demand for inpatient hospital services and the shift to outpatient care. Still another is the tough, competitive challenges that rural hospitals face from urban and multihospital systems.

I have been quite concerned about this issue. That's why I became a member of the Senate rural health caucus. Over the past several years Congress, through budget reconciliation, has tried to correct the situation. Those attempts, which I supported, have helped but have not totally eliminated the problem.

A few months ago I met with members of the hospital community in my home State. They informed me that one of their goals for this year was to help rural hospitals who are experiencing severe financial distress. They later sent me a list of recommended congressional actions. Many of their suggestions are contained in this bill.

Senator DURENBERGER's bill attempts to correct the inequitable Medicare payment policies which hurt rural hospitals. These facilities depend on Medicare revenues to successfully operate. Some of the important changes are: Providing a higher Medicare payment increase for rural hospitals in 1988; putting urban and rural hospi-

tals on the same payment plan by 1991; improving the Medicare area wage index to rectify situations where rural hospitals compete with urban hospitals in similar labor market areas but are reimbursed at lower labor rates; and expanding the eligibility criteria for sole community hospitals and improving Medicare outlier expenditures.

S. 1438 is an important first step to improve the rural hospital payment situation and to help these struggling facilities survive. As an original member of the Senate rural health caucus, I am pleased to support it.

IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT

● Mr. DOMENICI. Mr. President, in the 95th Congress, I introduced the Equal Access to Justice Act to ensure that individuals and small businesses that challenge arbitrary and capricious Government action and win can recover their legal fees from the Government. This bill was enacted into law with a sunset provision in 1980. When the act was reauthorized and made a permanent part of our Federal statutes in 1985, it was extended to cover actions by the IRS.

A recent story in the Wall Street Journal highlights the wisdom of Congress in including the IRS under the Equal Access to Justice Act. It tells about a case where the Equal Access to Justice Act was used successfully by four farmers to recover their legal costs after they beat the IRS in court.

We live in the age of Federal regulation, and there are very few elements of life, commercial or otherwise, where the Federal Government does not play some role. Sometimes, this Government action is arbitrary and capricious. Prior to the Equal Access to Justice Act, a large number of individuals and small businesses who were faced with unreasonable Government actions could not afford to go to court to challenge the Government's actions. It is no wonder, therefore, that they just gave up right away and didn't challenge the Government action, because the cost of proving that they were right was more than they could afford.

The purpose of the Equal Access to Justice Act is to reimburse individual Americans who successfully litigate against the Federal bureaucracy. This forces Government agencies to be responsible for their conduct and provides those with modest means with access to the courthouse door.

The Equal Access to Justice Act ensures that individuals and small business will not be deterred from challenging unjustified Governmental action because of the expense involved. It reduces the disparity in resources between individuals and small business with limited resources and the Federal Government. Under the act, the Government is liable to a prevailing party for attorney's fees and certain other adjudication costs unless the position of the Government is substantially justified or unless special circumstances would make an award unjust.

Mr. President, they say that "You can't fight city hall," but the Equal Access to Justice Act is working to reverse that. Thanks to the Equal Access to Justice Act, individuals and small businesses faced with unreasonable Government action can fight back and win, even against the IRS.

Mr. President, I ask that the Wall Street Journal article to which I referred be printed in the RECORD immediately following my remarks.

The article follows:

[From the Wall Street Journal, July 29, 1987]

These dairy farmers may cash in and carry on, the Tax Court says.

Farmers may use either cash or accrual accounting, if they are consistent. The IRS audited Roy C. Kennedy Sr. and three other dairy farmers who consistently used the cash method. It said they should use the accrual method and billed them for $260,000 in taxes. After the farmers appealed to the Tax Court, the IRS dropped nearly all its claims. Having prevailed, the farmers asked the court for legal costs.

The IRS objected. It argued that the farmers hadn't exhausted the administrative process before going to court and hadn't proved that its litigation stand was unreasonable. Now Judge Williams has awarded the farmers the maximum $25,000 (treating the combined cases as one): Their refusal to accept a second extension of the statute of limitations wasn't a failure to exhaust administrative remedies.

More notably, the farmers used cash accounting properly; the IRS's attempt to change their method was without support and unreasonable.—Scott R. Schmedel.●

POTASH UPDATE

● Mr. DOMENICI. Mr. President, by the time the Congress reconvenes in September, the Commerce Department will have made its preliminary determination on whether Canadian industry has been selling potash in the United States at "less than fair value."

This is the second step in a dumping case filed in February 1987 by two potash companies from New Mexico. It is a proceeding that has gathered interest and support from nearly every citizen of Eddy County, which is in southeastern New Mexico.

Eddy County, Mr. President, is potash country. Potash is the lifeblood of Eddy County.

Earlier this year, the International Trade Commission ruled unanimously that the potash workers and companies at Carlsbad in Eddy County had been injured by the Canadian competitors.

Potash Corporation of Saskatchewan [PCS] has pursued policies that not only have devastated the Carlsbad producers, but we now find has also caused severe financial distress to the Canadian company and to the provincial government, which owns it.

Let me describe some of the current problems these misguided Canadian policies have produced:

The PCS has shaken up its management. This resulted in the dismissal of the six most senior executives.

The PCS reported a loss of 103.4 million Canadian dollars during 1986. It is interesting that the company postponed disclosing this fact as long as legally possible for fear that its credit rating would plummet. This loss dwarfs last year's loss of $68.7 million (Canadian).

Widely circulated reports say that the provincial government will sell off all or part of the potash company, selling the individual mines, the entire operation, or publicly traded company shares to obtain a cash infusion.

About 175 employees have already been laid off, and Canadian newspapers report that up to 70 percent of the corporation's 400 nonunionized employees—plant managers, supervisors, and head office staff—will be laid off. Earlier, the company announced that about a third of its 1,000 unionized workers would be laid off.

The Finance Minister of Saskatchewan announced that the government would soon undertake a major "initiative" with respect to PCS, perhaps "privatizing" it.

The provincial government of Saskatchewan has "written off" the $810 million (Canadian) debt that PCS has incurred. Much of this deficit was long-term loans the provincial government made to the company.

Think about that last item.

That is almost a billion-dollar first-aid package that the provincial government prescribed for PCS; well over half a billion U.S. dollars. I wish the provincial government of Saskatchewan would pay off the debts that its lousy policies inflicted on our Carlsbad companies during the same period.

Eight hundred and ten million dollars (Canadian) worth of government aid is a lot of subsidy. To put it in perspective, our Federal Government subsidizes Amtrak at about the same annual rate.

It is close to the amount our Federal Government spends on vocational and adult education; it is more than we spend on the Bureau of Reclamation's annual construction program.

It is more than we spend on the Mineral Management Service. It is more than we spend on the Bureau of Mines and the Geological Service combined. It is about the same amount of money as we spend operating our National Park Service.

Even with all of this Government support, Potash Corporation of Saskatchewan may not survive. And in the process, the misguided Canadian

policies came close to having a similar impact on the mines in Carlsbad.

Fortunately, the new management at PCS has charted a revised course. Prices this quarter are up 10 to 15 percent. This is good news for Carlsbad because it means that potash will be priced at a level where everyone can make a little money.

Historically business decisions at PCS had to be made within the political constraints imposed on management by the ruling provincial party. Part of the corporation's mandate was to protect employment in the province, a social consideration that prevented layoffs when the previous management team proposed them.

According to a May 4, 1987, report in a trade journal, Green Markets:

> There are indications that price strengthening will be a priority and that sales will be foregone if prices do not cover costs. In the U.S., market pricing programs will be simplified and special deals will fall by the wayside.

The article concluded:

> Disciplined, consistent pricing policies will only work if production is cut back when sales or prices sag, and the leaner PCS is expected to look long and hard at cutback options. . . . Production adjustments are likely to be evaluated in the coming months.

I welcome these changes in the management and pricing policies. It is my hope—and the hope of the people of Eddy County—that this means PCS and the other Canadian companies will now compete fairly.

If the province's initiative provides a reasonable basis to believe that the fair pricing practices will hold, perhaps the dumping case can be settled, and the industry, on both sides of the border, can get on with the business of selling potash. It seems so unfortunate that our companies had to file a dumping case to get the Canadians to realize the terrible mistake they were making.

