SENATE—*Saturday, December 19, 1987*

(Legislative day of Tuesday, December 15, 1987)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

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

Let us pray:

* * * *Behold, I bring you good tidings of great joy which shall be to all people, for unto you is born this day in the city of David a Saviour which is Christ the Lord.*—Luke 2:10-11.

"Joy to the world, the Lord is come."

God of might and God of glory, we celebrate joy! We celebrate peace! We celebrate justice! We celebrate love! You know, Lord, the thousands whose anticipation of celebration depends on this body: spouses and children of Senators and staffs—grandparents, uncles and aunts, nephews and nieces. Dear God, whatever force threatens their joy, let it be removed. Whatever it takes, Gracious Father, for Senate business to be completed and adjournment sine die to happen, let it be done. Meanwhile, in spite of obstruction and delay, let joy infuse this place. Let hearts be filled with the promise and the hope of Hanukkah and Christmas, the season of light and freedom, peace and love. In the name of Him who makes it all possible. 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 19, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, I listened to the Chaplain's prayer very carefully. While his words with respect to obstruction and delay are welcome, for those of us who have been around here a long time, we are not overly concerned about these things. We have seen them happen time and time again.

I am not sure I would call on the Lord to intervene in this business. I think it is up to us mortals to come to our senses and reach agreements and resolve our differences. We have done it always before and we will do it again.

But I was touched by his references to the Christmas spirit in this season, which is especially a season of peace and love.

I said to my wife only yesterday, I believe—someone had sent us a couple of little decorations for our Christmas tree—I said to Erma, "There are many children, many families in this land who will not even have as much as decorations for a tree or perhaps even a tree or food for a table. And how thankful we should be for the plenty that we and our children and grandchildren can enjoy."

I hope that Senators and others will read the book "Holiday Tales, Christmas in the Adirondacks," by William Henry Harrison Murray, written just before the turn of the century. That book speaks of "John Norton's Christmas" and "John Norton's Vagabond." It is a beautiful scene in both. I will just take time to quote the epilogue to John Norton's "Vagabond." I hope that Senators will think with me and get the picture, realizing that those of us who sit here today may not all be here on another Christmas:

Ah, friends, dear friends, as years go on and heads get gray, how fast the guests do go!
Touch hands, touch hands, with those that stay.
Strong hands to weak, old hands to young, around the Christmas board, touch hands.
The false forget, the foe forgive, for every guest will go and every fire burn low and cabin empty stand.
Forget, forgive, for who may say that Christmas day may ever come to host or guest again.
Touch hands!

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. FORD). Under the standing order, the Republican leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, I wonder if the majority leader might be able to indicate, after we do two or three items—farm credit, there is a nomination, and the committee resolution—what would be the plans of the leader for the rest of the day? I know the House, as I understand, may go out until tomorrow at 1 o'clock. I have had a couple of requests from this side, if we have done all we can today—some who are not on committees, conference committees—they would like to be free to do other things, like Christmas shopping and things of that nature.

Mr. BYRD. Yes, I am happy to answer that very appropriate question.

Mr. President, the Senate will be acting on the farm credit conference report the first thing. There may be a request for the yeas and nays on that conference report. Following that, I would like to do the Agriculture Committee funding resolution. I am told that will be a rollcall vote. And then there is the nomination on which a Senator has requested the yeas and nays. So I would suggest that we anticipate one, two, or three rollcall votes and that they be early.

I hope that the time limitation on the agriculture funding resolution can be shortened and that Senators might yield back their time. In this way, we could get the rollcall votes over early. I hope we can do them close together so as not to interfere with the conferees and so that Senators who are not involved in the conferences then may take leave.

On tomorrow, we will come back in the late afternoon. I say "late afternoon" because the House is not expected to take up the conference reports on the continuing resolution and on the reconciliation measure until in the afternoon. Because, if the conferees were able to complete their work today it would take over night, I understand, for the papers to be fully prepared and then the House acts on both conference reports first—the Senate can come in well into the afternoon. Senators can go to church and

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

then, hopefully, we can wind up our work tomorrow evening.

I do not anticipate anything today beyond the three items that I have mentioned.

Mr. DOLE. I thank the majority leader.

Mr. BYRD. I thank the distinguished Republican leader and I note that he is advancing in the polls, I understand.

Mr. DOLE. A little bit.

MORNING BUSINESS

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

The Senator from Wisconsin.

WHY THE SENATE SHOULD RATIFY THE INF TREATY

Mr. PROXMIRE. Mr. President, two of this country's outstanding experts on nuclear weapons have written a brief but excellent article in support of the proposed Intermediate Nuclear Forces [INF] Treaty. Early the next year the Senate will act on ratification. The debate may be vigorous. Unless the Senate ratifies this INF Treaty overwhelmingly arms control may be in trouble. Graham Allison and Albert Carnesale persuasively support the treaty in an article that appeared in the Sunday New York Times on November 15. Who are Allison and Carnesale? They are respectively the dean and the academic dean of the Kennedy School of Government at Harvard University. They are also among the coauthors of a remarkable book on living with nuclear weapons. In the judgment of this Senator their book is the most realistic and sensible on the nuclear weapons dilemma written since the first nuclear weapon was exploded in Hiroshima more than 42 years ago.

These Harvard scholars offer six critical reasons why the Senate should ratify the INF Treaty. All members of the Senate should consider these reasons carefully in determining our vote on the treaty. Here they are:

First, the treaty sets a series of precedents that can advance arms control in the future.

Second, and among these precedents is the elimination of an entire category of devastating nuclear weapons which have cost both sides money and political support.

Third, the treaty sanctions a greater reduction in weapons on one side. In this case the Soviet Union will give up 1,500 intermediate and short range nuclear weapons. The United States will give up only about 457. Here's a precedent which should help both super powers in the future to give up more on one side than the other to achieve parity. Future negotiators and future Senators in connection with a future treaty can recall that in 1987 in the INF agreement the Soviet Union gave up more than three times as many nuclear weapons as the United States. They will also recognize that in the INF, the United States allies—British and French—were not required to reduce nulcear weapons that could strike the Soviet homeland.

Fourth, the treaty establishes verification provisions that are both strict and intrusive. This precedent is critical because verification is quintessential to successful arms control. And there has been strong resistance within both super powers to verification provisions that are intrusive.

Fifth, the treaty is possible because the United States persuaded the Soviet Union to consider the agreement after pressuring our European allies to permit us to locate in Europe American nuclear warheads on Pershing 2 ballistic missiles and on ground launch cruise missiles. In other words we armed to parley. And it worked. As Allison and Carnesale contend this shows that "arming to parley can be a successful strategy."

Sixth, and most important the treaty can provide the basis for moving ahead to correct the imbalance of conventional forces in Europe. The fact is that in the INF Treaty the super powers agree on a much greater reduction on one side than the other in intermediate nuclear weapons. The fact is that in the INF Treaty both sides agree to intrusive verification. The fact is that the INF Treaty succeeded because the United States was willing to build up in order to negotiate ultimate reductions. All this process in the INF Treaty makes an ultimate agreement to reduce conventional forces: Tanks, planes, helicopters, ships and personnel to parity—these developments all reflected in the INF personnel to parity—these developments all reflected in the INF Treaty should enable both the United States and the Soviet Union to agree to begin to lift a big part of this enormous arms burden from both sides. Consider what this could do for the standard of living of those living in both the free world and the Communist world. And think what it can contribute to the prospect of peace on Earth.

Mr. President, I ask unanimous consent that the article to which I referred by Allison and Carnesale in the November 15, 1987, New York Times 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, Nov. 15, 1987]

WHY SAY NO TO 1,500 WARHEADS?

(By Graham Allison and Albert Carnesale)

CAMBRIDGE, MASS.—The centerpiece of next month's superpower summit meeting is to be the signing of a treaty eliminating intermediate-range nuclear forces. The public and Congressional debate about ratifying the treaty will greatly influence future arms controls efforts and our relations with Europe and the Soviet Union. While informed opinions on the merits of the treaty differ, a few basic considerations can help guide the debate.

Any assessment that considers only the effects on American forces and ignores the effects on Soviet forces will conclude that the agreement is not in our interest.

Critics of the agreement typically focus on its elimination of about 350 American nuclear warheads on Pershing 2 ballistic missiles and on ground-launched cruise missiles. But they gloss over the required dismantling of more than 1,500 Soviet warheads, and generally forget that British and French nuclear weapons that can strike the Soviet homeland are not affected by the accord.

Imagine that the terms were reversed—that America was trading away more than 1,500 warheads for about 350 on the Soviet side, while permitting Moscow's allies to keep and even expand their own nuclear arsenals, which threaten our territory. No President could expect this deal to be acceptable to the Senate, American people and our allies.

We will have to measure the benefits and costs of the treaty in different ways. There will be implications for the military balance, cohesion of the Atlantic alliance, arms control, American-Soviet relations and domestic politics.

Dismantling our intermediate-range nuclear forces in Europe would have little military effect. The West would retain more than 4,000 nuclear weapons on the Continent. All targets vulnerable to attack by intermediate-range missiles would also remain vulnerable to attack by other North Atlantic Treaty Organization arms.

Indeed, because the more than 500 Soviet missiles eliminated by the accord need no longer be targeted by NATO, the pact effectively "destroys" more Soviet targets than could possibly have been attacked by the 350 warheads offered in trade.

As for alliance cohesion, claims that the treaty would decouple America from its European allies are exaggerations. Many ties bind us; Pershing 2's and ground-launched cruise missiles are only two threads in this complex web. At the heart of the alliance lie common values, interests, commitments and trust. The Administration's careless diplomacy in dealing with arms control negotiations has had significant negative consequences in Europe, but the ratification process can repair that damage.

The treaty sets significant arms control precedents. These include eliminating an entire category of modern weapons in which both sides have made major economic and political investments, imposing asymmetric reductions to achieve an equitable end result, establishing strict and intrusive verification provisions, and demonstrating that "arming to parley" can be a successful strategy.

Concluding this agreement would demonstrate to both governments that they can deal productively with each other. This could set the stage for further cooperation. America's credibility can only be strength-

ened by our demonstrated willingness to take "da" for an answer to our own proposal to eliminate intermediate-range weapons.

President Reagan's signing of the deal would go a long way in again legitimizing arms control as a means of enhancing national security. Proponents of arms control should applaud his apparent conversion.

The elimination of intermediate-range forces carries important implications for conventional forces, battlefield nuclear weapons and some strategic forces. Concluding the accord would focus attention on short-comings in these other segments of the military balance. Thus, the treaty may provide an opportunity for movement on such pressing problems as the imbalance of conventional forces in Europe.

While the deal amounts to less than many advocates claim, it would remove the threat posed by more than 1,500 Soviet nuclear warheads. That seems clearly worth doing.

A TRIBUTE TO AMERICANS FROM WISCONSIN

Mr. PROXMIRE. Mr. President, the holiday season is upon us. During this time of year, we try to take time out of our rushed life styles to concentrate more on the needs of others. That is what a truly unselfish and caring woman exemplified a few days ago. She graciously gave of herself as she donated bone marrow so that a 6-year-old child might live. I stand before you today to proclaim a tribute to Ms. Diane Walters of Milwaukee, WI. She voluntarily donated her bone marrow to a little girl, who was suffering from leukemia.

There are others in this heart-warming story that also deserve recognition. In the midst of a blizzard, Mr. William O'Donnell, the Milwaukee County executive ordered crews to clear a runway for the jet to deliver the marrow. Citizens worked together to free the plane, carrying the precious gift, so that it could make its way to Seattle, WA. This is an example of unselfish love of the American people. I am proud to serve as Senator from the same State that people such as Ms. Walters and Mr. O'Donnell reside in.

Mr. President, I ask unanimous consent that this article from the New York Times be printed in the RECORD.

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

GIRL, 6, UNDERGOES BONE MARROW TRANSPLANT

SEATTLE.—A 6-year-old girl was listed in good condition today after receiving an emergency transplant of bone marrow made possible by an official who ordered special snow plowing so the marrow could be flown out of blizzard-bound Wisconsin.

The transplant for the girl, Brooke Ward of Raleigh, N.C., was the first from a match made by the National Bone Marrow Registry, which was established in September and lists 10,000 potential donors. The registry finds volunteers who will donate their marrow to patients of the same tissue type. Marrow transplants require near-perfect matching of tissues.

"She's fine," said Susan Edmonds, spokeswoman for the Fred Hutchinson Cancer Research Center. "There were no complications at all."

Brooke has suffered from acute leukemia for three years and recently suffered her third and most serious relapse. Doctors said she had little chance of survival without a marrow transplant.

PERFECT MATCH FOUND

Infection has been a serious threat, since treatments to destroy the diseased bone marrow left her immune system virtually defenseless.

The girl's relatives' marrow did not match perfectly, but that of a donor, Diane Walters, 49, of Milwaukee, was a good match.

Like most of the other donors on the registry, Ms. Walters was asked by a local center where she regularly donates blood whether she would be listed.

Officials said Ms. Walters did not hesitate to undergo general anesthesia and needle punctures into her hip bone to donate the marrow. Her husband died of cancer 10 years ago, and she has a 6-year-old granddaughter.

"It's just something I wanted to do," she said in explaining why she donated her marrow. "It can't be purchased or manufactured, and if a person can give it to another," adding, "well, that's the reason I did it."

The marrow originally was to be flown Tuesday afternoon to Seattle, but heavy snow in Milwaukee canceled commercial flights.

William O'Donnell, the Milwaukee County Executive, learned of Brooke's plight from his daughter, Bridget, a spokeswoman for the blood center. He ordered crews to clear a runway for a jet to deliver the marrow. It arrived at 9:06 P.M. Tuesday.

In addition, Brooke's brother, Jeff, 24, was a backup donor, Ms. Edmonds said. His marrow had four of the six major factors needed for a match. But it would have given Brooke only half the 15 percent to 30 percent survival chance that Ms. Walter's perfectly matched marrow gives her.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

LEAVE OF ABSENCE

Mr. GRASSLEY. Mr. President, under rule VI, I ask permission to be absent from the Senate for this afternoon and tomorrow, if we are in session. In my family we have our family Christmas on the Sunday before Christmas and I am going to be gone for that reason.

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

Mr. HOLLINGS addressed the Chair.

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

Mr. BYRD. Mr. President, will the Senator yield to me?

Mr. HOLLINGS. I yield.

Mr. BYRD. Mr. President, I want to thank and congratulate the distinguished Senator from Iowa [Mr. GRASSLEY]. He has sought, under the rule, to be excused for whatever number of days it was. That is the way it is supposed to be done. If Senators seek to be absent from the Senate, it is done by the rule. The Senator from Iowa has observed that rule, has followed it. I think the public would be pleased if all of us would do likewise if we have to be away.

I thank the distinguished Senator from South Carolina for yielding.

BILATERAL TEXTILE AND APPAREL AGREEMENT NEGOTIATIONS BETWEEN THE UNITED STATES AND THE PEOPLE'S REPUBLIC OF CHINA

Mr. HOLLINGS. Mr. President, we are now about to embark on the next great adventure in Reaganomics, another example of this administration's special knack for putting the cart before the horse. On the fiscal front, Mr. Reagan slashed taxes before he cut spending, thereby creating record deficits. In arms control, he has given up our INF nuclear deterrent in Europe before eliminating the Soviet conventional superiority, thereby exposing NATO to Soviet intimidation. And now, I have learned, Mr. Reagan is about to give the People's Republic of China free reign to inundate the United States market with textiles, at a time when there is no access whatsoever for United States textiles to the Chinese market.

Mr. President, the current bilateral textile and apparel agreement with the People's Republic of China expires at the end of this month. Negotiations are now underway to reach agreement on replacing the expiring bilateral. Indeed, Mr. President, the negotiators are now in at least the sixth round of talks. Yet despite the contrived appearance of drawn-out negotiations, I have ample reason to believe—based on extensive conversations with textile executives—that the end-product has long-since been agreed to and that it is a sweetheart deal for the Chinese.

Mr. President, the American people have a right to expect good-faith, tough-minded bargaining from our negotiators and from the Office of the Special Trade Representative. Regrettably, however, it is now clear that their alleged bargaining with the Chinese has been nothing more than a charade. The negotiation process has been conducted so as to create the perception of hard bargaining, but in re-

ality these negotiations have been a sham.

Mr. President, the fault does not lie entirely with the negotiators themselves. They are simply following instructions handed down from on high within the administration. The fix is in, and I fear that we are being set up for yet another outrageous give-away at great cost to our domestic textile and apparel industry.

The simple fact is that our negotiators have been pursuing a duplicitous, double-track negotiating strategy. Their ostensible objective—so, at least, the American public has been told—is to negotiate an agreement that sets the lowest possible growth in import quotas for the People's Republic of China. But it is abundantly clear to this Senator that our negotiators in fact are working from predetermined figures for import quotas for the various textile and apparel categories. From the outset, the administration has sought to satisfy the People's Republic of China's clamoring for still larger markets, and to that end the base levels—the levels from which the percentage growth in imports is figured—are to be substantially increased in many categories.

It now appears that the total agreement will result in an aggregate growth rate of something below 4 percent—most likely in the 3.5 to 3.9 percent range. This would enable the administration and the United States Special Trade Representative, Clayton Yeutter, to argue before Congress their diligence in carrying out our wishes and hammering out a balanced, fair agreement with the People's Republic of China. Additionally, when the textile and apparel bill, S. 549, comes before the Senate for consideration, Mr. Yeutter will be before us arguing against it and citing the new bilateral agreement with the People's Republic of China as proof positive that the industry is getting all the help that could be reasonably expected.

Clearly a growth rate below the multifiber agreement level of 6 percent per annum would appear to be appealing to Congress. In addition, there would be group limits on apparel, nonapparel, uncontrolled categories and categories consisting of products made from new fibers covered under the MFA, for example, ramie and silk.

To the uninitiated, Mr. President, all of this appears superficially attractive. However, as usually is the case with accords negotiated by the USTR, this agreement begs the real issue, namely the base levels upon which growth in the textile and apparel categories would occur.

By way of background, I would note that as recently as the beginning of 1987, there was no United States position on what to seek from negotiations with the People's Republic of China. Apparently, however, this changed abruptly when Secretary of State George Shultz visited China last April. Obviously, he did not specify to the People's Republic of China the details of a category-by-category agreement. But developments in the bilateral discussions since that visit indicate a clear pattern of preemptive concessions by the American negotiators.

As the negotiations continued in May in Guangzhou, in September in San Francisco, in Beijing in November, and in Washington in December—December 7-12, December 15, and again on December 17—the ease with which United States negotiators conceded to People's Republic of China on base levels and growth rates suggests a premeditated concessionary attitude. The speed with which our negotiators approached People's Republic of China base figures, plus the growth rates our negotiators were prepared to accept, points to the unavoidable conclusion that our side was prepared to meet the People's Republic of China much more than half way. The marching orders were in place, and our negotiators have followed them in lock-step.

Perhaps the most blatant example is the case of categories 845/846, which were initially linked. These categories represent sweaters made of ramie/cotton blends. The People's Republic of China, it should be recalled, objected to the inclusion of ramie and other new fibers as yarns covered by Multi-Fiber Agreement IV. The People's Republic of China was the only country which refused to sign the new MFA protocol negotiated at the end of July 1986. It was only after considerable exchanges between the People's Republic of China and our country that they agreed to negotiate on these yarns in a new bilateral.

The Chinese apparently have planted too much ramie in the last 3 years. The blended fiber—with slightly more ramie than cotton, which was up until now an uncovered yarn, has been used to circumvent the quota.

In ancient history, Mr. President, ramie was apparently first used by the Egyptians to wrap their sarcophagi. It later fell into disuse, but was revived following World War II in the Philippines, a nation whose cotton output was devastated during the war. Ramie became more widely used as quotas began to restrict exporting countries' ability to ship cotton, wool, and manmade fiber knitwear, particularly sweaters. In recent years, the Chinese have begun extensive cultivation of ramie for use in textile and apparel exports.

Evidence of this extensive cultivation and production is the fact that the United States issued a call to the People's Republic of China on ramie-blend sweaters at 991,000 dozen. The call required consultation between the two countries.

As the negotiations began, the Chinese were seeking a quota of approximately 3.5 million dozen. The U.S. counteroffers rapidly escalated from 1.2 million dozen to 1.4 million dozen to 1.7 million dozen, and finally to 2.1 million dozen, the figure at which category 845 was settled. Category 846 started at 100,000 dozen and was settled at 140,000. The total for category 845/846 is 2,240,000 dozen. But, Mr. President, this is not the end of the story.

With the higher base and the higher annual growth rates over the 4 years of the bilateral agreement, the People's Republic of China will end up with growth rates in all categories even greater than Hong Kong, Korea, and Taiwan combined. Bear in mind, Mr. President, that the Hong Kong, Korea, and Taiwan agreements were all negotiated last year as part of the effort to defeat the override of the President's veto of the textile bill.

Returning, now, to the 845/846 categories: in 1986 the total sweater imports of the new fiber blends—from all countries—totaled 11.5 million dozen. This exceeded total domestic production of all sweaters—11.4 million dozen. By way of comparison, total imports were about 27 million in all fibers.

A large sweater mill turns out about 250,000 dozen sweaters. The implications of this extraordinary concession to the People's Republic of China are obvious in terms of the ability of United States sweater companies to stay in business and clearly will result in substantial American job losses.

The United States' rationale for giving the People's Republic of China so much in this category was that we had given even larger aggregate totals to two other countries. In other words, the justification for the China sellout was that, well, we had already given huge quotas to two other countries so we had to give China even more. This says nothing about the growth rate, of course. With logic like this governing the U.S. Trade Representative, is it any wonder why this Nation is literally losing its shirt to foreign competition?

All this comes on the heels of last year's bilateral agreements with Hong Kong, Taiwan, and Korea, which kept their growth last year to less than 1 percent. It also follows the statement of Michael B. Smith, Deputy United States Trade Representative, to the House Ways and Means Committee in February that China would be treated no more favorably than the big three.

Mr. President, there are other horror-story categories as well. I will briefly outline them:

First. Category 340, cotton shirts, and category 640, manmade fiber shirts. The U.S. offer in February for 340 was 680,000 dozen and a 0.5 per-

cent rate of growth. The category was settled at 718,000 dozen and a 2.3 percent rate of growth. For category 640 the U.S. offer in February was 1,210,000 dozen and a 0.5 percent rate of growth. The category was settled at 1,240,000 dozen and a 2.8 percent rate of growth. Both of these categories, 340 and 640, suffer from heavy import penetration—there are twice as many imports as there is domestic production. The agreement allows for a 10 percent swing from 640 to 340, thereby permitting 20 percent growth in 340 in the second year of the agreement.

Second. Category 442, wool skirts. The U.S. offer in February for 442 was 21,000 dozen and the agreement is for 39,000 dozen.

Third. Category 369, handbags. the U.S. offer in February was 5,420,000 and the agreement is for 8,500,000.

Fourth. Category 369, cotton dish towels. The U.S. offer in February was for 7.5 million pounds and the agreement is for 8.6 million pounds.

Fifth. Category 338 and 339, knit shirts. The U.S. offer in February was 1,950,000 dozen and a 0.5-percent rate of growth. The category was settled at 1,976,000 dozen and a 3.5-percent rate of growth in this very heavily impacted category.

Sixth. Category 315, print cloth. The U.S. offer in February was 172,000,000 SYE and a growth rate of 0.5 percent. The category was settled at 177,250,000 SYE and a 1-percent rate of growth.

Seventh. Category 435, women's wool coats. The U.S. offer in February was 9,000 dozen and a 1-percent rate of growth. The category was settled at 22,500 dozen.

Eighth. Category 833, new fiber dresses. The U.S. offer in February was 11,500 dozen and a rate of growth of 2.5 percent. The category was settled at 20,700 dozen and a 3.5-percent rate of growth.

Ninth. Category 835, new fiber women's coats. The U.S. offer in February was 50,000 dozen. The category was settled at 95,000 dozen and a rate of growth of 4.1 percent.

These categories, Mr. President, are just a few of the categories in which growth rates, along with base rates, are up. They are representative of the nature of the agreement and, in my view, indicate that we don't have a negotiated agreement, we have a unilateral giveaway. To make my point clearer, let me state it in comparative terms: the percentage growth rates, in addition to starting from higher base rates, are greater than those permitted to Taiwan, Hong Kong, and Korea. This is directly contrary to Mr. Smith's pledge in testimony before the House last February that China would be treated no more favorably than the big three. In the 12 months ending September 1987, the People's Republic of China accounted for 14 percent of all textile and apparel imports—of all fibers—and was the No. 1 exporter to the United States.

The People's Republic of China's growth rate was already astonishing in the period leading up to the agreement now under negotiation. Now, with the giveaway strategy being aggressively pursued by the Office of United States Trade Representative, we face yet another extraordinary surge in People's Republic of China exports to the United States, at the cost of untold thousands of American jobs.

Bear in mind, too, Mr. President, that the bilateral agreement under negotiation with the People's Republic of China pertains strictly to the United States market. There is no reciprocity because there is no People's Republic of China market for our textiles. A fair and balanced increase in import penetration of our market is one thing, but the increases permitted in this prospective agreement are one more giant step toward the liquidation of domestic U.S. textile and apparel manufacturing. This accelerating trend carries grave economic consequences for the United States. It also has serious national security implications, and calls into question our future as an independent, self-sustaining world power.

Mr. President, I pray that the sellout I have described today does not actually materialize. Nonetheless, my sources in the textile industry are reliable, and I fear that we are indeed headed for a disastrous agreement with the People's Republic of China. I am obliged to alert my colleagues to the shape of the emerging agreement with the People's Republic of China. The hour is late, but I hope there is yet time for reason and common sense to intervene.

Mr. President, I certainly do not want to hear in February and March when we discuss the trade agreement that, "Here comes the textile industry, a bunch of crybabies. They are all whining and crying. You can never satisfy them."

On the contrary, I am whining and crying for the economy of this country. Our focus at the moment is on the fiscal or budget deficit. But we have an equal dilemma in our trade deficit.

The bottom line is that our negotiators seem to view the United States as a fat, happy, generous country that can give up its markets willy-nilly without any type of reciprocity whatever.

This is grossly unfair to American workers. We have good, hardworking, productive people. I emphasize that. The Department of Labor will confirm that the most productive industrial worker in the world is the U.S. industrial worker. No one disputes these statistics. West Germany is ranked third and Japan is ranked eighth.

Yet, Mr. President, too often we listen to this talk in the Senate that somehow American workers are all out playing golf or taking naps. Anyone who has traveled the country as I have knows that this is total nonsense. Our shortcomings are not for any lack of productivity, lack of research, lack of modern machinery, lack of modernization, lack of competitors. Our problem is the lack of assertive Government. It is the lack of enforcement of our bilateral agreements.

Mr. President, I repeat, my purpose today is to put Ambassador Yeutter on notice that we know what he is up to. We can give him the facts and figures and show exactly the charade he has been engaged in.

Mr. BUMPERS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, what is the parliamentary situation?

The ACTING PRESIDENT pro tempore. The Senate is in morning business and will be for the next 3 minutes.

Mr. BUMPERS. Mr. President, I will just take a couple of minutes to make an observation.

OZONE HOLE AFFECTING CLIMATE

Mr. BUMPERS. Mr. President, this morning, I picked up the paper and I see that there is an increasing concern about the possible thawing at the South Pole of the glaciers, there, that the ozone layer, which protects man, animal, and plant life, is probably getting bigger. That is, the hole of the ozone layer at the South Pole is getting bigger and that climatic changes, according to Dr. Sherwood Roland, who was the original scientist at the University of California at Irvine, and who brought this whole ozone problem to our attention back in the mid-1970's, have already begun to occur as a result of the depletion of the ozone layer.

Mr. President, I am not above saying, "I told you so," but that would not really solve any problems. But Congress has a penchant for delaying things that do not have a lot of appeal to the public at a given moment and absolutely refuse, as does the press, to hone in on what seems to me like obvious future disastrous problems for the country.

Mr. President, when I came to the Senate in 1975, we had a committee called the Space Committee. It was a really spacey committee, too. There really was not much to do there.

In an effort to keep myself occupied and do something, I enlisted the help of my colleague from New Mexico, who is still here, Senator DOMENICI, who was also on the Space Committee, and we decided to hold hearings on

this thing that I had just read a little bit about in a science magazine, plus a few little two- or three-paragraph stories on page 18 of the newspapers. These two professors at the University of California had concluded that these little simple aerosol cans that you use to spray your hair in the morning and that you use to spray lather on you, that you use for a host of other things, were actually what they call chlorofluorocarbons. They had a theory that these things over a period of 10 to 20 years, being fairly inert, drifted into the stratosphere and over a period of time, and literally through a chemical reaction, destroyed what was a three molecule called ozone.

I thought ozone was a town in Johnson County, AR, until I came to the Senate. As a matter of fact, it is a town in Johnson County, AR. But Senator DOMENICI and I held nine hearings and we had the best atmospheric scientists in the United States come and testify in these nine hearings, and the conclusion was inescapable that the ozone layer was in fact being destroyed. Then we offered legislation to ban the manufacture of those chlorofluorocarbons in this country, but I want you to know during the hearings and during the debate on the floor of the Senate neither the press nor the Congress ever gave it the time of day. But when we finally got ready to vote on the amendment offered by Senator PACKWOOD and me, that hallway just off the Senate floor was loaded with lobbyists from the chemical industry and we got 32 votes.

Now, 12 years later, the problem has grown to the point that it is not just acute; it is terrifying.

Mr. President, I only make those comments to point out that you simply cannot seem to get the attention of this body on any long-range problem. Everybody runs for the first red light on the television camera that they think is going to make evening news, but when you get into these long-range problems which really confront this Nation—indeed, the planet—with disaster, it is very difficult to get anybody's attention. Nobody quite knows how we are going to recruit the rest of the world to join us in banning the manufacture of these things.

At that time I believe there were 2 billion pounds of chlorofluorocarbons produced in the United States, and we produce 50 percent of the total usage of it in the world. While we have, indeed, passed some regulations since then banning the use of those things, they are still used as a refrigerant; that is the biggest use in the world. Freon gas causes your freezer to make ice and makes your car air-conditioner work. We are still using freons, which are one of the biggest, most devastating contributors to the depletion of the ozone layer.

I bring that to the attention of my colleagues for whatever it may be worth. The problem grows more acute, and that means we do not have much time to solve it, even though the ozone is going to continue to be depleted for the next 12 to 20 years because of what we have already put into the stratosphere.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the time set aside for morning business has expired.

AGRICULTURAL CREDIT ACT—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. The conference report on H.R. 3030, the farm credit bill, is before the Senate. The clerk will report.

Mr. BYRD. Mr. President, there are Senators who are expecting the yeas and nays on both this matter and on the Agriculture Committee funding. The distinguished Senator who is the chairman of the Agriculture Committee is here. I wonder if he has any information that would be contrary to what I have said.

Mr. LEAHY. Mr. President, I would tell the distinguished majority leader that his understanding is absolutely correct; we will be requesting a rollcall vote on farm credit. Even though it is unusual on committee budgets, I understand that a Member on the other side is going to request a rollcall vote on the budget of the Agriculture Committee. Thus, there are two rollcall votes of which I am aware, Mr. Leader.

I might say, Mr. President, that I am certainly willing to move as expeditiously as possible on farm credit. In fact, I do not intend to use all the time that may be reserved on the funding resolution of the Senate Agriculture Committee.

The farm credit bill is an extremely important bill. Without this legislation we face the possibility of a financial disaster through the Farm Belt. It is not a bad idea to send it down to the President with what I think is going to be a solid majority.

Mr. BYRD. Very well. Then I ask for the yeas and nays on the conference report on the Farm Credit System.

The ACTING PRESIDENT pro tempore. The yeas and nays are requested.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order to order at this time the yeas and nays—does the Senator feel that there will be a request for yeas and nays on the agriculture funding resolution?

Mr. LEAHY. I am not the one who is going to request that, I might say to the distinguished leader.