The situation of government subsidized excess capacity prompted me to offer an amendment to the trade bill to make such actions a basis for a section 301 unfair practices case. I was pleased when the Senate voted 71 to 28 to adopt this amendment. I hope my remarks further reinforce the importance of this amendment and the problem that it is designed to address.

I am now going to give you the background in a history I compiled earlier this year. It tells how the potash industry arrived at this state of affairs.

THE POTASH STORY

The Potash industry story is about Carlsbad, NM, and Canada. It is the story of neighborly competition that has turned into a struggle for survival by several small Carlsbad companies, as a result of unconscionable mismanagement and massive unfair trade practices of government-owned Canadian companies

To understand the potash story, one needs only to look at the story of the Canadian industry as told by those running it. It has been pieced together from newspaper reports, trade periodicals and testimony given in a dumping case filed in Washington, DC. The outcome of the case and the future of the industry in Carlsbad will be decided by the Commerce Department and the International Trade Commission sometime this year.

The first major decision in the case was handed down on March 26, 1987, when the International Trade Commission voted unanimously in favor of the Carlsbad, NM producers. Other deadlines will rapidly follow on a strict statutory timeline.

Cross-border ties between operations in Canada and Carlsbad, and common origins of the major North American potash producers gave way to a feud when a significant proportion of the Canadian industry was "nationalized" by the Government of Saskatchewan beginning in 1976.

The Canadian legislature authorized the takeover through the expropriation and through the purchase of private potash mines. The entity used to bring about this "nationalization" or more appropriately, "provincialization" was the creation of a Canadian Crown Corp., the Potash Corp. of Saskatchewan [PCS].

As the private Canadian companies will tell you, a Crown Corp. enjoys the distinct advantage of being exempt from Federal income taxes. This is a significant advantage at least, when the Crown Corp. is profitable.

PCS, which now accounts for over 40 percent of Canadian production and clearly sets the standard for Canadian pricing policies, was born of this forced sale of private companies to the government, and it continues substantially to reflect government's management policies.

The industry's nationalization in 1976 manifested the government's policy toward "democratic" socialism. The party in power, the New Democratic Party ["NDP"] had three goals: First, to expand productive capacity; second, to maintain for the industry a substantial share of what it predicted would be an expanding world market and third, to guarantee for the government a generous flow of revenue.

The New Democratic Party also wanted to insure maximum employment for the people in the province. At that time the privately owned companies stood in the party's way. The companies recognized the realities of the market, and the companies objected to the party's effort to expand the province's revenue base by raising taxes. The companies challenged the tax rates in court alleging that they were so high that they were confiscatory. Rather than fight it out in court the provincial government responded by taking over the property.

From the beginning, the government made clear that its control of the industry was necessary to insure the implementation of its vision of socialism. As Premier Blankeney stated, "If a province can't find revenue on the basis of regulation taxation, if that basis for revenue can be successfully attacked in our federal system as confiscatory, then our provinces are going to have to look for another basis. And that basis will turn out to be ownership."

The government further stressed the social benefits it saw resulting from government ownership of the mines. Premier Blankeney predicted that "control of the potash industry through the government-owned PCS will minimize the possibility of layoffs and other uncertainties and will move hundreds of highly paid and highly skilled managerial research and engineering jobs to Saskatchewan." The NDP's ideology demanded that the government wrest control of the industry from large companies not headquartered in Saskatchewan.

As stated by one of the Premier's colleagues: "The era of concentration of all wealth and power in the hands of an unscrupulous few is almost over."

As soon as the government took over several private mines, and in keeping with the government's policies, PCS lead an aggressive expansion of the Canadian industry. Most dramatically, PCS announced in 1980 a $2.5-billion expansion program, with the goal of producing over 11 million tons of potash by the 1990's.

The program commenced with a nearly 1-million-ton-a-year expansion at Rocanville mine in 1981. This was followed soon thereafter by construction of a 3.5-million-ton-a-year facility at Bradenberry.

PCS set its specific objectives as having production of 4.2 million short tons of potash as of July 1, 1981; 5.3 million short tons by July 1, 1985 and 8.3 million short tons by July 1, 1990.

Nor was PCS alone in its expansion plans. The governments of Manitoba and New Brunswick also entered the sweepstakes. In 1985, Manitoba announced its intention to spend $2 to $5 million (Canadian dollars) exploring for potash near the Russell mines. In the January 26, 1987, issue of Green Markets, it is reported that work may begin on the mine early in 1988.

Three new mines alone opened in Canada in 1985.

In 1986, it was reported that Saskatchewan producers intended to increase their capacity to 10.5 million tons equivalent by 1990.

Even Canadians recognized the consequences of this wildly expansionist program. In 1981, Douglas Carnover,

vice president of corporate development at PCS, stated: "At some point there will be overcapacity. But everybody has to keep an eye on it." In Carlsbad, we wish that he had.

Peter Jack, vice president of Potash Corporation of America, stated: "One should approach the question of Saskatchewan production with some caution. It's not going to be unlimited."

Indeed, when the inevitable downturn in demand occurred in 1982, the increasing supply had dramatic and adverse effects on the industry. Since the most recent peak demand year of 1984, prices have plummeted by virtue of the unrestrained growth in Canadian productive facilities which began pouring product into the United States market.

PCS and the provincial government that runs it seem to be oblivious to the realities of that market. The expansion plans of Saskatchewan and other provinces have continued untamed, notwithstanding the huge losses recently incurred by the companies and the expansion of facilities elsewhere in the world, such as Israel, Jordan, and Brazil.

PCS alone reported losses of $68.7 million (Canadian dollars) for 1985.

In its 1985 annual report, the President of PCS stated: "We believe that the huge supply and demand imbalance existing in our industry could keep prices depressed for the next 5 years. The oversupply, to which our Lanigan expansion will be a contributor in 1986, was brought about by optimistic forecasts in the 1980s. The growth in demand foreseen at that time has not occurred. As a result, producers worldwide are fighting to maintain market share in a stagnant and, in some cases, declining market."

A recent IMC annual report summarizes the disastrous consequences of this expansionistic policy. "From a near-sold-out position in 1980-81, fertilizer shipments expressed as a share of production potential declined severely in 1981-82 and 1982-83, recovered partially in 1983-84 and 1984-85, and fell sharply again last fiscal year. Currently competitive pressures are extreme and margins very low or negative. The North American industry is operating at a loss."

Although the political party in power has changed in Saskatchewan, the politics of potash apparently have not. In 1986, it was reported that faced with a provincial election, the conservative government of Premier Devine ruled out proposals to close one of PCS's mines or to layoff any more of the company's employees.

Only recently have the government officials in Saskatchewan become aware that there is a relationship between their legacy of socialism and the cold reality of the marketplace.

As a result of the avalanche of losses suffered the past 2 years by PCS, the government seems to be considering getting out of the business. But as Mr. Ekita, president of Canpotex, recently stated: "There is a serious oversupply problem worldwide and business is going to be tough for 5 years at a minimum."

Focusing on the United States, the numbers tell a devastating story. U.S. potash production has decreased nearly 50 percent since 1981. Production decreased nearly 50 percent in 1985 from 1984 alone. All indications are that capacity utilization fell again in 1986.

In 1981, nearly 3,300 people were potash workers in Carlsbad. Employment now stands at about 2,100. The situation is actually worse than the numbers suggest. Many of those still employed in the industry wonder from day to day if, and when, the mine will be shut down. Some mines have been closed for months at a time. For example, the Lundberg mine recently reopened after being shut from November through February. Those workers still employed in the Potash industry often work less than full time due to the shutdowns.

It is sometimes argued by the Canadians that the potash industry in New Mexico is a sunset industry. This is simply not true.

The inefficiently operated producers selling in the United States market are not the mines run by the United States industry in Carlsbad, but those operated in Canada. A large amount of the capacity in Canada is new, and there have been widely published reports of significant problems in some mines with water damage running up costs and closing down production.

The capital investment and fixed cost of of those new Canadian mines, are far higher than that now represented by the United States industry. Transportation costs to a reasonable market area for the Carlsbad producers appear to be competitive with Canadian costs. In short, while the Carlsbad producers cannot supply U.S. demand for potash, they clearly remain capable of serving some segment of that market.

The potash market in the United States has long been characterized by unfair competition and government-influenced pricing policies involving imports. Canadian producers were subject to antidumping orders throughout the 1970's, and if all goes well, the Canadians will come under a dumping order again.

The Carlsbad companies in this case are alleging that the Canadians have been selling potash at less than fair value. That is to say that they are selling it at less than their cost of production.

If successful, a tax in the form of a tariff could be imposed on Canadian potash of up to 43 percent of the value on those shipments coming in at less than their cost of production.

The case is divided into two parts and two main issues. The International Trade Commission determines first, in a preliminary ruling, and later as a final ruling whether the United States industry has been injured because of Canada violating our trade laws. The Commerce Department undertakes to determine if, and which, Canadian companies have been selling potash in the United States at less than fair value.

Likewise, they issue preliminary findings and final determinations. The preliminary findings should be made by the end of June, and the tax could begin at that time.

It has taken a long time to get to this point. In February 1979 Senator DOMENICI met with potash industry manager and union members in Carlsbad to discuss the problem. In 1983 the Ad Hoc Potash Group was established with members from the community, labor, and the potash companies as well as the mayor and city and county commissioners. In 1986, Senator DOMENICI introduced legislation to enforce the assurances against dumping, given by the Canadians in the 1970's, and hosted the ad hoc group in Washington, DC, to review ways of addressing the Canadian dumping problem.

Others have worked diligently to resolve this problem. The mayor of Carlsbad, Bob Forrest, has headed local efforts to help the potash industry. Other leaders including former Mayor Gerrells, Bill Hunt, Jack Skinner, Eddie Lyons, Stan Doyle, Tom Lundberg, J.R. Tomblin, John Bumpers, Nivan Morgan, Lloyd Harerow, Paul Jolly, and many others.●

THE DISABLED AMERICAN VETERANS VIETNAM VETERANS NATIONAL MEMORIAL

● Mr. D'AMATO. Mr. President, I rise today to add my wholehearted support to Senate Joint Resolution 106, legislation to recognize the Disabled American Veterans Vietnam Veterans National Memorial at Angel Fire, NM, as a memorial of national significance.

The memorial chapel was begun in 1968 by the Westphall family in tribute to their son and brother, David, who was killed in Vietnam. The Westphall's had dedicated all of their available funds to the project, but ran out of money to complete the memorial. In 1977, after hearing of the plight of the Westphall family, the Disabled American Veterans began supplying the necessary funds to complete the project.

The memorial chapel rises nearly 50 feet above a hill in Angel Fire overlooking the Moreno Valley in northern New Mexico. It has been recognized

for its architectural uniqueness and was declared a State memorial before being rededicated on Memorial Day, 1983, as the DAV Vietnam Veterans' Memorial.

The chapel offers veterans, family members, and others a serene place to come to grips with the emotional complexities of the Vietnam war. Those who visit are invited to pray, meditate, or simply enjoy the peacefulness of the surroundings.

David Westphall fought and died for the beliefs of peace and freedom. I feel that the memorial and its surroundings exemplify the beliefs of our country—beliefs defended by David and thousands of his comrades—and deserves to be designated a national memorial. I am pleased and proud to join my friend from New Mexico, Senator BINGAMAN, in cosponsoring this legislation, and I urge my colleagues to support and pass this resolution.●

FAIRNESS DOCTRINE

● Mr. HOLLINGS. Mr. President, yesterday the Federal Communications Commission told the American people, if you have the money, your views can be heard on television and radio. With the FCC's repeal of the 38-year-old fairness doctrine, we are now presented with the specter that freedom of speech on the airwaves is available at a price, and an expensive one at that.

The fairness doctrine simply states: "* * * a broadcast licensee shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance."

In a democratic society, one has a difficult time finding the controversy in this. The fairness doctrine, very simply, protects and preserves freedom of speech by providing the only means for many to be heard.

The FCC claims the doctrine has had a chilling effect on broadcasters, inhibiting coverage of controversial issues. On its face, the argument is invisible. And in light of the greater concentration of media ownership, the argument is ridiculous.

In the coming months, those of us who find diversity of ideas and public opinion essential to our form of government, will seek to reverse the FCC's wrongheaded decision. For now, I would like to call the attention of my colleagues to an article in this morning's Washington Post written by Tom Shales, "The FCC, on the Attack Against Fairness."

Mr. Shales is a master of writ and wit, whose articles, though confined to the Post's "Style" section, often require our front-page attention. His writing here, as always, is delightful, but most importantly, insightful.

Mr. President, I ask to have Mr. Shales' article printed in the RECORD.

The article follows:

THE FCC, ON THE ATTACK AGAINST FAIRNESS

(By Tom Shales)

Yesterday the Federal Communications Commission (FCC) proved it does know something about obscenity after all. It committed one. The Fairness Doctrine, which has operated to the salutary and statutory benefit of American broadcasting and its audience for 38 years, was thrown out by the commission in a gesture of colossally arrogant gall.

Four commissioners, as if beset by some exotic ideological influenza, decided the doctrine was "unconstitutional" even though the Supreme Court has previously ruled otherwise and a majority of the Congress has expressed its support for the doctrine. The rule requires TV and radio stations to give balanced treatment to controversial issues; the FCC says that is simply too great a burden for broadcasters to bear.

"I knew those lickspittles down there would do something like this," said Rep. John Dingell (D-Mich.), chairman of the House Energy and Commerce Committee. "Where this FCC is concerned, I am never surprised as to substance, procedure or timing." Dingell and Ernest Hollings (D-S.C.), chairman of the Senate Commerce Committee, are expected to attempt to get the doctrine reinstated by attaching it to legislation President Reagan can't veto when they return in September from their upcoming recess.

Dingell said the FCC is acting "at very substantial peril" and termed the decision, among other things, "a plain and simple outrage" and "a craven attempt to curry favor with a group that doesn't need help over an issue that doesn't exist."

With its repeal of the doctrine, the FCC abdicates another of its mandates to safeguard the public interest. This decision is not a free speech decision. It is a bought-and-paid-for speech decision. It aims to protect broadcasting companies still further from the public they are supposed to serve.

"They did the dirty deed," lamented consumer activist Ralph Nader yesterday after returning from the FCC's briefing. "The ghost of Goebbels would be chuckling. They totally ignored the First Amendment rights of the audience who owns the airwaves, airwaves that are only leased by broadcasters.

"Broadcasters already had an exclusive license. Now they have the exclusive power to shut out the audience altogether," Nader said. He called the commissioners "a bunch of lightweights like I've never seen before."

Nader said rules relating to the Fairness Doctrine—like the personal attack rule that gives the victim of a broadcast broadside the right to respond, and the equal time provision, which requires stations to treat candidates in an election equitably—are also doomed if the commission continues on its present nutty course.

On Capitol Hill, legislators were furious at what was seen as a foolhardy attempt at an "end run" around Congress, which earlier this summer attempted to codify the Fairness Doctrine. The effort was shot down by presidential veto. The FCC was created as an independent agency that reports to Congress, but now it is clearly acting as an agent of the White House.

Of all the potential calamities visited on the republic by the Reagan administration, the fumblings and bumblings of its FCC—first under Chairman Mark Fowler and now under the equally misguided Dennis Patrick—will get special chapters in history books.

Why trash the Fairness Doctrine now? The FCC claims the doctrine was initiated when there was a scarcity of broadcast outlets and that this no longer exists. That's gibberish; scarcity still exists, and the record selling prices for TV stations prove it. The concentration of media ownership is greater than at any time in American history, so the larger number of TV and radio stations is offset by the relatively smaller number of owners.

There is also the specious claim by supporters of the repeal that the doctrine has had a "chilling effect" on broadcasters, inhibiting them from tackling controversial issues. No such effect has ever been proven. The issue is bogus. Nader finds it laughable.

"A chilling effect? Well then," he says, "the next few months should see an absolute explosion of Athenian creativity and daring on radio and television—now that the yoke of Fairness Doctrine has been lifted by the 20th-century Minutemen of Ronald Reagan."

The chilling effect is the deregulators' Big Lie. Joseph Sitta, who has been in broadcast journalism for 21 years—the last six months as news director of WTTG-TV here—was asked yesterday if he has ever in his career felt any constraint from the Fairness Doctrine. "No, not that I can recall," he said. "I can't think of an instance where it's impacted negatively."

Lawrence K. Grossman, president of NBC News, was asked the same question. While Grossman feels the Fairness Doctrine to be "a bad doctrine in theory" he had to concede, "The answer, as far as I am concerned, is no, not really. The direct and honest answer to the question is no."