Mr. BYRD. Very well. Then I withdraw the request.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3030) to provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER (Mr. BREAUX). Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of December 18, 1987.)

Mr. BYRD. Mr. President, there will be a 30-minute rollcall vote, it being the first rollcall vote on a Saturday.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. Who yields time on the conference report? The Senator from Vermont.

Mr. LEAHY. Mr. President, I yield myself such time as I may need. I ask a parliamentary inquiry. How is the time divided?

The PRESIDING OFFICER. There will be 40 minutes to be equally divided between the two managers.

Mr. LEAHY. Mr. President, together with my good friend and colleague, Senator LUGAR, and my good friend and colleague, Senator BOREN, I present the conference report on the Farm Credit Act Amendments of 1987, H.R. 3030.

Mr. President, the legislation we are now asking the Senate to approve in a Saturday session is vitally important to the Nation, to the American farmer and rancher. This legislation is critical also to the economic stability of our Nation. If this legislation is not passed and signed by the President, the financial integrity of $50 billion in Farm Credit System bonds is going to be at risk. This could be devastating to confidence in our economy at what we all know is a critical time. Rural America's stake in this bill is enormous. The Farm Credit System supplies one-third of the credit to American farmers. Without credit, rural America will collapse. A farmer cannot buy his farm or plant his crops without credit. That is why, Mr. President, we are here on a Saturday, to get vitally important legislation, vitally important to the Nation and the American farmer and rancher, passed by the Senate, as it has already passed the other body, and sent on to the President for his signature.

This vital legislation is also balanced and bipartisan, Mr. President. It balances the credit needs of the American farmer with the budgetary concerns of the American taxpayer. By providing Government guaranteed bonds and other funds to the Farm Credit System, its financial stability will return. This stability will lower interest rates to farm borrowers. It will assure that their most important source of credit will be available into the next century. Farm credit institutions will be required to repay all of the Federal assistance provided. That is going to minimize the impact on the budget. It is also going to give those troubled institutions a real chance to survive.

This bill is also a blue ribbon example of bipartisan legislation. We talk about that a lot, Mr. President, but it really does happen. When rural America faces a crisis, party politics are put on hold in this body and we pull together to get the job done. It is an outstanding example of cooperation between the leadership of the House and the Senate. It was only because of the statesmanship of the House committee chairman, KIKA DE LA GARZA, that we are here today. His spirit and his initiative after breaking roadblock after roadblock bring us here today.

The Senate Agriculture Committee ranking member, RICHARD LUGAR, set the bipartisan tone that made this legislation possible. It is such a pleasure to work with a colleague who is not only a brilliant legislator but also a gentlemen in the true sense of the word. And within our committee the contributions of the chairman of the Credit Subcommittee, DAVID BOREN, a man who carries a heavy burden and a heavy legislative load as chairman of the Senate Intelligence Committee, took the time to bring that subcommittee together time and time again, and the staff time and time again, along with the ranking member, RUDY BOSCHWITZ. The distinguished Senator from Montana, Senator MELCHER, worked extensively on this legislation. He introduced S. 1665 which was the Senate farm credit bill that the Senate Agriculture Committee used in its deliberations. Throughout this lengthy process he made important contributions. And these gentlemen should be mentioned because without their perseverance, we would not be here. Their hours and hours of work in the Credit Subcommittee forged a broad consensus of support for this legislation. It went across the entire political spectrum. The legislation was improved immeasurably by their efforts.

Finally, the contribution of the staff to this legislation must be recognized. They have worked night after night, weekend after weekend, week after week on this legislation. In fact, at times, Mr. President, I have worried about the effect on their health of the hours they have worked. I came down to meet with staff last Sunday. They had worked until late Saturday night. They were working Sunday afternoon when I came in, and worked until 5 o'clock the next morning. But with the very small staff which the committee is permitted, there was little choice if the crisis of farm credit was to be avoided.

So I want to mention the contribution of Mike Dunn, Ed Barron, and Chuck Riemenschneider, the principal majority staff members of the Agriculture Committee who worked on this legislation.

John Podesta, Christine Sarcone, Jim Cubie, Cris Coffin, Mary Dunbar, Pat Collins, Mary Kinzer, Laura Madden, Cynthia Molina, Sue Nehring, Betsy Paul, Sharon Shinn, and Bob Sturm also worked countless hours.

The bipartisan spirit of Senator LUGAR's staff on the committee, especially Chuck Conner, Tom Clark, and Debbie Schwertner made the completion of this legislation possible this year.

Many others outside the committee were instrumental in completing this bill this year. Bill Baird and Gary Endicott of Senate legislative counsel worked side by side with the committee at every stage in the process and contributed greatly to the final product. David Freshwater, now with the Joint Economic Committee, Kellye Eversole of Senator BOREN's staff, Julie Hasbargan of Senator BOND's staff, and Terri Nintemann of Senator BOSCHWITZ's staff all can take great pride for their contribution to this important legislation.

Briefly, Mr. President, the agreed upon conference committee compromise has the following provisions:

ASSISTANCE TO FARM CREDIT SYSTEM BORROWERS

Farmers and ranchers that own and borrow from the Farm Credit System will have their current stock in the System guaranteed to protect their investment and prevent borrower flight. Farmers in trouble will be given a second chance—loans to distressed borrowers will be restructured when it is expensive than foreclosure. Disclosure requirements, homestead protection, right of first refusal, and other borrower rights of FCS borrowers will be greatly strengthened.

AID TO FINANCIALLY TROUBLED FARM CREDIT INSTITUTIONS THROUGH THE SALE OF SPECIAL PURPOSE 15-YEAR BONDS

Farm credit institutions are required to repay both the principal and interest on these obligations, significantly minimizing the impact on the Federal budget. These bonds are backed initially by $200 million raised by a one time special assessment of System institutions. In order to clear up past litigation, all assessments by the Capital Corporation as well as the third quarter 1986 voluntary contribution accruals will be returned or reversed prior to such assessment.

RIGOROUS FEDERAL OVERSIGHT OF THOSE FARM CREDIT SYSTEM INSTITUTIONS THAT RECEIVE ASSISTANCE

The conferees were adamant that this should occur, and such oversight will be provided by a special board consisting of the Secretary of the Treasury, Secretary of Agriculture, and one outside agricultural producer appointed by the President. This board can begin working immediately upon chartering to oversee financial assistance to troubled institutions.

Mr. President, Congress created a special Federal Oversight Board when assistance was provided to Lockheed, Chrysler, and the city of New York, and it is fitting that we do so here. Farm Credit System institutions receiving assistance will have the incentive to become financially viable in order to escape potentially burdensome Federal oversight.

REORGANIZATION OF THE FARM CREDIT SYSTEM SO THAT IT IS NOW MORE EFFICIENT

This bill will both require and encourage institutions of the Farm Credit System to reorganize in order to better serve their farmer and cooperative members and cut costs. I might add, Mr. President, that farmers and farmer cooperatives members in each region of the country are given the opportunity, under this legislation, to create a Farm Credit System structure that best serves their business needs.

CREATION OF A SECONDARY MARKET FOR AGRICULTURE REAL ESTATE LENDING

Farmers will benefit from this provision as it will allow greater competition without unnecessarily jeopardizing the current financial condition of the Farm Credit System. Interest rates to farmers and rural residents should come down and fixed rate loans will be more readily available.

Mr. President, the secondary market provisions in this bill are important for rural America.

NEW CAPITALIZATION TECHNIQUES FOR FARM CREDIT SYSTEM INSTITUTIONS

This bill ensures that Congress will never again be plagued by the concern over the impairment of farmer stock in these institutions. In the future, Farm Credit System institutions will be required to properly capitalize these lending institutions with truly at-risk capital, and not the phantom farmer stock capital of the past.

During a transitional phase, the conferees unanimously agreed that farmer stock will be protected in order to provide the necessary confidence to farmer and cooperative borrower owners.

AN FDIC TYPE INSURANCE FUND

All system banks are required to participate in an insurance fund beginning in 1990. Both the House and Senate bills established such a fund,

and the conferees believe that such a fund will provide further assurance to investors, as well as farmers, that Congress will never again have to consider a bail out of the Farm Credit System.

CLARITY ON THE IMPLEMENTATION OF FARMERS' HOME ADMINISTRATION PROGRAMS

We must not forget these often disadvantaged farmers. Borrower rights such as notification, homestead redemption, loan restructuring, income release, and right of first refusal will all be strengthened in this bill.

Mr. President, this is a very quick review of the major provisions in the conference report which I am submitting as part of my statement. I do want to make it clear to my colleagues that this bill is written to help farmers, and not to bail out the Farm Credit System.

I admonish the Farm Credit System to recognize that it only exists to serve farmers and their cooperatives, and that we in Congress have only acted in recognition of this need. As the chairman of the Senate Agriculture Committee I will not tolerate any further disregard for the basic rights of owners of the Farm Credit System as displayed by some institutions in the past. This bill clearly is intended to help the Farm Credit System institutions serve their members better, and more efficiently as responsible business organizations.

Mr. President, I ask my colleagues to support this conference report.

Mr. LEAHY. Mr. President, I yield to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, I yield myself as much time as I may require.

Mr. President, we have been fortunate to have the gifted leadership of our chairman, Senator LEAHY. Throughout this process he has brought a spirit of good will and conciliation to each endeavor which has been critical. It has been a special pleasure to work with him, and all members of the committee on this legislation. I will also like to make specific mention of Senator BOREN, chairman of the Farm Credit Subcommittee which met indefatigably throughout the period of 3 months to try to make certain that we did the right thing with regard to farm credit, and produced a bill that would work for farmers and bring stability to agricultural credit in America.

I thank especially Senator BOSCHWITZ, the subcommittee's ranking member, who worked with Senator BOREN, Senator LEAHY, and myself. I would like to mention specifically, because they are on the floor here today to take part in this debate, Senator COCHRAN and Senator KARNES who added special points of interest because they represent constituencies, that are deeply involved with and affected by the outcome of this legislation. These distinguished Senators have given great service to make certain their constituents are well served.

Mr. President, the conference report came about, as Senator LEAHY has pointed out, because we had excellent work by House conferees in the spirit of good will and conciliation. What could have been tedious process was expedited by extraordinary work by the staff as well as by the work of members.

I point out, Mr. President, that H.R. 3030, the vehicle we are working on today, was unanimously approved by the conference committee. It is indeed comprehensive legislation that deserves the strong support of the Senate and signature by the President.

As was the case with the Senate-approved measure, the conference bill calls for the establishment of an Assistance Board consisting of the Secretary of Treasury, the Secretary of Agriculture, and one farmer appointed by the President. This entity will be responsible for the issuance of all financial assistance which is generated through the sale of up to $4 billion in guaranteed bonds.

The Assistance Board will have the authority to approve an insolvent Bank's business plan, authority to require the setting of interest rates based upon marginal cost pricing, authority to remove bank managers or employees who refuse to take aggressive action toward self-help measures, and finally, authority to require mergers of banks and associations whose financial condition has deteriorated beyond repair. These powers are in large measure the reason this legislation can be characterized as a reform bill and not simply a bank bailout.

The Assistance Board will ensure that public funds will not be given to those institutions that refuse to take responsible measures to help themselves. The Board is similar in structure and power to the Chrysler Board that I proposed in 1979 which helped lead that troubled entity back to profitability.

The Assistance Board will attempt to correct three basic problems that have resulted in approximately $4.2 billion in System losses during the last 2 years:

First, excessive overhead expenses due to an obsolete structure and considerable duplication among System institutions amounting to about $800 to $900 million in overhead expenses annually. These expenses have helped to make the System's interest rates less competitive than the rates available from commercial banks and other lenders, and that situation is going to be reformed.

Second, management who have refused or failed to make tough decisions to eliminate the root causes of the financial problems facing some institutions. Legislative attempts at that problem are very substantial. In many instances the System can improve their financial position by simply restructuring their nonaccrual loan portfolio into interest-bearing loan accounts. With the exception of the St. Paul District, significant effort in this area has not been taken throughout the System.

Third, the failure of System banks to respond to obvious merger situations needed to bring about cost savings measures will be reformed. Contrary to popular belief, the System has large financial reserves in excess of $1.2 billion and many problems can be solved by simply merging a trouble bank with a healthy one. The conference bill addresses this problem by merging the troubled Federal Land Banks with the healthier Federal Intermediate Credit Banks. Under the provisions of the bill, the Assistance Board may also require a merger as a condition for receiving financial assistance. Poorly managed and inefficient banks and associations should be merged with other entities that have a better track record.

Many aspects of the present Farm Credit System will be brought to a close by the Assistance Board. Banks and associations will be merged, and bad management removed. This was clearly our objective—a tough-minded, fast-acting Assistance Board whose purpose will not simply be to protect every vestige of current Farm Credit System.

Mr. President, while this legislation is tough on the Farm Credit System, by all measures it is a particularly generous bill for the System's present borrowers, and other debt-ridden farmers.

The conference bill requires the Farm Credit System banks receiving assistance from the Assistance Board to restructure and write down delinquent farm loans to the net present value of each particular loan. A delinquent borrower whose net equity has fallen due to declines in land values will have the opportunity to reduce his or her outstanding indebtedness to the current liquidation value of the collateral property. For many farmers, this debt write down requirement will enable them to remain in farming.

These mandatory restructuring provisions are further strengthened by the fact that decisions not to restructure are monitored and reviewed at both the district and national levels—first by the applicable district special asset group and then by a National Special Asset Council on a sample basis. This two-tiered review will help to ensure that farmers are receiving fair treatment through the loan restructuring process.

The bill contains an extensive borrower's bill of rights section that provides further protections and benefits to distressed farmers. Borrowers who

lose their land would have first option to rent or purchase the property back from their lenders at current market rates. The system is required to allow foreclosed borrowers to remain an occupant of the homestead while the bank attempts to sell the property.

Borrowers are guaranteed complete access to their loan files so that they will better understand the credit policies of the lender and the reasons behind adverse credit decisions. The bill requires System institutions to fully disclose their real rates of interest including provisions for the purchase of stock and they are required to notify borrowers of any changes in the rates of interest.

Finally, the borrowers' rights section allows borrowers to obtain copies of stockholders' mailing lists in order to promote open communications and oversight by the member/borrowers. Access to these lists will be particularly important prior to membership votes on mergers and consolidations of banks and associations.

Some may argue that the benefits of this bill are not broad-based enough to help all farmers and this is obviously the case. We have just been through difficult deficit reduction negotiations and we simply do not have the means to fund any across-the-board schemes to assist all farmers. But we have, with these very targeted benefits, done our best to make certain that every conscientious farm in this country has an opportunity to benefit fully through the restructuring provisions and through the preservation of a system of farms credit that makes that credit available not only to those in distress but also to the agricultural community in general.

MAJOR CHANGES FROM SENATE PROVISIONS

THIRD QUARTER LOSS SHARING AGREEMENTS

Mr. President, let me make these further comments on some changes in the conference from Senate provisions.

The major change was in the third quarter loss sharing agreements. In the third quarter of 1986, healthy districts agreed to contribute $415 million to help troubled banks but later sued to retrieve these funds. The Senate bill ratified these agreements in order to eliminate the litigation that had prevented the actual transfer of funds. The House bill, on the other hand returned these third quarter assessments to the healthy banks and replaced the funds with money from the Treasury.

The conference compromise returns these third quarter assessments to the banks but replaces them with money obtained from bonds sold through the Assistance Corporation. Unlike the other guaranteed bonds, where the Treasury pays all the interest for 5 years and half the interest for the second 5 years, the entire Farm Credit System would be responsible for paying all interest of the $415 million third quarter fund bonds. Hence, reversal of this assessment does not increase the cost of the Senate bill. This compromise should also address concerns expressed by Senators GRAMM and BENTSEN of Texas, during Senate debate.

MERGERS

Both bills called for the creation of an Assistance Board with powers to govern receiving institutions. The Senate's bill gave the Board broader authority to liquidate or merge troubled banks, remove inept management, and other actions.

The House provisions were tougher in other areas with the so-called Stenholm amendment, which called for mandatory mergers of district Federal land banks and Federal intermediate credit banks.

The conference bill, in effect, takes the best of both bills and indeed strengthens the reforms of the Senate bill. Clearly, the Assistance Board had to be given broad reform and merger powers in order to minimize the need for Federal assistance.

But, in addition, the conference report adopted the House merger language to require immediate merger of each district Federal land bank and Federal intermediate credit bank. These mergers will reduce overhead costs and streamline management. In addition, other mergers among district banks are encouraged by offering financial incentives to those banks who agree to merge.

SECONDARY MARKETS

Both bills called for the creation of a secondary market for farm mortgages. The conference approved the stronger House language that calls for greater State regulation of these securities. These provisions were strongly endorsed by the U.S. Department of Treasury and represented one of their major concerns with the Senate-passed bill.

FARMERS HOME ADMINISTRATION

The conference committee struggled with this title. Both bills contained significant FmHA reform provisions. The House bill provided open-ended provisions for income release to farmers prior to foreclosure. The cost of these provisions exceeded $500 million. The Senate bill on the other hand, which had been developed in close consultation with the administration, contained a more targeted income release section with caps of $18,000. The cost of the Senate income release section was $47 million in fiscal years 1988 and 1989.

Both bills mandated the FmHA to restructure delinquent loans that had been cheaper than foreclosure, but the Senate language enabled the FmHA to recapture a certain percentage of any loan writedown for a period of 10 years if that particular farmer's financial situation improved. The House had failed to include such a provision despite serious objections by the administration.

The House agreed to recede to the Senate on both of these provisions which helped to preserve the lower cost of the Senate bill.

As a tradeoff for this action, the Senate conferees agreed to delete the so-called drop dead provisions of the Senate bill which authorized the FmHA to expedite foreclosure proceedings against any restructured loan that became delinquent again. Admittedly, the administration objects to this deletion, but the tradeoff was necessary in order to reduce the enormous cost of the House bill for this title.

COST ARGUMENTS

A formal estimate is not available for the conference bill at this time. However, the cost provisions should track very close to the original Senate bill which cost about $96 million in fiscal year 1988 and about $1.3 billion in fiscal years 1988–92.

The costs were influenced by: first, FCS funding mechanism; second, State mediation program; and third, FmHA provision.

The House receded to the Senate on the funding mechanism and the State mediation programs. They also receded to the Senate's FmHA income release caps which accounted for most of the cost of the FmHA provisions.

Mr. President, I believe that this fairly summarizes those changes that occurred in conference, as can be seen from my recitation of them. We are deeply pleased with the conference. We believe the basic Senate bill and the integrity of the provisions was retained. We receded to the House and strengthened our original language.

I commend the conference report to the Senate, and I hope it will receive overwhelming support.

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Who yields time?

Mr. LEAHY. Mr. President, I yield to the Senator from Oklahoma such time as he may need.

Mr. BOREN. I thank my colleague, the distinguished chairman of the Agriculture Committee, for yielding to me. It has been a pleasure to work with him and with the ranking member, Senator LUGAR, in the full committee, on this legislation.

Mr. President, as has already been said, without their leadership, without their support, without their constant encouragement, we would not be at the point today where we are able to offer this bill now to the Senate with conference action finalized and send it to the President for his signature.

Without their efforts, without the efforts of Senator BOSCHWITZ, the ranking member of the subcommittee

which I chair on farm credit, without the cooperation of every member of the subcommittee and the full committee, we would not be at the point at which we find ourselves this morning.

At this frustrating period, as we come to the end of a long session of Congress this year, with some items still to be resolved, with budget problems still looming, it is refreshing to see that we could take a complicated piece of legislation like this, one that was very controversial in the beginning, and bring it to this point.

When the legislation was first considered, the committee appeared to be split down the middle. The administration was sending signals that they did not believe Congress could produce a farm credit bill they would find acceptable. Time and time again during the process, the word "veto" was mentioned as a real possibility. So we began the year with a critical situation, a crisis for farm credit.

As Chairman LEAHY has said, over $50 billion of farm credit is involved in the Farm Credit System. In many States there is a real need, with agriculture already in trouble, to return a degree of stability and confidence by dealing with the problems of the Farm Credit System. As we faced that crisis, we were able to come together on a bipartisan basis on both sides of the Capitol.

Both committees, the House and the Senate committee, were able to reach consensus legislation.

We had the cooperation of virtually all the farm groups in this country who put aside individual differences among the organizations to come out in support of the consensus bill. We had involvement by the administration to an unprecedented level. Representatives of the Treasury Department, of course, the Agriculture Department, Farm Credit Administration, the Farmers Home Administration, the Office of Management and Budget, and others participated in our deliberations.

After visiting with members from the administration yesterday, I received welcome news that it is very likely that the President will approve this legislation and sign it into law. While we understand that the administration still has some reservations about portions of the bill, this is certainly good news, and, speaking as the chairman of the Subcommittee on Farm Credit, I look forward to working with the administration and others next year in areas in which there is a feeling that there is a need to perfect the provisions which are contained in the legislation.

The members of the subcommittee and the members of the full committee attended virtually all of the meetings and participated fully.

I have never been involved in a process in which a bill was written since I have been in the Senate in which the members of the subcommittee themselves spent so much time in the actual writing of the legislation. We considered over 200 amendments. We did so without a single rollcall. We were able to reach a consensus among members of the subcommittee on every one of these 200 items. Attendance at subcommittee meetings, as I mentioned, usually exceeded the membership number of the subcommittee because we not only had virtually 100 percent attendance on both sides of the aisle of members of the subcommittee, we had participation by the distinguished ranking member of the full committee, Senator LUGAR, who was at virtually every single meeting and a meaningful participant. We had the participation of the chairman, Senator LEAHY, of the full committee, who, in spite of his heavy responsibilities at the same time in the Judiciary Committee, constantly met with us, came to give his encouragement, and continued to help us work out a solution to the difficult problems that we face so that we could have a consensus. We had participation by Senator CONRAD on our side of the aisle from the full committee, who was also not a member of the subcommittee but who contributed immeasurably to the writing of this bill. Senator MELCHER is to be commended for his leadership in this effort. As the author of S. 1665, his ideas and knowledge were invaluable.

So at a time of frustration for the Congress when we are having trouble completing the business of the country on time, I think this is an example of what can be accomplished when both ends of Pennsylvania Avenue work together, when an entire community of private citizens work together, when farm organizations get together, and when you have a true bipartisan spirit prevailing on both sides of the Capitol. We have seen an example of what can be accomplished.

What we have done here will be of great help to the farmers of this country. It will provide a level of certainty and stability that we have not had in the Farm Credit System for a number of years and at the same time, while it provides true help for the farmers of this country, it also is not a blank check. We have carefully protected the rights and interests of the taxpayers of this country by putting people of substance, the Secretary of the Treasury and the Secretary of Agriculture, on the Assistance Board and by giving the Assistance Board adequate powers to insist upon reforms and efficient management in the Farm Credit System, especially from those institutions that will be receiving assistance. We have gone a long way to making sure we will not have the same kind of problems in the future, that reforms will be made, that the taxpayers money will be efficiently and wisely used and that the amount of the taxpayers money that is used will be kept to the absolute minimum necessary to accomplish the job.

We created a secondary market that promises a new source of capital for agriculture in the future but done so in a way of phasing it in a manner that will enable the Farm Credit System to be in a position of reforming itself to compete and to retain its own market share.

We have also provided very important new rights for the borrowers and for the farmers, and we have clarified the relationship of the farmers and borrowers to the system in a way that is beneficial to all the farmers of this country.

So, Mr. President, I simply want to say more than anything else today a word of thanks to all of those who have participated in this process, especially to our chairman and ranking member of the committee and ranking member of my subcommittee, Senator BOSCHWITZ; the administration; representatives of the administration who worked with us; those from the farm groups that have worked with us. Members of the staff, as has already been mentioned by Chairman LEAHY, put in literally thousands of hours in work on this particular legislation. And also I say a word of thanks to our colleagues on the other side of the Capitol, Chairman DE LA GARZA, and chairman of the subcommittee ED JONES, who have been of immeasurable help, and we all agree that the staff on the House side also was of great assistance to us as we worked in the conference committee to reach the final product.

So I say to all of those who helped us in this effort thank you for a job well done, thank you for a consensus effort that will be of real benefit to the farmers of this country.

The PRESIDING OFFICER. The Senator from Vermont has 6½ minutes. The Senator from Indiana has 6 minutes.

Mr. LUGAR. I yield 2 minutes to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I thank the distinguished ranking member of our full committee, DICK LUGAR.

I think that the quality of the statements that have already been made by the chairman of the committee, Senator LEAHY, and by Senator LUGAR, and also by the chairman of our subcommittee, Senator BOREN, have adequately explained the content of this legislation and why it is important for the Senate to approve this conference report so that the administration can

sign this bill as soon as it gets to the White House.

I especially want to compliment and thank the managers who worked so hard and with a sense of true determination and commitment to get this bill put together and to get the conference to act on it in a timely fashion.

We are confronted with an emergency situation in the Southeast. The Jackson land bank faces a situation which could be very devastating to many borrowers, many investors, those who depend upon the Farm Credit System for farm credit at this very crucial time in our agricultural sector.

Without that kind of commitment, I do not think we would have any hope that the system could have been saved to be what we have come to expect from it and that is a reliable supplier of credit at reasonable rates for farmers and landowners.

I think the bill before us now does meet the goals that we set when we started to work in the committee on the legislation, and that is that farmers will have a better chance to get competitive rates of interest on their loans from the Farm Credit System.

Mr. President, I thank the Senator for yielding to me, and I hope the Senate will approve this and the administration will sign the conference report quickly.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I yield to the Senator from Kansas, the distinguished minority leader.

Mr. DOLE. Mr. President, I am pleased that the conferees on farm credit have finished their work. This was not an easy chore given the complexity and scope of the Farm Credit System's [FCS] problems and I commend my colleagues for their perseverance in completing the task. With the technical insolvency of the Jackson district and the potential for serious problems in several other districts, it is extremely important we act this week to keep the system sound and functional.

FINANCIAL ASSISTANCE

I am pleased the conferees accepted the Senate's funding mechanism which provides up to $4 billion in Government-guaranteed bonds and requires the System to repay the Treasury for any interest subsidies. This will limit the exposure of the Treasury and U.S. taxpayers while providing the financial assistance necessary to keep the System afloat.

RESTRUCTURING THE SYSTEM

One issue that has received condiderable attention is whether the System should be consolidated to reduce its high overhead costs. The conferees agreed to allow stockholders of a district to vote on whether they will merge with another district. If a district that receives financial assistance votes not to merge they will be held solely liable to pay back the principal amount of the assistance. However, if the receiving district agrees to merge, then the obligation to repay the principal amount would be shared by the System as a whole. The system-wide merger process would result in no fewer than six districts.

AN ACCEPTABLE PACKAGE

Mr. President, this is an acceptable package. It will not solve every credit problem of every farmer. But it does provide stability to the System and ensures farmers will have a dependable source of credit. It should stem borrower flight by fully guaranteeing borrower stock. It requires the System to restructure distressed loans when it is less expensive than foreclosure. It provides a process of notification and appeals to insure that borrower's rights are fully protected.

It also provides for a secondary market that would allow commercial lenders to provide long-term fixed-rate real estate loans to farmers. The added competition in the real estate market should help lower borrower interest rates.

CONCLUSION

This may not be a perfect bill. But it does succeed in passing the benefits of Federal aid to a large and troubled lender through to its borrower-members while limiting the bill's costs to American taxpayers. I want to again commend my colleagues on the Agriculture Committee for their hard work. This package is important to farmers and needs to be passed this week and signed by the President.

Mr. LEAHY. Mr. President, I will now yield to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MELCHER. Mr. President, this bill is highly needed by agriculture throughout our country. The borrowers who are farmers and ranchers operating out across the countryside produce the food and fiber necessary for the country and have to have a better farm credit situation. The bill does key things: lowers the interest rates for farm and ranch borrowers in the Farm Credit System.

Second, it restructures all those loans for borrowers that need more time and lower interest rates in order to make their operation successful to the necessary credit that is called for. This bill is going to provide an opportunity for them.

Third, it does provide for an aggressive program of borrowers' rights to protect the individual borrowers.

I might say here in this regard the Farmers Home Administration is also involved and those borrowers who are now operating with Farmers Home Administration loans are going to have their rights protected, going to have their chance for restructured loans so their credit line can become a good sound operational potential and their operations can be viable and can recover.

Fourth, the guarantees on the face value of borrowers stocks in the Farm Credit System is required in this bill, and it is on this point I would like to ask the chairman of the committee, Senator LEAHY, and the ranking member of the committee, Senator LUGAR, to assure me that the "B" stock that has been frozen in those PCA's that have been liquidated will be promptly repaid under the terms and conditions of this bill.

Mr. LEAHY. Mr. President, I will assure the distinguished Senator from Montana that is the intent. I have never heard otherwise and certainly I would expect that that would be done.

Mr. LUGAR. I would like to respond to the distinguised Senator that on our side we believe the payments should be promptly made.

Mr. MELCHER. By that I interpret it to be no more than 30 or 60 or 90 days after the passage of the act; is that correct?

Mr. LUGAR. It will get prompt consideration.

Mr. LEAHY. I understand 30 days.

Mr. MELCHER. Thirty days.

All right.

I thank my chairman and I thank the distinguished chairman from Indiana, Senator LUGAR.

I thank the chairman Senator LEAHY, the Credit Subcommittee chairman, Senator BOREN, the ranking member, Senator LUGAR, and ranking subcommittee member Senator BOSCHWITZ, for honoring me by using my farm credit bill, S. 1665, as the bill to develop this final resolution of the problems of providing reasonable interest rates and adequate credit for America's farmers and ranchers.

Each year, for the last 3 years, one of the last acts of Congress has been to pass legislation designed to help the Farm Credit System. The last two times we provided assistance, we were not in a position to do so in a comprehensive, thorough manner.

This year we have gone through a long and painful but fruitful process to overhaul the farm credit laws that will not only stabilize and save the Farm Credit System but also to do so in a manner that will provide farmers and ranchers with good credit assistance as well.

The litany of problems that have afflicted agricultural America over the past 7 years should be familiar. Land prices, commodity prices, and net farm income all suffered disastrous declines. The costs of production, particularly interest rates, however, skyrocketed in the opposite direction.

Some have said that this situation has reversed. Perhaps, in some few areas that may be true. But I know

that hard working Montana farmers and ranchers are still hard pressed. I still receive daily calls from individuals, many of whom represent the third or fourth generation of farmers or ranchers, who face immediate loss of the land over which they have had the stewardship for many years.

These are not bad managers. These are not people who are frivolous or spendthrifts. Many are people that I have known personally from the days when I practiced veterinary medicine in the Yellowstone Valley of Montana.

These are people who deserve the opportunity to continue in their profession—the very honorable profession of feeding the people of the United States and the world.

And this is not something that just affects the people who work the land. When farmers and ranchers go down, their communities shrink and sink, their suppliers go down, and much of America's rural business community with them. To paint this picture just slightly larger, surely we must recognize that we cannot have a prosperous America if we are faced with a rural depression.

To send a powerful and positive signal to the people of agricultural America, we cannot allow the Farm Credit System to collapse. We must assure that the means of maintaining the most productive agriculture that the world has ever seen will stay in place. This year we have crafted legislation that holds the promise of seeing that the credit essential to agricultural economics can be available on a reliable and affordable basis.

In particular, this bill would:

Lower interest rates to borrowers by infusing the Farm Credit System with new capital. It authorizes the issuance of bonds that will be repaid by the Farm Credit System after 15 years. This new capital will take the pressure off the System by relieving the burden of existing high cost bonds and enable rates to come down for borrowers.

Restructure all loans that show promise with a stretch out in time and at lower rates of interest.

Provide that both an aggressive restructuring policy be accompanied with protection of individual borrower rights. System banks must write down loans and reschedule payments when that is cheaper than foreclosure. Borrowers will have the right to more information concerning their loan and will have the right to recover foreclosed property on the best terms that would be otherwise offered to other potential buyers.

Guarantee the face value of all outstanding borrower stock. This means that borrowers who pay off their loans will have their stock returned with no impairment. Borrowers who lost stock value in Montana, Nebraska, and most recently in the entire Jackson district will be protected. This will greatly enhance borrower confidence in the entire System.