Andrew Jay Schwartzman, director of the Media Access project, says the Reagan FCC's problem is that "they just will not recognize who's serving whom" and that "they just don't care" about "the public interest, convenience and necessity" that the commission was established to oversee.

"This decision is the embodiment of the FCC turning the asylum over to the lunatics," Schwartzman said.

Legislators and their staffs are so incensed about what they see as a "double-cross" by the FCC, that there is talk of immediate retaliation, like, perhaps, eliminating the commission's travel budget.

"I say, let them keep the travel budget. Just insist that all tickets be one-way," said Schwartzman. He was cheered by a vision of an FCC commissioner being stranded in Las Vegas after journeying there to make a speech for throngs of grateful broadcasters.

Somewhere along the line, the FCC completely reversed the roles of broadcaster and public so that the public is now deemed the servant of the broadcaster. The FCC has taken us through the looking glass. We have entered the flip-flop world on the other side. "Orwellian" is an overused adjective, but when dealing with the FCC, there is no way to avoid it.

PROMPT PAYMENT ACT AMENDMENTS

● Mr. DANFORTH. Mr. President, I understand that the Senate will not turn to S. 328, the Prompt Payment Act Amendments of 1987, until we return from recess in September. I would like to take this opportunity to reiterate that Senators PRYOR, BUMPERS, and I intend to offer an amend-

ment that would require penalty interest on late payments to farmers and farm-related businesses that participate in CCC programs. The following Senators have announced their intention to cosponsor the amendment: Senators EXON, KARNES, BOND, HEFLIN, CONRAD, NICKLES, GRASSLEY, DASCHLE, HARKIN, MATSUNAGA, DIXON, LEAHY, BENTSEN, DOLE, SYMMS, and DURENBERGER.●

TRIBUTE TO COL. GEORGE G. JACUNSKI, USA, FOR HIS SERVICE AS DIRECTOR OF SENATE AFFAIRS IN THE OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE FOR LEGISLATIVE AFFAIRS

● Mr. NUNN. Mr. President, recently Col. George G. Jacunski of the U.S. Army completed a tour of duty as Director of Senate Affairs in the Office of the Assistant Secretary of Defense for Legislative Affairs.

On behalf of the Committee on Armed Services, I want to publicly express our sincere appreciation for the outstanding assistance that Colonel Jacunski has provided the committee while serving in this capacity. When duties are performed as professionally as was the case with Colonel Jacunski, special recognition and commendation are highly deserved.

Throughout his service as Director of Senator Affairs, Colonel Jacunski worked hard and effectively to ensure a meaningful dialog between the committee and the Department of Defense. He ensured that the views of the Department were fully understood and that all relevant information was brought to the committee's attention.

Congressional oversight and review of the national defense program, Mr. President, have become exceedingly complex and demanding. Successful performance of this constitutional responsibility increasingly requires professional assistance and wise counsel. Colonel Jacunski provided both. All of us who have benefited from Colonel Jacunski's work salute his dedicated efforts.

Colonel Jacunski has assumed new responsibilities as the senior Army legal officer for the Western Command in Hawaii. We wish him every success in his assignment.●

LONDONDERRY, NH, MARKS THE BICENTENNIAL OF THE CONSTITUTION

● Mr. HUMPHREY. Mr. President, this year, as we celebrate the bicentennial of the U.S. Constitution, we are reminded of the values and traditions which, set in writing 200 years ago, have transcended time. To survive as a nation of free people, we must adhere to these values: honor, dignity, respect for one's family and others, pride in one's self, and belief in something greater than one's self.

Members of the Londonderry, New Hampshire, United States Constitution Committee have composed a resolution which the Parent Teacher Association [PTA] has endorsed calling for public emphasis on the values contained in the Constitution and recognizing the institution of the family as the tie that binds together the people of this Nation. I fully endorse this resolution and encourage my colleagues to join me in voicing their support of these sentiments.

Mr. President, I ask that the text of this resolution be inserted into the RECORD.

The text follows:

BICENTENNIAL OF THE CONSTITUTION

Whereas, the PTA believes "that all children and youth should understand that the privilege of American citizenship demands the acceptance of its responsibilities" and

Whereas, PTA principles state "that individual freedom, individual rights, individual responsibility and individual dignity are indispensable components of a democracy" and

Whereas, the Bicentennial of the Constitution of the United States of America will be celebrated on September 17, 1987 and

Whereas, the celebration of the Bicentennial of the Constitution is an ideal opportunity to assure that the youth of America understand and appreciate the basic morals, ethics and values upon which this country was founded, therefore, be it

Resolved, that local PTA units be encouraged to support programs that emphasize and promote traditional values; and be it further

Resolved, That the N.H. Congress of Parents and Teachers offer their support and assistance to the N.H. Bicentennial of the Constitution Committee; and be it further

Resolved, That the National PTA be encouraged to develop planning guides to assist local units with the celebration of the Bicentennial of the Constitution.●

INFORMED CONSENT: IDAHO

● Mr. HUMPHREY. Mr. President, this letter from a woman in Idaho poignantly points to the need for discussion of fetal development when a woman is considering aborting the prenatal child she is carrying. I urge my colleagues to read this letter carefully and to consider cosponsoring my informed consent legislation, S. 272 and S. 273.

I ask unanimous consent that the text of the letter be inserted in the CONGRESSIONAL RECORD.

The letter follows:

August 5, 1987.

DEAR SENATOR HUMPHREY: I am writing in support of an informed consent bill because I have experienced myself the harm that can be done by withholding vital information from a woman contemplating abortion.

In 1976, at the age 17, I became pregnant. The pregnancy ended three months later at a local clinic by means of a suction abortion. A nurse explained the abortion procedure to a group of five or six of us, that is, what method and instruments would be used. She didn't tell us anything about our babies, about how big they were or how developed. She didn't explain how a suction abortion killed the baby. I knew absolutely nothing about fetal development. When she told us how small the tube was that was used for the abortion I remember being a little surprised and relieved that the "product of conception" was still tiny enough to fit through that narrow tube. It didn't seem like anything that small could really be human. I didn't realize that the baby was actually quite large already and the reason it could fit through the tiny tube was because the powerful suction tore it to pieces.

No one discussed any potential risks and complications before the procedure; afterward, however, each of us was given a list of danger signals: "Call the doctor immediately if you experience any of the following . . ."

After the abortion I tried to put the whole thing out of my mind and forget about it. I was fairly successful most of the time until the spring of 1981 when I became pregnant again under very different circumstances. This time I was married and delighted to be pregnant. I was anxious to learn as much as possible about the tiny person growing within me, so I began reading everything I could find about fetal development. I discovered that the victim of my abortion years before was not just a little blob of cells, he was already a small boy, about three inches long, weighing about one ounce. I learned that his heart had already been beating for two months before he died. He already had perfectly formed hands and feet, right down to the nails and fingerprints. I learned that my baby had already been able to move and swim within my womb, that his or her sex was already evident, and that he was sensitive to touch. I learned that my baby had been developed enough to experience pain since my sixth week of pregnancy. I also learned he had been torn to pieces.

The memory of that first aborted baby clouded my joy as I awaited the birth of my son. After Steven was born, the remorse really hit me. I was overwhelmed with love for my son, and consumed by a desire to protect him from every possible danger. The thought of anyone harming him sickened me, but the thought of me, his own mother, hurting him, let alone killing him, was unbearable. And I had to face the fact that this was my second child—I had had the first one killed. It was an awful thought, but it kept coming back again and again to haunt me during those first few weeks, bringing sadness and depression at a time when there should have been only joy. I still feel a great sorrow, regret for a terrible mistake which can never be undone.

Certainly an unmarried pregnant woman faces a difficult decision. But the only way she has a chance of making the best possible decision is if she is given all the facts. Women considering a serious, irreversible procedure like abortion should have a right to be informed of exactly what the long range effects might be. I am convinced it is best to have everything out in the open at the time the decision is being made, instead of withholding information, leaving the woman to discover the truth for herself when it's too late, as I did.

I will never know for sure whether I would have chosen differently had there been an informed consent law in effect when I was faced with unwed motherhood years ago, but I am convinced that making this information available to all women considering abortion will save many a lifetime of regret.