Provide that Farmers Home Administration lending to farmers and ranchers is broadened by strong borrowers' rights, and debt restructuring that means farmers and ranchers will have a longer time to work out their debt problems.

Establish a secondary market for the Farm Credit System and commercial lenders which will give borrowers another lending option and provide the lenders with improved liquidity.

The bill takes on the credit problems facing our farmers and ranchers in a comprehensive way. We do not want to have to come back here a fourth year in a row. This bill is designed to restore the Farm Credit System to the health it enjoyed for the most of the last 50 years.

Earlier in my remarks, I said that this was a long and painful process. I would like to say that in my years in Congress this bill was developed through a process that was more careful and more comprehensive than had been the case in most bills passed by Congress. Every possible interest was consulted. Numerous hearings and markup sessions were held. All of the people who were involved worked hard with the objective of preparing a bill that would be meaningfully helpful. I think that objective has been achieved. I would like to thank all the people who spent so much hard work on this effort. There are simply too many for me to name them one by one.

I am proud that this bill will bear my name and I am optimistic that it will be part of the steps necessary to begin recovery in rural America. I urge the adoption of the conference report.

Mr. LEAHY. Mr. President, what is the time left?

The PRESIDING OFFICER. The Senator from Vermont controls 2 minutes and 15 seconds and the Senator from Indiana has 3 minutes 45 seconds.

Mr. LUGAR. Mr. President, I yield 1 minute and 45 seconds to the distinguished Senator from Nebraska and 1 minute and 45 seconds to the distinguished Senator from Minnesota [Mr. BOSCHWITZ].

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KARNES. Thank you, Mr. President.

I would like to recognize the able leadership of Chairman LEAHY and the ranking minority member, Senator LUGAR, for doing an extraordinary job in moving this measure through the mine fields of the legislative process.

Also, I would like to compliment Subcommittee Chairman BOREN and ranking minority member BOSCHWITZ for their extraordinary commitment to moving this legislation along. It was truly a bipartisan effort and a spirit of compromise prevailed throughout the discussions.

What we have today is an innovative, fiscally responsible solution for a troubled Farm Credit System. This is, in my opinion, the most important agricultural legislation of the 100th Congress. We have addressed the financial crisis facing the Farm Credit System. American agriculture now has a strong partner for hopefully another 70 years into the future, much as the Farm Credit System has served the American farmer in rural communities for the past 70 years.

There is no question about it; we are helping farmers with this bill.

And, as we help farmers to prosper, the Farm Credit System, which provides farmers credit, will also prosper. We have reestablished once again the credibility stock in the Farm Credit System. We have accommodated loan restructuring which will allow farmers to stay on the farm.

We have also provided a reorganizational base for the Farm Credit System that will allow the farmer borrowers, who are the shareholders and owners of the System, to have a say in what should be done in the future. We are addressing the needs of the Farmers Home Administration borrowers by encouraging loan restructuring.

Of great importance to me and to all of rural America is the establishment of a secondary market for agricultural mortgages and rural housing loans in the farm credit legislation. This will provide an opportunity to capture the innovative that we are seeing occur in the financial markets and provide new credit options to the rural borrowers of America and to lenders. The establishment of a secondary market will serve American agriculture right into the 21st century.

The secondary market will provide, for the first time in many years, the opportunity for farm borrowers to secure long-term credit at fixed, competitive rates.

This legislation restores confidence and stability to the Farm Credit System and, more importantly, it will facilitate many farmers staying on the farms and prospering. It will place all lenders who serve agriculture on an equal footing so they can compete aggressively in serving agriculture. To this Senator, Congress is providing to farmers and rural communities a great Christmas gift in the form of a revitalized agricultural credit system.

Mr. President, now that Congress has completed its work, we now send this legislation to the President. I ask President Reagan to act affirmatively and quickly because time is of the essence.

And, finally, Mr. President, I would like to mention a technical item which has come up as we prepare to the vote. This deals with the secondary market,

and it deals with merged Farm Credit System institutions. Where a Federal land bank and a Federal intermediate credit bank are merged under the provisions of this legislation, the merged bank will be authorized to act as an originator and to become qualified as a facility for the purposes of title VII of the bill.

With those remarks, I applaud my colleagues for the leadership that they have exhibited in the consideration of this legislation, and ask once again that the President move quickly to sign this legislation into law.

I yield the floor.

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

The Senator from Minnesota is recognized.

Mr. BOSCHWITZ. Mr. President, I rise to speak in support of the conference committee agreement on the Farm Credit Act Amendments of 1987.

I am pleased that the conference committee was able to act so quickly. And, really, that was because of the enormous efforts by the staff negotiating most of the problems out in advance. I agree that everyone should be complimented for their hard work.

I also join with my colleagues in giving accolades to the chairman, Senator LEAHY; to the ranking minority member, Senator LUGAR; and Senator BOREN. I congratulate all involved.

As I've said before, we simply cannot allow the Farm Credit System [FCS] to fail. FCS is the largest provider of credit to rural America and its failure could have a devastating effect on the entire agricultural economy. A strong agricultural sector needs access to financial resources. Congress has passed legislation in each of the past 2 years to address some of the financial difficulties facing FCS and its borrowers. However, this time around it was evident that FCS would need financial assistance and that a broader piece of legislation was imperative.

The conference committee has arrived at a good compromise bill. Earlier this year I identified four important goals for farm credit legislation and I believe this bill achieves those goals. First, in providing financial assistance to FCS we must minimize taxpayer and treasury exposure. This bill retains the Senate bill's funding mechanism which uses the proceeds from the issuance of up to $4 billion in Government-backed bonds to raise the funds needed to assist FCS institutions. FCS will be required to repay both the principal and interest on these bonds. Under the Senate bill, institutions that received assistance were solely responsible for repaying the principal; however, under the conference bill all FCS institutions will be required to join in the repayment of the principal. Like the Senate bill, the conference bill creates an Assistance Board. This Board would be composed of three members—the Secretary of Agriculture, Secretary of the Treasury, and an agricultural producer with experience in financial matters—which will oversee assistance to FCS institutions and ensure that assistance provided is used wisely. This Board will have special powers over FCS institutions receiving assistance, including approval of the institution's business and operating plans.

Second, this legislation must retain the cooperative structure of the Farm Credit System and preserve local control. This is evident in the provisions regarding the reorganization and restructuring of FCS. The conference committee arrived at a good compromise between the House and Senate provisions. The House bill mandated a number of specific changes while the Senate bill provided more flexibility in allowing FCS and its borrowers to determine how FCS districts and associations should be organized. This bill incorporates a bit of each approach.

Both the Senate and House bills recognized the importance of striving for improved System efficiency and reducing FCS overhead expenses to keep the interest rates charged to borrowers at equitable and competitive interest rates. Under this conference bill each Federal Land Bank and Federal Intermediate Credit Bank in each district would be required to merge. We have maintained the fundamental cooperative principal of stockholder participation in FCS by requiring that farmer/borrowers vote on all other proposed mergers whether at the district or association levels.

Third, we must restore borrower confidence in FCS and stem borrower flight from FCS institutions. By providing financial assistance to FCS, we are sending a signal to borrowers that the Farm Credit System will continue serving the credit needs of rural America. We've all heard about borrowers leaving FCS because they fear that the stock they have invested in FCS as a condition of making a loan may not be returned to them. This bill also protects borrower stock.

Fourth, we also must look ahead and plan for the future. We have given FCS and its borrowers more options in reorganizing the Farm Credit System to best serve the needs of its borrowers. In addition, this bill addresses the need for adequate capitalization of banks and associations. The bill requires the Farm Credit Administration to set capital adequacy standards for FCS institutions and requires the stockholders of each bank or association to approve bylaws about how it will meet these capitalization standards. Furthermore, the bill also creates an insurance corporation which will be used to back FCS bonds.

There are several other provisions of the bill that are of particular importance that I will just briefly mention. A secondary market for agricultural real estate loans is established. This will be open to commercial lenders as well as FCS. This secondary market will help agriculture over the long run by providing farmers with fixed-rate long-term mortgages and by reducing lenders' risks in providing these loans to farmers. This bill also requires outside directors to serve on FCS bank and association boards. The bill also provides for some reforms of the Farmers Home Administration [FmHA] addressing many of the problems facing FmHA and its borrowers. For example, the bill creates a new appeals process, revises notice requirements, requires loan restructuring and revises the procedures relating to the sale of inventory property.

It is also important at this time to recognize the many hours of hard work completed by the staff as this bill went through the Senate and now through the conference committee. In particular I want to thank several staffers who have put in some long hours quite recently: Chuck Connor, Tom Clark, Chuck Riemenschneider, Mike Dunn, and Ed Barron of the Senate Agriculture Committee staff, Julie Hasbargen of Senator BOND's staff, Kelleye Eversole of Senator BOREN's staff, Bill Baird and Gary Endicott of Senate Legislative Counsel, and Terri Ninetemann of my staff.

Again, I believe that this bill provides the necessary assistance to FCS to ensure that it remains a viable lender to agriculture and will enable it to charge competitive and equitable interest rates to its borrowers. I urge my colleagues to support this bill.

Mr. LEAHY. Mr. President, I yield to the Senator from North Dakota.

Mr. CONRAD. Mr. President, very briefly, I just want to thank, on behalf of the farmers of my State, the chairman of the committee, Senator LEAHY, and the ranking member, Senator LUGAR, for establishing a bipartisan tone of problem-solving in getting this legislation to the floor.

I also want to thank, on behalf of the people of my State, Senator BOREN, as chairman of the Credit Subcommittee, and Sentor BOSCHWITZ, as ranking member, for an absolutely exceptional effort. No bill took more time or more effort than this one, and they deserve our thanks, as well as other members of the subcommittee and the full committee.

Mr. LEAHY. Mr. President, I yield to the Senator from Iowa.

Mr. HARKIN. Mr. President, I, too, want to rise in support of this conference report on H.R. 3030. I just want to again add my accolades to all of those who were involved on both the minority and majority side, especially Senator BOREN, from Oklahoma, who

spent days, weeks, months working on this piece of legislation.

I also want to join with all of my colleagues in thanking the staffs of both the majority and minority side for all of their hard work through many long hours, sometimes all night long, in getting this report done for us by this time.

Mr. President, it is a great piece of legislation, one that is going to help rural America immensely.

I would not want to let the moment pass without also saying there are important provisions dealing with the Farmers Home Administration in ensuring that we have a mediation program in Farmers Home so we can try to avoid the severe cost of litigation of going through bankruptcy. It is a good piece of legislation, Mr. President, and I hope it will receive unanimous support by this body.

As a member of the conference committee I commend all those who have been involved in developing this conference agreement in such an efficient manner. I would remind my colleagues that this large and complicated piece of legislation passed the Senate on December 4, just 13 days ago. Yet here we are today with an excellent conference agreement. I believe this is a real tribute to the leadership and staff of this committee.

This legislation achieves several important goals. It will bring financial stability to the much troubled Farm Credit System. It will provide assistance to the System's farmer borrowers by providing a full guarantee to presently owned stock, the establishment of a loan restructuring program in each FCS district, and the strengthening of borrower rights. To improve System efficiency, the bill provides for a reorganization of System institutions through a series of voluntary mergers based on stockholder approval; however, each land bank and intermediate credit bank in each of the 12 districts must merge within 6 months after the date of enactment. To facilitate the financing of long-term agricultural debt, this bill creates a secondary mortgage market open to all agricultural lenders. Finally, the bill requires that the Farmers Home Administration of the USDA must renegotiate and restructure loans where it is less costly to the taxpayer than foreclosure as well as other improvements to the administration and operation of the Farmers Home Administration.

As one who was directly involved with the administration in the negotiation of the FmHA provisions, I am pleased with the outcome. I believe that in the long run, these amendments will save the taxpayer large sums of money while assisting in keeping thousands of family farmers in business. In addition these provisions will alleviate the legal quagmire which has ensnarled FmHA for the last several years.

Another provision of this bill which I authored will establish a nationwide farmer-lender mediation program based upon the highly successful Iowa mediation program. The Iowa program has enabled many financially troubled farmers to achieve a negotiated settlement of their debt, avoiding costly litigation. I look forward to overseeing the implementation of this important program.

In conclusion, Mr. President, I am proud of this legislation, and urge the adoption of the conference report.

RESOLUTION OF THIRD QUARTER CAPITAL PRESERVATION LITIGATION

Mr. LEAHY. Mr. President, this bill provides a fair and equitable way to resolve at no expense to the Federal Government the costly and divisive litigation concerning the amounts received or that remain accrued by Farm Credit System institutions for the third quarter of 1986 under the System's capital preservation—or loss-sharing—agreements.

The mechanism designed to accomplish this is straightforward and understandable—third quarter payables on the books of the contributing institutions will be transferred to the Financial Assistance Corporation. As moneys are needed to honor third quarter receivables based on total loan charge-offs net of any recoveries, the Financial Assistance Corporation will issue 15-year debt obligations and utilize the proceeds to cash out the accruals. All System banks will be responsible for the payment of interest and the repayment of principal on these debt obligations.

The transfer of the accruals to the Financial Assistance Corporation and any funds raised by that Corporation through the issuance of debt obligations to cash out the accruals will not be considered financial assistance under the bill. In this regard, the Financial Assistance Corporation serves merely as an alternative vehicle for handling the disposition of the third quarter accruals under the capital preservation agreements.

The capital preservation agreements have served a useful purpose in reinforcing to the investment community the joint and several liability of the System banks on system-wide obligations and offering some measure of protection to System borrowers against the impairment of their stock in certain System institutions. These voluntary agreements have helped the Farm Credit System to weather the greatest financial crisis it has experienced since it was founded over 70 years ago. In particular, they have helped the System bridge the gap between the 1985 and 1987 amendments to the Farm Credit Act. However, the unprecedented magnitude of the losses experienced by the System during the past several years has created a situation where further reliance upon the System's voluntary capital preservation agreements is clearly no longer possible or appropriate.

The bill contains a number of key elements that bear directly on purposes heretofore served by the capital preservation agreements. The bill creates a new Assistance Board to provide and oversee Federal assistance to the System. It also provides protection for borrower stock during the period when new approaches to capitalizing System institutions are developed and implemented. The bill also provides for the creation of an insurance fund to protect investors in System obligations. In light of all the significant changes in System operations resulting from this legislation, further activation of the System's capital preservation—or loss-sharing—agreements is being suspended for a 5-year period beginning on the date of enactment and thereafter whenever funds are available from the Farm Credit System Insurance Corporation to assist System institutions to meet their obligations on their debt instruments.

During the period in which further activations are suspended, the agreements will remain effective with respect to contributions accrued prior to the third quarter of 1986, thus permitting the System to deal with ongoing issues relative to the cashing out of the remaining accruals and to the treatment of any recoveries realized by the banks that received loss sharing contributions during periods prior to the third quarter of 1986. Disposition of the third quarter accruals themselves, however, are governed by the provisions of this bill.

Mr. BENTSEN. Mr. President, I commend the members of the Senate Agriculture Committee for their work in producing this conference report. This bill will go a long way towards solving the problems of the Farm Credit System, and it will allow this important job to be done in a way that is fair to all concerned. Through such key provisions as the guarantee of borrowers' stock it will help to provide the stability that has been lacking so far. It will provide badly needed financial assistance to the struggling parts of the System, and it now contains key provisions to protect the healthier, contributing, districts.

I particularly appreciate the work of the conferees in including changes dealing with the third quarter 1986 assessment. I and other Senators had suggested these changes here on the floor. I discussed this and other problems with the distinguished chairman of the Agriculture Committee [Mr. LEAHY] and others on the floor. With their assurances that these issues would be addressed in conference, I

did not delay the bill by pressing them to a vote.

I note that those changes which we suggested then have been made, and I am pleased to join in support of this legislation.

When this bill passed the Senate I voted against it. Even though this assistance was badly needed, there were substantial flaws in that version of the bill. In particular, it left Texas and the other contributing districts holding the bag on the 1986 third quarter assessment. It was our understanding that that assessment would be reversed when the Farm Credit Act Amendments of 1986 was enacted into law. However, the Farm Credit Administration stepped in and would not allow that. This problem has now been taken care of in a manner which makes the contributing banks whole without harming the receiving banks.

Texas farmers and ranchers were concerned that this help not be structured in a way that breaks their institutions. The 1986 third quarter assessment took $72 million from the balance sheet of the Texas Federal Land Bank, and if paid out in cash it would have added about 65 basis points to the interest cost of each of the 33,102 Federal Land Bank loans in the Texas district. This threat has now been removed.

In addition, I appreciate the inclusion in this conference report of my amendment to give districts some flexibility with regard to the one-time assessment in this bill. That amendment will provide an important safety valve. It would allow the district board, with the unanimous consent of the affected institutions, to reallocate the one-time assessment. If no agreement could be reached, then the assessment would be collected as provided for in the committee bill.

This one-time assessment formula is based on unallocated retained earnings. However, when applied all the way down to local associations it has unacceptable results. It is simply not fair to assess some local associations into bankruptcy while other, stronger, associations in the same district are not required to pay a dime under this assessment.

For example, in the Texas district assessments will be levied against 11 of the 28 Production Credit Associations. Five of those eleven are already officially in financial difficulty according to standards set by the Federal Intermediate Credit Bank of Texas and/or the Farm Credit Administration.

This change will allow local associations and district banks to get together and agree to help each other in order to make this bill work better. Allowing this flexibility is in keeping with the strong tradition of local control of the Federal Credit System, a tradition which I strongly support.

Mr. President, I commend my distinguished colleague the chairman of the Senate Agriculture Committee [Mr. LEAHY] and the distinguished Senator from Montana [Mr. MELCHER] who is the sponsor of this bill and who has played a lead role in the committee on the third quarter assessment issue. I also commend my distinguished colleague from Oklahoma, Senator BOREN, who serves so ably with me on the Finance Committee and who is chairman of the subcommittee which produced this bill. I also want to recognize the key role played in this legislation by three distinguished Texans on the House side, House Agriculture Committee Chairman KIKA DE LA GARZA and Congressmen CHARLIE STENHOLM and LARRY COMBEST. The conference report which they and others have produced is indeed worthy of our support.

Mr. DASCHLE. Mr. President, the Agricultural Credit Act of 1987 is the product of months of hard work by the House and Senate Agriculture committees. I am proud to have contributed to the product, and in particular, to have been a member of the conference committee. The conference report is a good compromise, and I recommend that my colleagues support it.

Today, I want to focus on one provision that is particularly important to me and many citizens in my State. That is the provision granting preferences to Indians and Indian tribes for the purchase of reservation land acquired by Farmers Home Administration through foreclosure or voluntary conveyance. The preferences would apply primarily to trust land, but also would apply to other land within the reservation boundaries that is owned in fee status by Indians and tribes. The individual Indian owners must be members of the tribe that has jurisdiction over the reservation in which the property is located.

The bill also would require that if eligible Indians and tribes do not exercise their option to purchase such property, the land is transferred from FmHA to the Department of Interior to be administered as if it were trust land until the debt to the government is satisfied. After the conditions for debt satisfaction are met, the land will convert to trust.

The provision is designed to stop the loss of trust land through foreclosure. The General Accounting Office recently completed a study of the situation in the 14 reservations in Montana, North Dakota, and South Dakota, where the problem is greatest. As of July 1986, 370 borrowers on 12 of the 14 reservations had pledged 315,166 acres to FmHA as loan security. Between October 1, 1981 and May 1986, 8 Indian borrowers on 5 of the 14 reservations lost 13,382 acres of trust land pledged as security for FmHA farm program loans. More than 7,500 acres of that total was trust land lost in South Dakota, most at the Cheyenne River reservation.

Of the 370 borrowers, 39 percent (144) were either in the process of, or were predicted to be a risk of, foreclosure or voluntary conveyance. These borrowers could lose 132,068 acres of reservation land.

In South Dakota, the percentage of reservation land at risk is 49 percent, 1.76 percent is trust land. The amount of reservation land in South Dakota that is in the process of foreclosure or conveyance, or predicted to enter that status this year, is 65,241 acres. At one reservation, Cheyenne River, the percentage of land at risk is 71 percent, 3.72 percent is trust land.

During consideration of this provision in the Senate, concern was expressed regarding the impact of this provision on local and State tax bases. To address these concerns, a compromise was reached that substantially reduced the amount of land that would be covered by the preferences. Furthermore, during the time in which land might be administered by Interior and payments are being applied to the debt, State and local taxes would continue to be paid for 4 years on land that was subject to State and local taxes before it was acquired by FmHA. GAO is asked to conduct a study of the impact of this preference provision on State and local tax bases, including consideration of whether reservations use State and county services. On the other side of the equation, the longstanding principle of trust land being exempt from State and local taxation would be preserved. A provision in the Senate bill that was considered by many people in my State to be a violation of that principle has been deleted.

Mr. HEFLIN. Mr. President, it appears that the Congress will pass a Farm Credit System assistance package before it adjourns—if in fact it does adjourn—for the year. I believe that the Congress has tried to do its job in this matter, and has at least attempted to provide assistance to the Farm Credit System in an expeditious manner. Whether this bill will provide adequate assistance to the Farm Credit System remains to be seen. Had I been a member of the conference committee considering this legislation, I would have insisted on the retention or exclusion of certain provisions which have either been stripped from or added to the bill in conference. However, as with most legislation passed by Congress, this package is a compromise and has some good and some bad.

I was pleased that the Farm Credit System assistance package contains provisions protecting Federal Land Bank and PCA member-borrower

stock. I was pleased to see that Farmers Home Administration borrower restructuring provisions and secondary market provisions for agricultural real estate loans were not stricken from the bill by the conference committee. I was pleased that the conference committee retained the amendment I offered during Senate consideration of the bill that would protect the uninsured voluntary or involuntary advanced payment or prepayment accounts of member-borrowers should a System institution become insolvent or declare bankruptcy. Finally, I was pleased that my amendment, which would provide municipal water and sewer authorities the first right of refusal to buy their loans with the Farmers Home Administration, was retained in conference.

However, I question the Farm Credit System restructuring provisions mandated by the conference committee bill. Although I understand that, under the provisions of the conference committee bill, it is the intent of Congress that, upon the merger of Federal Land Bank and Federal intermediate bank institutions, the assistance board would provide assistance adequate to strengthen the new institution to a point where it is economically viable, and capable of delivering credit at reasonable and competitive rates; while I understand it is the intent of Congress with respect to this bill that no liquidations should occur as the result of the mandated mergers of the Federal intermediate bank institutions, and the Federal land banks in each district; and, further, while I understand that the mandatory merger provisions of this bill are not intended to precipitate the financial collapse of any Farm Credit System institution; nevertheless, it is my belief that any mergers of Farm Credit System institutions should be instituted only when deemed necessary by institution administrators and stockholders, on a wholly voluntary basis.

Mr. President, I have repeatedly urged my colleagues to act with all haste while endeavoring to formulate a good bill and an adequate bill during the consideration of this legislation by the Subcommittee on Agricultural Credit, and by the full Agriculture Committee, while the bill was under consideration by the full Senate, and when the bill was in conference. I urged such haste because of the tremendous economic uncertainty faced by the Farm Credit System as a whole, and especially by the Jackson district, of which Alabama is a part. Yet, I must mention that this tremendous economic uncertainty, the potential danger, and the urgency could have been forestalled or averted by the Farm Credit Administration and the Secretary of the Treasury.

Simply put, in the Farm Credit Act Amendments of 1985 and 1986, Congress gave the Farm Credit Administration and the Secretary of the Treasury the authority and the tools to take remedial action and infuse capital into the Farm Credit System, thereby allowing them to forestall any immediate economic uncertainty, avert any danger of collapse of Farm Credit System institutions, and relieve the immediate urgency. During the last several months I have called upon them to exercise this authority, and to make use of these tools. They have done nothing.

In my judgment, this inaction by both the Farm Credit Administration and the Secretary of Treasury has contributed to the economic uncertainty faced by the Farm Credit System, at the least, and could have resulted in the collapse of the System, at the worst. Although the Farm Credit Administration and the Secretary of Treasury knew of the problems facing the Farm Credit System, and were for some time aware of the capital deficiencies and collateral problems experienced by the System banks, through their inaction they allowed the problem to deteriorate to the point where congressional action was an urgent necessity. Congress passes laws for a purpose. Our purpose in passing the Farm Credit Act Amendments of 1985 and 1986 was to avoid this threat of impending disaster. The inaction by the FCA and the administration and their failure to implement emergency provisions authorized by Congress could have jeopardized the well-being of thousands of farmers in Alabama and throughout the Nation. This, in my opinion, is inexcusable.

Had the Farm Credit Administration and the Secretary of the Treasury come to the assistance of the Farm Credit System when the now critical troubles were first apparent or even while the Congress was working on this assistance package, System institutions would not have experienced the losses they have suffered over the last 2 years, System institutions would not face the danger they now face, and System institutions would not need the level of assistance that is urgently necessary, today. The refusal of the Farm Credit Administration and the Secretary of the Treasury to provide available assistance to the Farm Credit System is just like the refusal of a doctor to treat a growing cancer. If recognized, the cancer can be effectively treated by available methods, eliminating any threat posed to the patient. However, if detected and left untreated, the cancer spreads and ultimately results in the patient's death. In this case, the doctor who refused to implement all possible remedies in treating the cancer holds substantial blame for the patient's death. Because the Farm Credit Administration and the Secretary of the Treasury stood by and did nothing, while remedies to many of the troubles of the Farm Credit System—the provisions of the Farm Credit Act Amendments of 1985 and 1986—were at their disposal, and while the troubles, losses, and dangers of the Farm Credit System multiplied, they share the blame for the System's advanced ailments.

Would the Farm Credit Administration and the Secretary of the Treasury have been content to stand by and watch the complete failure of the Farm Credit System, as well? I hope that we will never know the answer to that question. But I would like to reiterate my belief that the inaction of the Farm Credit Administration and the Secretary of the Treasury is inexcusable.

Prior to the remedies provided to the Farm Credit System at the disposal of the Farm Credit Administration and the Secretary of Treasury in the Farm Credit Act Amendments of 1985 and 1986, both the Senate and the House passed a bill which addressed many of the problems that could conceivably plague the financial stability of rural America—including potential problems that were seen in the Farm Credit System. However, the President and the administration failed to heed these early warnings, and vetoed this measure, turning their backs on rural America and on the farmers of our country. It appears that this is a recurring theme in the agricultural policy of the present administration. I am hopeful that the President will not repeat these errors of the past, and will sign this legislation into law.

Mr. President, I am delighted that Congress has responded to the needs of the Farm Credit System and the farmers of America by moving forward with this legislation in such an expeditious manner. While this bill is neither all good nor all bad, I am hopeful that it will provide adequate assistance to the Farm Credit System. I am hopeful that this bill will enable the Farm Credit System to continue to assist the farmers of America in fulfilling their role as the providers of the world.

Thank you Mr. President.

Mr. CRANSTON. Mr. President, last January I reintroduced S. 234, a bill I first introduced in 1986 along with Congressman LEHMAN, that authorize the creation of a secondary market agency for agricultural loans designed to improve the availability of credit for our Nation's farmers, provide liquidity for agricultural lenders, and enhance access to the capital markets by American agriculture. S. 234 embodied the concept of a secondary market for farm loans to provide farmers with the same type of fixed-rate, long-term financing that has been available to homebuyers for years. In 1986 S. 234 was a new idea and provided the stimulus for numerous industry

leaders and Congress to come together to create the Farmer Mac embodied in title III in H.R. 3030. I strongly support the conference report on H.R. 3030.

As my colleagues know, I have had a strong interest in the current effort in Congress to enact legislation which returns the troubled Farm Credit System as well as other agricultural lenders to long-term financial health.

The creation of a properly structured secondary market Farmer Mac for agricultural loans will both increase the availability of affordable long term credit to farmers and strengthen the primary lenders to the agricultural sector. It will give lenders needed liquidity to continue agricultural lending at competitive rates to qualified borrowers in the same manner as the other secondary market facilities as the Government National Mortgage Association [GNMA] and the Federal National Market Association [FNMA]. The agricultural sector can benefit in much the same ways as the housing sector through the creation of a viable and efficient secondary market for farm loans. The diversification of the risk in farm mortgages and loans will reduce the possibility of future government bailouts of the farm system because local farm banks will not have to depend on local funds for loans and new investors will be attracted to farm lending such as pension funds and international lenders. Access to new funds for lending regardless of local or national conditions should produce lower interest rates for borrowers.

The Federal Agricultural Mortgage Corporation established under H.R. 3030 is similar to S. 234 in that it improves the attractiveness of the Farmers Home Guarantee Program by permitting the pooling of those loans guaranteed under that program as well as commercial bank loans, creates a commission to oversee these activities and subject the new securities to regulation by the Securities and Exchange Commission.

I want to commend the chairmen of both the Senate and House Agricultural Committees along with the banking, Wall Street, and insurance industry leaders whose cooperation, consensus, and draftsmanship were needed to produce a sound secondary market bill as evidenced in title III of H.R. 3030. Additionally, I would like to thank Congressman RICK LEHMAN for raising my awareness to this issue.

Mr. LUGAR. Mr. President, I would like to ask my distinguished colleague from Vermont whether consideration has been given to the possibility that constitutional challenges might be brought against the assessment or mandatory restructuring or other provisions of the pending farm credit legislation and, if so, what risk do we face of repeating the experience we have had with the 1985 Farm Credit Amendments. I ask this question because I believe it is essential that this legislation be promptly implemented in order that the thousands of farmer and cooperative borrowers who rely upon the System will not be deprived of this critical source of agricultural credit.

Mr. LEAHY. Mr. President, I appreciate the question and I want to assure him that those involved in developing the pending bill have been particularly sensitive to his concerns about possible litigation. It is true that implementation of the 1985 Farm Credit Amendments has been plagued with litigation. However, to my knowledge no court has held the 1985 amendments to be unconstitutional. What has happened is that numerous courts have found the regulations issued by the Farm Credit Administration in order to implement that legislation to be invalid. We have no reason to expect the regulations implementing the current bill will suffer from the same infirmities. These regulations will be based upon clear statutory requirements and are essential to implement this comprehensive remedial legislation. In that connection, we encourage the farm credit administration to carefully consider and give due regard to public comments on the new regulations. If the FCA makes a bona fide effort to take those comments into account in finalizing its regulations, we should not see a repetition of successful court challenges that thwarted the 1985 amendments. We trust that the assistance board will also solicit, and give consideration to, public comments on the regulations which it is authorized to issue.

I would also like to address your specific concerns about possible constitutional challenges to the pending bill. You correctly observe that the bill does contain assessment provisions designed to assure repayment of the federally backed securities authorized by the legislation and certain mandatory System restructuring provisions designed to streamline the System and ensure that it will continue to be a viable national credit system for agriculture into the future. We believe that these and other provisions of the bill are clearly within the authority of the Congress and are fully consistent with the U.S. Constitution. We do not believe that any provision of the bill constitutes an improper taking of property under the fifth amendment. In light of the Federal assistance provided to the System under the bill, which is in part designed to ensure that all System institutions will continue to enjoy access to the public debt markets at favorable rates, we do not believe that any provisions of the bill could be said to interfere with the reasonable expectations of System institutions or borrowers in a manner that would violate constitutional protections.

Mr. KARNES. Mr. President, I would like to bring up two points on section 8.6(b) of title VII of the Farm Credit Amendments Act of 1987. The section sets a requirement that reserves be established at the pool level. The language states that the reserve must be at least 10 percent of the outstanding principal amount of the loans in the pool.

It is my understanding that the amount of reserve for a pool may decline as the principal amount of the loans in the pool decreases. It is also my understanding the language "at least 10 percent" is not intended to empower the Corporation to require a reserve above 10 percent, but to allow the Corporation and certified facilities to agree to a higher reserve for purposes such as negotiating a contractual arrangement.

Mr. LEAHY. I thank the Senator for raising these issues.