Thank you for your attention,

PAT HARDER,
Boise, Idaho.●

PROGRAM

Mr. BYRD. Mr. President, on tomorrow, following the recognition of the two leaders under the standing order, there will be morning business until 10 o'clock, and Senators may speak therein, under the order previously entered.

RECESS UNTIL 8 A.M. TOMORROW

Mr. BYRD. Mr. President, does the able acting Republican leader have any further business he would like to have transacted today, or does he have any further statement to make?

Mr. WILSON. Mr. President, I thank the majority leader. I have not.

Mr. BYRD. I thank the Senator.

Mr. President, seeing no other Senator seeking recognition, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 8 o'clock tomorrow morning.

The motion was agreed to, and at 7:40 p.m. the Senate recessed until tomorrow, Friday, August 7, 1987, at 8 a.m.

NOMINATIONS

Executive nominations received by the Senate August 6, 1987:

DEPARTMENT OF LABOR

David M. Walker, of Virginia, to be an assistant secretary of labor, vice Dennis Miles Kass, resigned.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Joy Cherian, of Maryland, to be a member of the Equal Employment Opportunity Commission for the remainder of the term expiring July 1, 1988, vice Fred William Alvarez, resigned.

DEPARTMENT OF JUSTICE

Daniel F. Lopez Romo, of Puerto Rico, to be U.S. attorney for the district of Puerto Rico for the term of 4 years, reappointment.

William D. Breese, of Georgia, to be U.S. Marshal for the middle district of Georgia for the term of 4 years, vice John W. Stokes, Jr., resigned.

IN THE NAVY

The following-named U.S. Naval Reserve officer, to be appointed permanent captain in the line of the U.S. Navy, pursuant to title 10, United States Code, section 531:

U.S. NAVAL RESERVE, LINE, CAPTAIN

Abbot, James Lloyd III.

The following-named U.S. Naval Reserve officer, to be appointed permanent commander in the line of the U.S. Navy, pursuant to title 10, United States Code, section 531:

U.S NAVAL RESERVE, LINE, COMMANDER

DuBois, William G.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant commander in the line of the U.S. Navy, pursuant to title 10, United States Code, section 531:

U.S NAVAL RESERVE, LINE, LIEUTENANT COMMANDER

Corser, Jack
Gallaher, Robert David
Miller, Robert K.
Northam, Donald R.
Pegler, Randall E.
Poole, Russell John
Sarao, John F.
Short, Gerald Sheffield
Wayman, Harold Austin, Jr.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the line of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Ackerson, Judith L. Cromwell
Aiello, Lawrence Stephen
Allison, John Michael
Ammons, Dan Lee
Andersen, Roy Louis
Anglin, William Duane
Armstrong, James Joseph, III
Axelson, Paul Edwin
Bailey, Bradley A.
Bannon, Christopher Terrence
Baron, Timothy Rosso
Bartch, Dianne Elizabeth
Baxter, Harry T.
Beaumont, Frederick James
Bergin, David Joseph
Berley, Fred Victor
Berryman, Paul
Birklund, Gilmore Nunn
Blalock, Homer G., III
Blevins, William Joseph
Bodamer, Ronald W.
Bouffard, Mary E.
Boursier, Michel Rene
Bowman, Keith Paul
Bradfield, Cedric Antonio
Brady, William Michael
Bridges, Clennon W.
Bridgewater, William Lloyd
Brown, Vern Arthur
Brundage, Donald Joseph, Jr.
Buchy, Vicki Sue
Bumgarner, James Lowel
Burker, Kenneth James
Butler, Peter Beloat
Cahill, Steven Charles
Call, Steven Verdell
Cameron, William Howard
Campbell, Michael Carlos
Campbell, Stephen Scott
Caps, John C.
Carlos, Elizabeth Anne
Carter, Nancy Joann
Cassano, Curtis Andrian
Castleberry, Jerry T.
Caulfield, Catherine Leslie
Cavazos, Odilon V., Jr.
Cease, Katherine Leann
Cerutti, William James
Cimellaro, John A.
Clark, David J.
Clifford, Mary Beth
Coleman, Michael Thomas, Sr.
Colon, Luis Alberto
Connor, Michael Joseph
Cook, Herman Charles, III
Correa, Hector Luis
Corso, Bruce John
Cortes, Lourdes Maria
Crafton, Thomas S.
Crago, Pamala Marline
Crain, Paul Daniel
Cristiani, Ralph Dean
Cullen, William Patrick
Dagnall, Barry Francis
Daill, Kurt Franklin
Daly, Regina Miriam
Dean, Robert Eric
Decker, Nancy Ann
Decrescentis, Dominic Anthon
Degennaro, Eugene Steven
Doll, Dennis Allen
Douglas, Frederick Michael
Dubberly, Rickey Lynn
Duffy, Gerard
Dunne, Paul Alfred, II
Earl, Martin S.
Egan, Richard Thomas
Ekelund, Kenneth Oscar, III
Engle, Peter Lawrence
Ewigleben, Robert Steven
Faley, Tim Paul
Fanelty, Steven Michael
Fellows, Joel Dean
Field, Robert Marshall
Fields, William Alexander
Flanders, Alice Anoel Randal
Ford, Jennifer Porter
Freeman, George Kirby, III
Frye, Charles Robert
Fuller, Robert B.
Gabiou, Paul A.
Gaduette, Charles McAlister
Gilbride, Timothy James
Gile, Richard Charles
Gillette, Karl Lee
Gillis, Larry Matthew
Glasgow, Fred Blaire
Gordon, Algernon Pope, Jr.
Grambling, Mark Steven
Gray, Daniel Raymond
Green, Benny Goldman
Green, William Fearl
Greife, Carolyn Louise
Gridley, Stanley Thomas
Grossman, Robert E., Jr.
Gruber, Anthony Mark
Guerin, Lewis Sage
Haberthur, Michael Troy
Halferty, James Patrick
Hall, Larry D.
Hamilton, Stephanie Ward
Hamm, Jerry Wayne
Harned, Robert Lachlan
Harten, Thomas Francis
Hastings, Scott Albert
Hattery, David Wilber
Hayes, Kenneth Frederick
Haynes, Larry J.
Henry, George Wayne, Jr.
Hensel, Bruce W.
Hertz, Eli E.
Herzog, Andrew S.
Hess, Murray Alan
Hills, Thomas Walter
Holtzman, Joshua P.
Hughes, Richard Cannon, III
Hunt, Robert Alfriend
Hurry, Francis Donelin
Idle, James Patrick
Imle, William F.
Jacobs, William Howard
James, Joseph Phillip
James, Steven David
Johnson, Eric H.
Johnson, Gordon Anthony
Jones, Jeffrey Scott
Jongens, Herman Peter
Karolides, Paul Phillip
Keas, Isaac Franklin, Jr.
King, Nancy Stanmore
Kingery, Michael Edward
Kirk, Robert Michael
Kirkland, Walter Paul, III
Klemstine, Bradford Michael
Knight, Lendall S.
Knowles, Douglas Keith
Koerner, Dennis Kurt
Koromhas, Mark Stephen
Krise, James Anderson
Kruse, James Henry
Kunimura, Hollis Heide
Labarre, John David
Lally, Robert Arthur