On the first point, the reserve required at the loan pool level may fluctuate proportionate to the outstanding principal balance of the loans in the pool. This will enable originators and qualified facilities to have a constant relative reserve commitment in reserves.

The subject of the second point has been clarified in the Senate committee report. I understand that in the course of the conference the House deferred to the Senate on the section of title VII relating to the establishment of pool reserves. Therefore, the Senate report is to be looked to for guidance. It is quite clear that the reserve must be at least 10 percent of the outstanding principal amount of the loans in the pool. However, the words "at least" was included specifically to provide flexibility to qualified facilities and not to empower the Corporation to set a higher reserve requirement to qualify for guaranty. The enumerated powers of the Corporation do not include such a power. A facility and the Corporation will have the ability to agree on a higher level as part of a contractual arrangement such as where the facility is willing to establish a larger reserve and take additional loss exposure in order to get a lower guaranty fee. I believe the Senate report makes this clear.

Mr. BOREN. Mr. President, H.R. 3030 establishes a sound mechanism for getting Federal assistance to the banks and associations of the Farm Credit System without unduly burdening the taxpayers of this Nation with the cost of that assistance.

In that connection, Mr. President, I would like to ask the distinguished chairman of the Agriculture Committee whether he agrees with me that the debt obligations issued by the Financial Assistance Corporation—which

is established by the bill—would, in general, bear all of the characteristics of regular System debt obligations issued by the banks of the Farm Credit System. I am aware, of course, that the obligations issued by the Financial Assistance Corporation need not be collateralized and will be guaranteed as to principal and interest by the United States.

Mr. LEAHY. Mr. President, I am pleased to respond that the distinguished Senator is correct. The obligations to be issued by the Financial Assistance Corporation share many of the characteristics of the securities regularly issued by the banks of the Farm Credit System.

The regular obligations of System banks enjoy certain attributes of agency status. For example, interest on the obligations is exempt from State and local taxation; the obligations are eligible for Federal Reserve open market operations and may be purchased without limitation by national banks. And they are legal investments for federally supervised financial institutions. Also, the issuers may utilize the Federal Reserve as fiscal agent and may employ its book entry system to facilitate issuance and minimize cost.

Mr. President, the obligations of the Financial Assistance Corporation are, in these circumstances, to enjoy those same attributes. I would note that the conference substitute specifically provides that the Financial Assistance Corporation and its capital, reserves, and surplus are to be exempt from all taxation, except taxes on any real estate held by the Corporation. Too, the conference substitute provides that all obligations issued by the Corporation are to be accorded the same tax treatment as regular systemwide obligations.

Mr. BOREN. Mr. President, I thank the distinguished chairman and would like to pose an additional question. Inasmuch as the obligations issued by the Financial Assistance Corporation will be guaranteed as to principal and interest by the United States, am I correct in my understanding that the obligations would be exempt securities within the meaning of statutes administered by the Securities and Exchange Commission?

Mr. LEAHY. Mr. President, again I am pleased to respond in the affirmative to the distinguished Senator and chairman of the Credit Subcommittee. The obligations of the Financial Assistance Corporation are guaranteed by the United States, as he states. In this respect they differ from regular System obligations.

But, since such regular obligations are exempt securities, within the meaning of laws administered by the Securities and Exchange Commission, and in view of the Federal guarantee of the Financial Assistance Corporation obligations, it is clear that the latter obligations are also to have the status of exempt securities.

Mr. McCLURE. Mr. President, I am very glad to see this bill returned for final passage by the Senate. I have been very concerned over the past several years that changes be made to the Farm Credit Act which will make the Farm Credit System more responsive to the problems facing System farmer-borrowers. I believe that this bill will go a long way toward making the Farm Credit System more responsive to farmer-borrowers.

This bill makes changes which I hope will aid the Farm Credit System in its attempts to return to financial health. For the past several years, because of the recession experienced in our rural areas, farmers have had great difficulty in paying their debts. Because the Farm Credit System is a major lender to agriculture, it has suffered huge losses. These losses have led to the deterioration of the financial underpinnings of the Farm Credit System.

The most important part of this legislation, one which I have often stated must be a part of any legislation dealing with the Farm Credit System, is the restructuring of farm loans of financially stressed farmer-borrowers of the System. In order to keep these farmers on the land it is necessary for System banks and associations to change their attitude toward debt restructuring. In the past if a farmer was delinquent or late in payment, it was almost automatic that the bank or association began foreclosure or liquidation action. The banks and associations were not focused on helping the farmer through restructuring. With mounting losses, it became clear that doing business as usual would not suffice. A more lenient attitude was needed. Because this was not forthcoming from the System, Congress made restructuring an integral part of the financial assistance package. If the System banks were to receive assistance from the Congress, they must restructure farmer loans where it is cheaper. This legislation requires restructuring of farmer loans if it is the least cost alternative.

The second important issue is the guarantee of farmer-borrower stock. This was a part of the legislation which I introduced earlier this year. I believe that this is critical if borrowers are to have any faith in the System. Farmers were leaving the System in droves during the time when borrower stock was at risk. Congress has now provided the guarantee which will keep farmers in the System. This will help keep the healthy borrowers in the System, thus requiring less Federal help to save the rest of the Farm Credit System.

Third, I am glad to see that the committee of conference has maintained the secondary market. I believe that this is critical to the long-term delivery of credit to agriculture. By establishing a secondary market for agriculture mortgages any lender who wants to enter the long-term land markets will be able to do so. Commercial lenders which in the past have not had the credit facilities to do so will now be able to make loans which will be salable on the secondary market. This will provide farmers with more access to capital markets. I hope that this will moderate the past excesses of the System and keep interest rates to farmers down.

I am also very pleased to see that the committee of conference has taken suggestions made by myself and other Senators from the 12th district in reversing the third quarter assessments. In 1986, the 12th district gave $97.6 million to aid ailing sister banks in the Midwest. They did this under capital preservation agreements previously signed. They also did this under the understanding that the 12th district banks would have this returned in early 1987. The Farm Credit Administrator decided that it was impossible to return this assessment to the 12th district because it would cause other banks to default. This caused the 12th district to become weaker and weaker as losses mounted.

Under this bill, the third quarter assessments will be reversed and the funds returned to the districts which previously provided assistance to other ailing banks. This was critical to my support of this legislation. I commend the committees of the Senate and House for agreeing with this reversal.

This bill is unique in another respect. It provides funding for the System banks in a way which does not create massive Federal outlays. The banks will receive assistance in the form of guaranteed bond sales by the System itself. The Federal Government will guarantee the sale of up to $4 billion in bonds. The bonds will be 15 year bonds. The Federal Government will pay the interest on these bonds the first 5 years, the second 5 years the Federal Government will share the interest payments with the System. The final 5 years of interest payments will be made by the System itself. The principal will all be paid by the System banks. Thus the Federal Government is limited in its outlays, while still aiding farmers in need.

I believe that this is a good compromise. It meets goals set earlier this year—to aid farmers at the least cost to the Government. I want to express my thanks to the many Senators who worked so long on this bill. Especially to the distinguished Senator from Oklahoma [Mr. BOREN] who assisted me in working on two amendments to the bill, one in subcommittee markup and the other in full committee

markup. I appreciated his help and the help of his staff in allowing me access to the committee even though I am not a member of this committee. I also would like to thank Mr. MELCHER for his assistance in working on a particular provision dealing with Farmers Home Administration inventory property.

I believe that this bill should be passed. It is a fair way to deal with a very difficult problem. I urge the Senate to pass this bill and I urge the President to sign it.

Thank you Mr. President.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will please call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Nevada [Mr. REID], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Mr. DIXON] and the Senator from Maryland [Ms. MIKULSKI] would each vote yea.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Arizona [Mr. MCCAIN], and the Senator from Delaware [Mr. ROTH] are necessarily absent.

The PRESIDING OFFICER (Mr. WIRTH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 85, nays 2, as follows:

[Rollcall Vote No. 415 Leg.]

YEAS—85

Adams	Domenici	Leahy
Armstrong	Durenberger	Levin
Baucus	Evans	Lugar
Bentsen	Exon	Matsunaga
Bingaman	Ford	McClure
Bond	Fowler	McConnell
Boren	Glenn	Melcher
Boschwitz	Graham	Metzenbaum
Bradley	Gramm	Mitchell
Breaux	Grassley	Moynihan
Bumpers	Harkin	Murkowski
Burdick	Hatfield	Nickles
Byrd	Hecht	Nunn
Chafee	Heflin	Packwood
Chiles	Heinz	Pell
Cochran	Helms	Pressler
Cohen	Hollings	Pryor
Conrad	Inouye	Quayle
Cranston	Johnston	Riegle
D'Amato	Karnes	Rudman
Danforth	Kassebaum	Sanford
Daschle	Kasten	Sarbanes
DeConcini	Kerry	Sasser
Dole	Lautenberg	Shelby
Simpson	Symms	Weicker
Specter	Thurmond	Wilson
Stafford	Trible	Wirth
Stennis	Wallop	
Stevens	Warner	

NAYS—2

Garn	Proxmire

NOT VOTING—13

Biden	Humphrey	Rockefeller
Dixon	Kennedy	Roth
Dodd	McCain	Simon
Gore	Mikulski	
Hatch	Reid	

So the conference report was agreed to.

The PRESIDING OFFICER. Senators wishing to converse, please retire to the cloakroom.

The Senator from Vermont.

Mr. FORD. Mr. President, I make a point of order that the Senate is not in order. The Chair is doing the best he can. The Senators are not cooperating.

The PRESIDING OFFICER. The Senator will please suspend.

The Senate is not in order.

Senators wishing to converse, please retire to the cloakroom.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I just note that this vote is a strong affirmation by the Senate of what we have done after a year of very, very hard work on farm credit. I think it should send a signal to the Farm Credit System that the Congress is concerned, that we are taking steps to ensure their continued economic vitality, and that there are some areas of reform that must be carried out.

Again, I commend the Senator from Indiana, Mr. LUGAR, and the Senator from Oklahoma, Mr. BOREN——

The PRESIDING OFFICER. If the Senator will suspend.

Senators, please retire to the Cloakroom.

Staff in the back, would you please recognize the appropriate behavior?

Senators in the well, please retire to the back of the Chamber.

The Chair recognizes the Senator from Vermont.

Mr. LEAHY [continuing]. The Senator from Minnesota [Mr. BOSCHWITZ], all other Senators on the committee, and the tremendous round-the-clock work the staff gave us.

I yield the floor.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. I thank again the distinguished chairman of our committee for great work.

Mr. BYRD. Mr. President, I ask unanimous consent that if the order is granted that upon the expiration of the time, and the Senator yields the floor—that he is recognized for 3 minutes—that the Senate then proceed to the consideration of Calendar Order No. 451.

This is the resolution that provides supplemental funding for the Agriculture Committee. There is a time agreement on this measure. I have good reason to believe—at least I hope—that all of the time will not be taken up. I anticipate that there will be a rollcall vote. And so I thank all Senators. I hope the Chair will put the request.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to.

Mr. BYRD. Mr. President, I ask for the regular order.

INCREASE IN COMMITTEE FUNDING FOR THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

The PRESIDING OFFICER. The majority leader has asked for regular order.

Under a previous order, the legislation, Senate Resolution 304, will be reported by the clerk.

The legislative clerk read as follows:

A resolution (S. Res. 304) to increase the amount allocated to the Committee on Agriculture, Nutrition, and Forestry by Senate Resolution 80 relating to committee funding for fiscal year 1988.

The Senate proceeded to the immediate consideration of the resolution.

The PRESIDING OFFICER. The time for debate under the previous order is to be 90 minutes, evenly divided.

Who seeks recognition?

Mr. FORD. Mr. President, I yield the time of the chairman of the Rules Committee to the chairman of the Agriculture Committee.

The PRESIDING OFFICER. The Senate will be in order.

The 90 minutes is equally divided with the time available for the Rules Committee yielded to the chairman of the Agriculture Committee.

Mr. HELMS. Who is in charge of time?

The PRESIDING OFFICER. The Senator from Alaska.

Who yields time?

Mr. STEVENS. Mr. President, I yield time in my control on this measure to the Senator from North Carolina.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

The Chair would note that if neither side is yielding time, the 90 minutes is now being charged equally to both sides.

Mr. HELMS. That will not be necessary, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. I yield myself such time as I may require.

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

Mr. HELMS. I thank the Chair.

Mr. President, it gives me no pleasure to be in the position that I am in

this morning. All of us like to accommodate other Senators. In this case I wish I could. But it is a matter of principle to me. Let me explain why.

I was elected to the Senate in 1972, I took office, and was sworn in right there January 3, 1973, as I recall. I was immediately assigned to the Agriculture Committee. It pleased me greatly for two reasons, one being that my State is a major agricultural State.

The second reason is that a longtime friend of mine was chairman of the committee at that time, the distinguished Herman Talmadge, of Georgia. I had known Herman before I ran for the Senate, and I must say that I enjoyed every minute that I served in this Senate with him.

As the Chair may recall, as the result of the elections of 1980, the majority of the Senate shifted to the Republican side, and I became the first Senator from North Carolina to be named chairman of the Senate Agriculture Committee in 149 years. I enjoyed the 6 years I served in that capacity, and I appreciated the fact that I was in a position to work with the distinguished Senator from Vermont [Mr. LEAHY], the distinguished Senator from Indiana [Mr. LUGAR], BOB DOLE, and all the rest. But let me get back to my relationship with Senator Talmadge.

Senator Talmadge had the philosophy, with which I totally agreed, that all committees of the Senate, and particularly the ones on which he served, should be operated as prudently as possible and at the least possible cost to the taxpayers.

I believe the record is clear that Herman Talmadge and I kept the committee's budget at a minimum. Year after year, while he was chairman and for the entire 6 years while I was chairman, we would go before the Rules Committee with our proposed budgets; and every year, without exception, the Rules Committee commended the Agriculture Committee for its prudent operation. Each year, we requested only those funds absolutely necessary to fulfill the committee's legislative responsibility in an efficient and responsible manner.

I might add, Mr. President, that at no time during my serving on the Agriculture Committee while Herman Talmadge was chairman was the staff increased by one person—not one—and I continued that. We got along fine, and I will discuss that. We handled an enormous volume of legislation.

The pending resolution, S. Res. 304, would authorize an additional $130,443 to be spent by the Committee on Agriculture, Nutrition, and Forestry for the remainder of the 1987 committee year.

I might point out that that committee year ends on February 29. For all practical purposes, we are finished with the committee fiscal year. We will not be back here until very late in January, and there are only 29 days in February. So we are talking about something like 35 or 36 days.

I did a little computation a week or so ago, and this request for an additional $130,443 figures out to be an increase of $1,739 a day; and that counts Saturdays and Sundays and that counts the adjournment period, taking us to February 29, which, as I say, is far less in terms of working time than the 2½ months remaining in the committee year. That figures out to be equivalent to an annualized 53 percent increase over the committee's 1986 budget.

Bear in mind, Mr. President, that this comes at a time when we are telling the American people—we are exhorting them—that we have to tighten our belts. We will act, presumably tomorrow, maybe the next day, on one of the most enormous spending bills ever presented to Congress. Taxes will be increased in these bills.

I think that if there ever was a time for the Congress of the United States—however small the example may be—if there ever was a time for Congress to say "we are going to tighten our belts," this is it. That is the reason why I am on my feet. It would have been mighty easy for me to have backed off and said, "Senator LEAHY, I love you; I'll just let this thing go." I am very fond of PAT LEAHY, and he knows it. But I cannot let this thing go.

The report on Senate Resolution 304—if Senators have looked at it—assumed that the money will be made available for 4 months. Even based on that 4-month assumption, which is long past, the proposed supplemental annualized will be equivalent to a 34-percent increase over the committee's 1986 budget. It is simple arithmetic.

These increases are reflected in the chart to my right and are compared to the increases and decreases in the committee budget since 1980. Senators do not have time to study it, but look here. In 1980, we cut spending. During the next 6 years, small variations can be seen ranging from a 6-percent decrease to a 4-percent increase in the committee budget. Those increases were due primarily to the automatic increases in pay for personnel of the Senate.

Then, if you look at 1987, we are talking about an annualized increase of 53 percent over 1986.