Lauff, Jeffrey Joseph
Lauria, Frank A.
Laurie, Craig M.
Lee, David Alan
Leppla, Robert Bradford
Linardos, John Nickolas
Livingston, Charles Michael
Long, James D.
Lyddon, Peter
Lyle, Deborah Ann
Mabie, Kevin Ted
MacDonald, Guy Allan
Mahony, Michael James
Manley, Dolores Ruth
Manning, John Kenneth
Markam, Stephanie Ann
Markiewicz, Pamela Ann
Marks, Lee Fergus
Marnane, Janet Kathleen
Martens, James Mark
Mathers, David B.
Mathis, John Richard
McChesney, Robert Newman, Jr.
McClintock, Lowell V.
McDaniel, Mark Alden
McLeod, Michael R.
Melesky, James Michael
Miller, Janis Rae
Miller, Mark Steven
Mills, William J., Jr.
Moody, Deborah Jane
Moore, Arthur Robert, Jr.
Moran, Michael Louis
Moser, Jeffrey A.
Muha, Barry Ryan
Munger, Daniel Vanausdal
Nance, Marlin Gene, Jr.
Nelson, Lloyd H.
Neuberger, Jerry Van
Nicholls, Jonathon Robert
Nichols, Bruce Walter
Noble, Christopher David
Nobles, Joseph A.
Norris, Gregory Swift
Odonnell, John Robert
Ourand, William Carl
Overs, Michael Edward, III
Overstreet, Virginia
Parmenter, Tighe Stedman
Pautsch, David Scott
Payne, Richard Harvey
Peppe, Patrick Kevin
Phillips, David Taylor
Pierce, Charles James, Jr.
Pilkington, Robb Louis
Plasse, James Robert
Porter, Connie Mae
Powell, Danny Ray
Powers, David Gary
Proctor, Daniel William
Ramos, Jude Nelson Datu
Real, Christopher Scott
Reilly, Kevin Dunham
Reinhart, Gary Steven
Renfro, Dennis Dana
Riehl, Robert Francis
Rippee, Robert Homer
Robertson, Sue Frances
Rodgers, David Scott
Rogero, Philip F.
Rojek, Fredric Walter
Rooker, Brian Mitchell
Roots, Mary Beth
Rosandich, Steven P.
Rush, Peter Blake
Rutherford, Theodore Allen J.
Sachleben, John Paul
Sanderson, Joseph Thompson J.
Schaede, Franklin Lamar
Schetky, Luann Dorothy
Schiffer, Michael John
Schoch, John Jacob, II
Schorr, George Graeber, Jr.
Schuman, Walter E.
Scott, Holly
Seeland, Eric David Luke
Seeley, Larry Franklin, Jr.
Sellers, Clay William
Shaar, Gary Barth
Shanks, James W.
Sharp, Susan Barbara
Sicz, Jeffrey Mark
Siegal, Paul Vivian
Simmons, John Ballard
Simpson, Virginia Renee
Smallwood, Donald Everett, Jr.
Smith, Danny Joe
Smith, Gary Wayne
Smith, Jack Erwin
Smith, Paul Christopher
Smith, Royce Emerson
Smoot, Melissa Cannon
Sorensen, Sean Douglas
Spagnuolo, John Michael
Spencer, Edith Ann
Steckel, James P.
Steigerwald, James Edward
Stemrich, Patrick John
Stewart, David Creston
Stinson, Nora Kathleen
Sutyak, Keith Michael
Tener, Richard D.
Thill, Adlin Sanchez
Thomas, William Franklin
Thompson, Douglas Alan
Tierney, John James, Jr.
Tierney, Thomas William
Tochterman, Christopher M.
Todd, David W.
Toth, Bruce Jeffrey
Transue, William Edward
Treadway, William David
Tyson, Stephen C
Upchurch, Robert Burton
Vanalstine, Dayle Kevin
Vanderpoll, Andrew
Viera, Gilbert R.
Walker, Michael Scott
Ward, William Earnest
Waterford, Cheri Denise
Watson, Nancy Herriman
Wehrwein, Robert William
West, Wilk Otis, III
Wheatley, Richard Tudor
Whitehead, Ray Lynn
Williams, Cathy Mae
Williams, Stephen Gary
Wilson, Richard R.
Yelton, Harold Mitchell, Jr.
Zamesnik, Michael Eugene
Zimmerman, David Oakley

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the line of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Ainsworth, William Thomas
Allbrandt, Benjamin Leroy
Araya, Pablo
Armstrong, Steven Lloyd
Baker, Sharrill Diane
Ball, Ronald Clark
Barnesgray, Diane Arline
Barrett, Sharon Leigh
Benjamin, Shari Lynn
Bifoss, John Walter, Jr.
Bizzell, Diane Therese
Bodenstedt, Debra Ann
Bolduc, Steven James
Botonis, Julie Shaine
Bradberry, Joel Pressley
Braymer, Theresa Mary
Butler, Richard Wallace
Campitelli, Kenneth Ralph
Carling, Leo Joseph, IV
Chapin, Thomas Henry
Chartier, Dennis Wayne
Clark, William Isaac
Cole, Daniel Garth
Comerford, Barry Michael
Conant, Thomas Lee, Jr.
Cutchen, Bryan Porter
Dallman, Cheryl Rene
Darrigo, Christine Mary
Devault, Richard H.
Doherty, Ruth
Dukes, Gary Louis
Dunham, Sandra Lee
Dyer, Michael Allen
Edens, Jim Ben, III
Edwards, Laurie Ann
Evans, Michael Eugene
Exner, Eric Douglas
Feter, Linda Ann
Ford, Jimmie Barlow
Foster, Douglas Frederick
Foy, Brian O'Neill
Freese, Gerald Stanley
Frink, Ron L.
Gaiser, Alfred Otto
Gardner, Robbie Lee
Gilmore, James Douglas
Gomez, Julio Alejandro
Green, John A.
Greer, Susan Nancy
Haemer, Robert Budd
Hagstrom, Anne Katherine
Henderson, Donald Ray
Herrmann, Mark David
Higginson, Robert Joseph
Howes, Randall Stephen
Jackson, Mark Allen
John, Michael
Jordan, Michael Wayne
Kearns, William Anselm, III
Kendrick, Jacqueline Ann
Kenlon, Edward George, III
Kern, Jeffrey William
Killingsworth, Thomas A.
King, Jeffrey David
Knapp, James Errol, Jr.
Kochman, Steven George
Kondzella, Stephen Tobias
Kreft, Gerald Paul
Lee, Hugo Clyde
Lesh, Mary Susan
Lewellyn, Sherie Lee
Liggett, Linda Lorane
Logsdon, Mary Jones
Lones, John Rudge, Jr.
Lugar, Michael Dewayne
Lull, Scott Martin
MacDonald, Robert Duncan
MacDougall, Karen Marie
MacKay, Melissa J.
Magee, Blane Michael
Marinacci, Louis Gene
Martin, Cynthia Anne
Mayfield, Terry Edward
McCabe, Patrick Orvin
McGowin, Barbara Shaneyfelt
McVey, Ann Elizabeth
Miller, Robert Warren
Mills, Candace Marie
Mitchell, Stephen Raymond
Morrison, Mark Edward
Murphy, Mary Catherine
Nashold, Andrea Gale
Neighbors, Mark Douglas
Nelson, David Andrew
Newbill, Michelle Lynn
Nilsson, Ingrid Susanne
Oakes, Kevin William
O'Brien, Kenneth Gerard
Olivarez, Victor Rene
Ondeck, John Louis
Owens, Vicky Jean
Perry, Cynthia Lavin Rodgers
Pringle, Mathew James
Purdy, Alan Wynn
Rand, Alice Louise
Rawson, Scott Sherard

Reed, Sheena Lopino
Richards, Paul Randall
Rivette, Clarence Michael
Robelen, Aldona Inge
Robertson, William John
Robinson, Teresia Ann
Roesch, Patric Karl
Rowlands, James Edwin
Sanford, John Merritt
Sanford, Reid Matthew
Scheibner, Stephen Paul
Scott, Raymond Gerald
Seaton, George David
Sewell, Rose Marie
Sherer, Catharine Marie
Shoen, Stephen Christopher
Simone, Donna Bambina
Snodgrass, Gary Louis
Snow, Jeannine Elizabeth
Spanier, Jerome Lyle
Springer, Jeffrey Mark
Sullivan, Patrick Thomas
Thomas, Ross Baker
Toombs, Matthew Alan
Tulip, Steven Craig
Ulander, Brett Nelson
Vanover, Kenneth Charles
Waldron, Jack L.
Warwick Jerry Leroy
Wasko, Kathleen Ann
Wasson, Ann C.
Webber, Diane Elizabeth H.
Weiss, Robin Jane
Whitney, Mark Richardson
Wilcox, Paul Cyril, Jr.
Williams, James Edward
Williams, Mark Hardee
Worlein, Cheryl Kay
Yeabower, Virginia Beatrice
Young, Eugenia Ann
Zalamea, Ulysses Oca

The following-named U.S. Naval Reserve officers, to be appointed permanent ensign in the line of the U.S. Navy, pursuant to title 10, United States Code, section 531:
Adamski, Michael A.
Antonelli, John N.
Bashor, John F.
Bell, Jeffrey C.
Bentley, William J.
Birosh, Dale A.
Blackmore, Brian S.
Blythe, Mark G.
Bolkcom, Thomas W.
Brown, Michael S.
Bucy, Derrick R.
Buffington, James E., Jr.
Burkeen, Frank E.
Capshaw, Stephen D.
Carnagey, Walter J.
Carr, Franklin E., Jr.
Carson, Scott D.
Cermak, John D.
Clarke, Brent R.
Cockrell, Jerry W., Jr.
Cohen, Adam B.
Collar, Craig W.
Crandall, Edward T.
Drake, Bruce F.
Dunnington, Scott T.
Duwell, Ronald A., II
Elder, Chris D.
Faerman, Edwin M.
Featherston, Matthew W.
Gayer, Kenneth S.
Gemmell, Scott L.
Giaquinto, Joseph M.
Hagemann, Jon A.
Halsne, Eric G.
Hartung, Philip R.
Herbst, Brian G.
Herold, John P.
Herrmann, Hans W.
Hines, J. Wesley
Holbrook, Mark C.
Horn, John A.
Iwanski, Joseph S.
Jackson, Aubrey L.
Jackson, Donald E.
James, Robert W.
Jermusyk, Matthew
Johnson, William C.
Kamalu, Darren K.
Kean, F. Patrick, Jr.
Kelly, Sean T.
Kemege, Vance E.
Kingg, Jesse B.
Kiziah, Todd E.
Kleinmeyer, James R., Jr.
Klos James J.
Kraske, Richard J.
Kruse, Robert M.
Kunkel, Norman E.
Lackner, Steven M.
Langlois, Kenneth J.
Larm, Arthur W.
Larsen, Paul J.
Larson, David M.
Lee Kyle E.
Lieb, Raymond A.
Lineberger, Jeffrey G.
Mackovjak, David P.
Malmquist, Kenneth A.
Manthy, Robert S.
Manz, Julius N.
Martin Nathan J.
Moody, John D.
Nelson, Jeffrey M.
Neubert, Donald E., Jr.
Newman, Aaron W.
O'Connor, Patrick G.
Ogg, Daniel G.
Ott, Gregory M.
Parsons, Philip D.
Pascual, Christopher C.
Perry, Martin J.
Powell, Alwilliadenise
Rhea, William G., III
Roushdy, Rafik A.
Sanford, Walter T.
Schunk, Michael J.
Semones, Donald A.
Sena, Peter P.
Smith, Mark P.
Spaugh, David D.
Stanley, Thomas P.
States, David C.
Switzer, Christopher C.
Taylor, Mitchell W.
Terry, Kevin B.
Thompson, Gary A.
Tollefson, Scott R.
Trice, Kelly D.
Trimble, Richard D.
Trussler, Jeffrey E.
Walker, Kenneth H.
Ward, Jason K.
Wenck, Thomas E., Jr.
White, Joseph E.
Wilder, Andrew E.
Wilharm, Michael W.
Wincheski, Richard A.
Wong, Monty M.
Wronka, Thomas J.
Yeo, Douglas F.

The following-named U.S. Naval Reserve officers, to be appointed permanent commander in the Medical Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:
Morales, Judith
Robinson, Donald B.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant commander in the Medical Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:
Clemons, Peter Michael
Ricciardi, Michael T.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant commander in the Medical Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:
Baxley, Michael Neal
Canning, Douglas A.
Cox, Gerard R.
Croasdale, Terry Lee
Curtin, Timothy Joseph
Dalton, Warren Rich
Fetter, John Edgar
Floyd, Randall Calvin
Heil, John Randall
Hudak, Gary Russell
Keating, Richard Michael
Koffman, Robert Lewis
Mondschein, Joseph Fran
Posnak, Edward Joseph
Thomas, Hugh Wesley
Trezza, Scott A.
Triana, Mark

The following-named regular officers to be reappointed permanent lieutenant to the supply corps of the U.S. Navy, pursuant to title 10, United States Code, section 5582(b):
Reynolds, Timothy Allen
Scolpino, Anthony James

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the supply corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:
Austin, Tab Erie
Avcalade, Christopher John A.
Grey, Dennis Tharon
Hertig, Donald Lewis
Hixon, Raymond Lex
Houglan, Gary Douglas
Jackson, Michele Renee Dalla
Joy, Elizabeth Ann
Morelli, Joseph Anthony
Neumiller, Michael John
Romano, Steven James
Stephens, Roy Glynn, Jr.
Underkoffler, James Milton

The following-named regular officer, to be reappointed permanent lieutenant (junior grade) in the supply corps of the U.S. Navy, pursuant to title 10, United States Code, section 5582(b):
Brannon, Troy Eugene

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the supply corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:
Adams, John Michael
Armstrong, Alden David
Brooker, Charles Edward
Cain, Steven Martin
Cantu, Jesus Vasquez
Cash, David Willis
Chase, Thomas Daniel
Chenier, Robert Wayne
Couture, Jeffrey William
Cox, Jeffrey James, Sr.
Cruz, Leslie Donovan
Davis, Randall Lloyd
Dennis, Ricky Carl
Desjarlais, Georgia Kathrine
Domenech, Jose Pedro
Donaldson, Cynthia Rasch
Ehrhard, Keith William
Elauria, Reynaldo Paner
Fabish, Michael Keith
Flaherty, Joseph Kevin
Fullen, Guy David
Gardnerbrown, Matthew Tacon
Gorgone, Russell Salvatore
Green, Frederick
Greene, Timothy Michael
Gross, Paul Bryan

Guerra, Julio Cesar, III
Hayden, Kenneth Edward
Hicks, David Michael
Horrigan, William Christopher
Hughes, Arthur David
Jackson, Jonathan Andrew
Jones, William Richard
Keller, Joseph Allan
Kostecke, Joseph Anthony
Kubiak, Joseph Charles, Jr.
Laird, Terry Wayne
Lamm, Carl Hans
Lentz, James Michael
Lepp, Richard Alan
Lynn, John Francis
Marler, James Erwin, Jr.
Marsh, Michael Robert
Martin, Leslie Dean
Miedzinski, Robert Francis
Perrett, John William, Jr.
Persinger, Ben Paul
Pirmann, John Charles
Schergen, Thomas Samuel
Smith, Brian Joseph
Smith, Daniel Joseph
Stmoritz, Mark Elbert
Wallner, Michael Hafer
Wenger, Brian Lee
Yohnka, Scott Leslie
Yudiski, Joseph Bernard, Jr.

The following-named U.S. Naval Reserve officer, to be appointed permanent lieutenant in the chaplain corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Quiles, Rafael Joseph

The following-named regular officers, to be reappointed permanent lieutenant in the civil engineer corps of the U.S. Navy, pursuant to title 10, United States Code, section 5582(B):

Bensinger, William Harry
Smith, Charles Scott

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the civil engineer corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Arn, Peter Morris
Crebbin, Cory John
Doyle, Michael P.
Ham, Philip Floyd
Pondelick, R. Martin
Punsalan, Romeleo Nonato
Racanelli, Vincent
Simonson, Roy A.
Smith, Gregory Douglas
Souba, James Reynold
Teahan, James Edward, III

The following-named regular officers to be reappointed permanent lieutenant (junior grade) in the civil engineer corps of the U.S. Navy, pursuant to title 10, United States Code, section 5582(b):

Babchyck, Bruce Courtney
Gibbs, Robert John
Morgan, Roger Philip
Openshaw, Mark Falge
Preble, Terence Gordon
Thomas, Lynn Anne
Washington, Julius Calvin

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the civil engineer corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Amidon, Bruce Douglas
Beebe, Matthew Richard
Bell, Stephen Spencer
Brewer, Scott Alan
Crum, Mason
Foust, Thomas Jones
Hamilton, Shawn Keith
Hodges, Gary Lee
Johnson, Brian David
Lasater, Darin Von
Puntenney, Michael Craig
Shirk, William Henry
Siegfried, Robert William
Vandevoorde, James Rene

The following-named regular officers, to be reappointed permanent ensign in the civil engineer corps of the U.S. Navy, pursuant to title 10, United States Code, section 5582(b):

Carey, Jacquelyn Beth
Robinson, Robert R.

The following-named U.S. Naval Reserve officers, to be appointed permanent commander in the dental corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Dembinski, Thomas H., III
Johnson, James D.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant commander in the dental corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Pringle, Robert S.
Serkies, Stephen Francis

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the dental corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Babinec, Rocco Michael
Baransky, Thomas Michael
Bishop, David Scott
Brenyo, Michael Roderic
Brosy, Paul Robert
Cade, Thomas Alan
Cohen, David Andrew
Crawford, Brian Robert
Debry, Philip Henry
Dickinson, James
Edwards, Charles L.
Foss, Robert Douglas
Fucini, Stephen Enrico
Garrett, Michael Creed
Hanks, Roger Edward
Hernandez, Arthur Joel
Hunter, Kenneth
Jensen, Scott Albert
Kenney, Robert Lee
Loeffler, Paul Mark
Lundgren, John Paul
Madden, Paul Michael
Metzler, David Grant
Moos, Heidi Lee
Mowrey, Blaine Earl
O'Brien, David Allan
Parreira, Francis Rober
Pastuovic, Milan Nichol
Ragain, James Carlton J.
Rearden, Cathy Lynn
Routier, Donald Delroy
Short, Kenneth Dewayne
Smith, Paul Russell
St. Germain, Michael Roch
Sutton, David Frederick
Tilson, Thomas Frederic
Waskewicz, Gregory Alan

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the medical service corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Anderson, Thomas J.
Annis, Barry Alan
Arrants, Celia Ann
Baker, Florence Marie
Baker, Richard Lee
Barber, William Brent
Berg, Steven Allen
Boenecke, Clayton A.
Broad, Janis Debby
Brown, John Anthony, III
Burr, Donald Harry
Burton, Lyndle Rieke
Butler, Ronald Patrick
Carlson, Erin Hope
Case, Samuel Perry, Jr.
Dunn, David Jerod
Ferrara, Jean Marie
Francis, Joseph Paul
Fulcher, Larry Matthews
Hammond, William Jeffer
Hartmann, Kathleen Gail
Helton, Milford Roy, Jr.
Henderson, William Mich
Howze, Charles Edward
Jacocks, Henry Morgan, I
Jones, Norma Gray
Lewis, Robert Boyd, IV
Lucas, Jeannette
McKeon, Joseph Thomas
McNees, Glenn Elmer
Medina, Steven Robert
Moe, Mickey Alan
Nace, Heidi Ann
Neri, David Francis
O'Donnell, Mary Yvonne
Pasley, Robin Fessler
Patten, Thomas Gerald
Perry, William Courtnay
Queen, Joan Renee
Rockford, Richard Gerar
Rouillier, Leon H.
Savoy, Richard Steven
Smith, Michael Jacoby
Stover, William Reish
Stratton, David Bentley
Swindall, Victor Arthur
Trudel, Stephen Joseph
Ward, Patrick Clair
Watson, Larry Dale
Werking, Rex Dean
Whitmeyer, Antionette A.
Zubritzky, Desider Paul

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the medical service corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Hoff, Melinda Jean
Hoover, Diane Lynn
Ponak, Dana Lynn
Powell, Kenneth Victor
Riahi, Sandy Jo
Sawyer, Thomas Joseph
Schauer, David Alan
Smith, Melvin Dennis

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the nurse corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Barlett, Alica Kelly
Baudler, Alan J.
Beaver, Krista Lou Wint
Boundy, Jo Ann Marie
Bovington, Mary Martha
Connell, Brenda Kay
Connelly, Kathleen Mari
DeCrescenzo, Diane Jose
Eishenhardt, Anne Lucill
Goins, Brenda Cheryl
Hackley, Sally Jane
Higgins, Sheila Ann
Howard, Christina Lynn
Kalinowski, Barbara Lyn
Kelmeckis, Carolyn Ann
Kerbs, Nancy Elaine Has
McEncroe, Virginia Mari
McGloon, Elizabeth Brad
Murphy, Mary Margaret
Parker, Kaye Eileen
Porter, Sarah Jane Broo
Premo, Nina Marie
Rael, Edna Ann
Runzel, Albert Richard

Samson, Mark Warren
Simpson, Peggy Faye
Topping, Kelli Ann
Vandrossem, Anne Elizabe
Wiley, Kristiane Mae

The following-named U.S. Naval Reserve Officers, to be appointed permanently lieutenant (junior grade) in the nurse corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Andrusisian, Beth Ann
Baker, James Duane
Brennan, Kristi Brown
Burkes, Patricia Ann
Cuff, Susan Elizabeth
Fields, Bonnie Lwyn
Haddock, Allen Houston
Haugen, Mary Beth Hudki
Hoeger, Lynn Ann
Hutchinson, Sonia Elain
Johnson, Deborah McCart
Knievel, Eric Stephen
Long, Robert Paul
Mauro, Loretta Ann
Mclarnon, Colleen Ohara
Mouwdy, Curtis Darrel
Procuniar, Charles Euge
Ralph, Mary Kathryn
Reynolds, Paula Mary
Sarratt, Richard Seaman
Stacy, Michael Dewain
Tysor, Patrick William
Wehling, Timothy Stewar

The following-named U.S. Naval Reserve Officer, to be appointed permanent ensign in the Nurse Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Sanders, Susanne Marie

The following-named limited duty officers to be reappointed permanent lieutenant as regular officers in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5589(e):

Blake, Michael Jerome
Troyer, Daane Lee
Waits, John David
Worthington, Michael Allen

The following-named limited duty officers, to be reappointed permanent lieutenant as regular officers in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5589(e):

Barton, David Bruce
Chambers, Danny Alvin
Edmondson, Paul Ernest

The following-named limited duty officer, to be reappointed permanent lieutenant in the supply corps of the U.S. Navy, pursuant to United States Code, section 5589(e):

Tumaliuan, Anniano T.

The following-named limited duty officers, to be reappointed permanent lieutenant (junior grade) as regular officers in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5589(e):

Collins, Alfred
Hill, Daniel Lee
Huotari, Brad Matthew
Robinson, Andrew William
Strickland, Cary James
Tolle, Joel Kregg

The following-named temporary limited duty officers, to be appointed permanent lieutenant (junior grade) in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5589(a):

Mugrage, David Jose
Pappas, Troy Cecil

The following-named permanent limited duty officer, to be reappointed permanent lieutenant as a limited duty officer in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5589(a):

McCall, Michael W.

The following-named temporary limited duty officers, to be appointed permanent lieutenant as limited duty officers in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5589(a):

Brannan, Charles E.
Brown, Daniel G.
Gutshall, Redgie L.
Harris, Lemaul R.
Huffman, Robert J.
Jones, Lloyd L.
Kelch, David W.
Leonard, Jay A., Jr.
Loonam, Barry M.
Medders, Gerald D.
Neary, James P
Rowen, James D.
Santos, Dioscoro C.
Sauer, Arthur R.
Tees, Raymond W.
Williamson, Paul D.

CONFIRMATION

Executive nomination confirmed by the Senate August 6, 1987:

SECURITIES AND EXCHANGE COMMISSION

David S. Ruder, of Illinois, to be a member of the Securities and Exchange Commission for the term of 5 years expiring June 5, 1991.

DEPARTMENT OF THE TREASURY

Mr. Peter McPherson, of Virginia, to be Deputy Secretary of the Treasury.

DEPARTMENT OF STATE

Sherman M. Funk, of Maryland, to be inspector general, Department of State.

POSTAL RATE COMMISSION

John W. Crutcher, of Kansas, to be a commissioner of the Postal Rate Commission for the term expiring October 16, 1992.

FEDERAL LABOR RELATIONS AUTHORITY

Jerry Lee Calhoun, of Washington, to be a member of the Federal Labor Relations Authority for a term of 5 years expiring July 29, 1992.

NATIONAL SCIENCE FOUNDATION

Kenneth Leon Nordtvedt, Jr., of Montana, to be a member of the National Science Board, National Science Foundation, for the remainder of the term expiring May 10, 1990.

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT

James L. Usry, of New Jersey, to be a member of the National Council on Education Research and Improvement for a term expiring September 30, 1989.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT

Ruth Reeve Jenson, of Arizona, to be a member of the National Advisory Council on Educational Research and Improvement for the term expiring September 30, 1989.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE AIR FORCE

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

Lt. Gen. Philip C. Gast [redacted] FR, United States Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Hansford T. Johnson, [redacted] FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned in his current grade to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Harry A. Goodall, [redacted] FR, U.S. Air Force.

IN THE NAVY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be vice admiral

Vice Adm. James E. Service, [redacted] 1310, U.S. Navy.