Mr. President, these additional funds will be used, as we have been informed, to add 11 new staff positions on the Agriculture Committee, at salaries ranging from $19,500 up to $46,000 per year. I think of the people who will be paying for this, the taxpayers back home, and I wonder how many of them make $46,000 a year.

According to the committee report, the committee will add two new majority staffers—that is, Democrats—at a salary of $46,000 a year; one new majority staffer at a salary of $42,000, two new majority staffers at $36,000, and two majority staff assistants at $19,500.

For the minority staff, there will be one new staffer at a salary of $41,000, two new staffers at salaries of $31,000, one staff assistant at a salary of $19,500. And in addition to the staff expenses, the report identifies $7,943 for administrative expenses; $3,750 for hearings; $1,250 for communications, $1,250 for newspapers, magazines, and documents; $1,000 for travel; and $693 for "other."

I know exactly what the distinguished Senator from Vermont and others who support this resolution have in mind. They want to establish a baseline for the budget to be approved next year.

My suggestion is that they hold off on this and present their budget request free and clean, for the next year rather than for the remaining 36 working days, if that many, of the current committee year.

Now, Mr. President, I think that I am going to reserve the remainder of my time because I want to hear what the Senator from Vermont has to say and then I have some further comments.

Mr. SYMMS. Mr. President, will the Senator yield for a question first?

Mr. HELMS. I am delighted to yield.

Mr. SYMMS. Before the Senator yields the floor, I want to compliment the Senator on the point he is making here and say this is symptomatic of what I think is the problem with the Senate.

I know much to the concern of the Senator, the distinguished chairman of the Rules Committee, when he offered some of these resolutions earlier this year, I offered a resolution to reduce all committees by a small percentage.

Mr. HELMS. Indeed, the Senator did.

Mr. SYMMS. That was based on the principle that one of the complications here, even though some of our young staff people are excellent and very highly motivated and very capable, is they are one of the reasons legislation goes on and goes on. It is because of their imagination and they think up new amendments, and so forth, and it just keeps the process stirred up.

I think that it is also symptomatic that I come from a farming family and my dad is still active in our family farming business at 88 years old, but when he started farming about half of the people in this country were farmers.

Mr. HELMS. That is correct.

Mr. SYMMS. We are losing farmers every year. I have no idea how many farmers or how many Members there

were on the Senate Agriculture Committee staff in 1913 when he started farming, but I would venture to guess that is was a lot less than it is today, and as we have lost farmers, we have expanded the Agriculture Committee staff, and I think it is symptomatic of the problem around here.

What we should do here is get this Senate down to the size where Senators can work with each other and simplify the process, rather than making it more complicated.

All you have to do is go over to the continuing resolution, CR conference, and it is so complicated it is no wonder this legislation becomes a quagmire of 199 different things brought up in each little subsection. The House has been riddled with fiefdoms. I was in the House when the House used to actually operate pretty well. I would say to the Senator, when they had the election in 1974, the so-called Watergate babies took over and they threw out some of the conservative committee chairmen and established fiefdoms for each subcommittee chairman, so each subcommittee chairman in the House has his own staff and empire. It is like Parkinson's law of just growing this empire in each area.

I would share with the Senator's point of view that I would appeal to our colleagues on the Agriculture Committee who are asking for this to rethink this. I just do not believe that there is any important pressing legislation.

The question I got up to ask the Senator is how many people are left on the farm now? Two percent?

Mr. HELMS. Something like that.

Mr. SYMMS. It is going down and it will continue to go down as technology and genetics improve and there is the scientific ability to farm, because it will take less people to produce the same amount of agricultural commodities. That is what happened through the process. So there has been a constant wringing out of people from the agriculture sector. It is not anything wrong with farming. It is just that less people can get it done now. And yet, we are talking about expanding the bureaucracy, if you will, in the Senate and all that will mean will be more laws to further interfere with the farming process. What we need to do is disengage the Government from this instead of engaging it further, and we are making headway.

As a matter of fact, I want to ask another question. Is this correct that the Senate actually had lower staff in 1985?

Mr. HELMS. Correct.

Mr. SYMMS. And that is the year the 1985 Farm Act was written?

Mr. HELMS. That is right.

Mr. SYMMS. The 1985 Farm Act is actually starting to work.

Mr. HELMS. I would say that this chart relates to authorization, though, in dollars.

Mr. SYMMS. To authorization?

Mr. HELMS. Yes.

Mr. SYMMS. OK.

Anyway, I compliment the Senator. I want to say I think he is right on target.

Mr. President, I do not know whether this "Dear Colleague" letter the Senator wrote has been in the RECORD, but with the Senator's permission I ask unanimous consent to print this letter in the RECORD.

There being on objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, December 15, 1987.

Hon. STEVE SYMMS,
U.S. Senate, S-509, Washington, DC.

DEAR STEVE: This week, perhaps on Wednesday, the Senate will consider S. Res. 304, which would authorize an additional $130,443 to be spent by the Committee on Agriculture, Nutrition, and Forestry for the remainder of the 1987 Committee year. That figures out to be an increase of $1739 a day for the remaining 2½ months of the Committee year and is equivalent to a 53 percent increase over the Committee's 1986 budget.

While I don't want to offend anybody, I just don't understand how the Congress, or any entity thereof, can propose such an increase at a time when we are telling the American people that they must tighten their belts, and while we are piling on new taxes for them to pay. In short, I can't in good conscience support this Resolution.

I shared a philosophy with Senator Herman Talmadge, whom I succeeded in 1981 as Chairman of the Agriculture Committee. He and I agreed absolutely about operating the Committee as prudently as possible, and at the least possible cost to the taxpayers. I believe the record will show that Herman and I kept the Committee's budget at a minimum. Each year we requested only funds absolutely necessary to fulfill the Committee's legislative responsibility in an efficient and responsible manner.

Based on the fact that there are only 2½ months left in the Committee year, which ends February 29, the increase proposed in S. Res. 304, annualized, is equivalent to the 53 percent increase over the 1986 Committee budget, to which I alluded above.

The Report on S. Res. 304 assumes that this money will be made available for 4 months. Even based on that 4-month assumption, the proposed supplemental, annualized, is equivalent to a 34 percent increase over the Committee's 1986 budget. These increases are reflected in the attached chart and are compared to the increases and decreases in the Committee budget since 1980.

These additional funds will be used to add 11 new staff to the Committee ranging in salary from $19,500 to $46,000 per year. In comparison, the Committee on Armed Services requested an annualized supplemental authorization of 12.9 percent over its current budget to maintain its current staff level.

The Committee on Appropriations is operating with 7 fewer staff members than last year. Yet the Appropriations Committee requested an annualized supplemental increase of only 2.2 percent over its current budget to cover unforeseen expenses—not for the purpose of increasing staff.

The Committee on Finance, which has jurisdiction over trade law reform, catastrophic health insurance, welfare reform, technical corrections to the tax bill, and a majority of provisions under reconciliation, is requesting an annualized supplemental of 10.6 percent over its current budget—again solely to maintain its current staff level.

During the Rules Committee mark-up, Senator Hatfield vigorously opposed this increase because of the message it would send to the American people. We are on the verge of implementing drastic across-the-board cuts in almost every federal program. Yet, here we are, considering increasing one Senate Committee by 34 percent.

Members of Congress should be setting an example by holding the line, if not reducing, regarding spending the taxpayers' money. How can we expect the taxpayers to tighten their belts, and sacrifice to reduce the budget deficit, when we continue to add to the baseline costs for ourselves?

I leave this question up to your good judgment. For myself, I am obliged to oppose S. Res. 304.

Sincerely,

JESSE.

Mr. HELMS. I thank the Senator for his comments and I thank him for putting the "Dear Colleague" letter in the RECORD.

Mr. President, I say to the distinguished Senator from Idaho [Mr. SYMMS] what I said at the outset of my remarks. It gives me no pleasure to be here today discussing this. The easiest thing for me to have done would have been not raise a question and let it go through.

I suppose that the Senator from Vermont will say again what he has said previously, that on the Foreign Relations Committee, and I happen to be the ranking Republican on the Foreign Relations Committee, the minority staff is greater than his staff. That is true. And the request, of course, for all the other committees in dollars is greater. That is true. But that is not the point.

The point is that we ought to hold the line and keep that faith with the people. When we are telling them to tighten their belts, to sacrifice, the least we can do is to keep steady the expenditures of and by Congress.

I am not the chairman of the Foreign Relations Committee. I did not prepare this budget.

We do not have the full complement that we could have on the Foreign Relations Committee, which means that I have not increased the staff and do not intend to for the minority.

But if the Senator wants to compare apples with oranges I will be glad to do that with respect to any other committee, and I am prepared to do it.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER. Mr. President, in the absence of the chairman of the

committee, Senator LEAHY, might I inquire whether Senator LEAHY controls time?

The PRESIDING OFFICER. Senator LEAHY controls the time on the majority side. Senator HELMS controls the time for the Republicans.

Mr. MELCHER. Mr. President, in that case then I will yield myself, acting through Senator LEAHY, as much time as I shall use.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MELCHER. Mr. President, I have listened to the very astute remarks of my friend from North Carolina, the former chairman of the committee, and from my friend from Idaho, Senator SYMMS.

I would like to respond from my own viewpoint as a member of the Senate Agriculture Committee where I serve with my very able and delightful friend, Senator HELMS, and also as a former member of the House Agriculture Committee, where I had the pleasure of serving with my friend from Idaho, Senator SYMMS.

I have never observed these two Senators operating without staff. To the contrary, I have found these two Senators very adroit, very capable of using staff.

On this particular committee, when Senator Talmadge was chairman, the payroll for the committee was fairly low compared to all other major committees.

Under the chairmanship of Senator HELMS, the Senate Agriculture Committe payroll was fairly low compared to all other major committees.

Let me point out that Senator LEAHY, now is the third chairman of this committee in—what, 8 years? Is that correct? I believe it is. After Senator HELMS took over the committee, there was a complete reshuffling. Now, with Senator LEAHY, there is another reshuffling of the staff.

What is being proposed here in this resolution is no more in dollars than what it would have been if we just continued through these past 8 years with Senator Talmadge's staff. This is a question of rebuilding, reshuffling this staff, putting it back together again.

Neither Senator Talmadge, as chairman, or Senator HELMS, as chairman, was accused of spending too much money for staff, nor should Senator LEAHY be accused of spending too much money. It is about time that we recognize the practical effects of what has to take place for agriculture in this country.

We just passed the final step with completion of the farm credit bill. All of us that serve on that committee worked very hard in putting that package together. It is a very meaningful restructuring bill and we did it with the assistance of staff, as we should. And it would not have been done without members themselves of the committee pitching in and spending a tremendous amount of time, individually and collectively, in making that bill possible. And it would not have been done without staff of the Senate Agriculture Committee on both sides, whether Republican or Democrat, working long hours putting it together.

So when the public views what Congress does, quite often they are unaware that members in committee frequently work in the committee until 6, 7, sometimes 8 o'clock in the evening and sometimes start very early in the morning.

But I can tell you what the public cannot visualize at all is that committee staff is working ahead of time and overtime, sometimes as late as 10 or 11 o'clock or midnight, putting a bill such as the Farm Credit bill in order and getting the work done.

If we are going to do a good job for American agriculture, we are going to do it through a combination of a lot of input by individual members of the committee and by individual effort of committee staff.

Senator LEAHY has put together a staff. They have done a good job including the Republican members of the staff that Senator LUGAR has assembled. They are hard competent, knowledgeable workers and they have to be paid. It is as simple as that.

This resolution does not make this committee an expensive committee. To the contrary, it is a much less expensive committee than the Budget, Armed Services, and Environment and Public Works Committees that my friend from Idaho, Senator SYMMS, serves on.

In addition the Foreign Relations Committee on which Senator HELMS is the ranking Republican receives much more than the Agriculture Committee. We all have those figures before us. The committees my friend from Idaho serves on draws a tremendous amount more than the Agriculture Committee draws even with this addition. And it is also obvious that the Foreign Relations Committee with Senator HELMS as ranking Member receives much more than the Agriculture Committee.

It is a foolish thing to come to this floor and say that the Agriculture Committee should not have adequate pay for its staff in order to do the job. And it is much below the rest of the major committees of the Senate and every bit as important.

Mr. LEAHY. Will the Senator yield?

Mr. MELCHER. Mr. President, I yield to the chairman. I am glad to have him back and appreciate the opportunity to discuss this matter.

Mr. LEAHY. Mr. President, I thank the Senator from Montana, who has made a strong and compelling case. I appreciate him also taking over for me for a few minutes while I stepped off the floor to confer with the chairman of the House Agriculture Committee on the major matters that we have gotten through in the last 2 weeks.

I just think there are a couple of things we ought to have factual in the RECORD in this debate. Senators can vote any way they want, but we want them to vote on the facts. We are not asking for a 50-percent increase. We are asking for a 10-percent increase over our 1987 authorization. The 1986 authorization was $1,263,379. The 1987 authorization is $1,304,430. The 1987 supplemental is $130,443. That is a 10-percent increase almost to the dot.

Let me tell you what is going on here. The distinguished Senator from North Carolina, who has a right, of course, to object to anything he wants here, as any Senator does, says he is concerned about this amount. But it is passing strange to this Senator that while he is concerned about this increase in agriculture, he had no concern in Armed Services of a much greater increase, $279,307; in fact, he voted for that. He had no concern about the increase for the committee that the distinguished Senator from Idaho serves on, Finance, and voted for a $235,000 increase. He had no concern about the increase in Indian Affairs and voted for a $300,000 increase.

Now each Senator has to determine where they are going to spend money if they are chairman or ranking member on a committee.

It has been said by some here they take pride in the fact that the Senate Agriculture Committee has always kept the lowest budget. Believe me, Mr. President, they can still stand proud because, if this budget goes through, of all the eight committees, we will be by far the lowest.

Let me give you one example. We cover $50 billion of oversight and we will be doing it with $1.3 million. One other committee, with $49 billion oversight—I took that as the nearest to us—will do that with $3.3 million; and I think be strapped to do just that.

Now we can do one of two things. We can be a rubber-stamp committee. And if we do that, we do not need any staff at all. We can tell the administration, "Spend what you want." Boom, out it goes.

But, you know, Mr. President, in the last 7 years, farm programs have grown from around $3 billion to around $26 billion. Staff certainly has not grown. But I have to wonder, was that enormous increase necessary? Who knows? We did not have the staff to do the kind of objective oversight to find out.

We could only rely on the administration's figures. Maybe they are right; maybe they are not. But I would like to think that the Congress is an equal branch of Government and

ought to have some way to look at that.

This past year, this year, for the first time, cuts have been made in the farm programs. We have been bringing it down. We have done it in reconciliation. We cut $2.5 billion out. This is the first time I have seen in 7 years that we are actually cutting.

But let me tell you what this meant to do that. We just passed the farm credit bill. We have had two staffers to work on that, Mike Dunn and Ed Barron.

Now, I like to think that we are also human beings here. Everybody talks about their commitment to family and home life. Well, I am one that actually tries to carry it out. I would like to be able to carry it out for the staff.

We can give great speeches, all of us as Senators, on how committed we are to family life. And once we leave in the evening to go back home to our families, we are leaving the staff here to do the work we directed them to do.

Let me refer to Mike Dunn and Ed Barron, as an example. During work on the farm credit bill after it passed the Senate they worked day and night for at least 2 weeks. The earliest they were getting out was 2 in the morning. Four times in the last week they worked all night. For the last 3 months in working on the bill before it passed the Senate they rarely got home by 10 o'clock at night.

One of them, Mike, has three children at home. Ed has a 7-month-old infant, James William, who is going to grow up before Ed even knows what his child looks like.

I know, because I came over on Sunday and Ed and Mike both were working. They had worked until 3 or 4 o'clock that morning; and worked until 5 a.m. the next.

You know, these are dedicated people, as are the others on the committee staff, and I am delighted with them. I just hope we never apply the minimum wage around here, because we may have a little trouble on that.

The fact of the matter is, Mr. President, we each have to determine where we are going to spend money. Now, when the distinguished Senator from North Carolina was chairman of the Agriculture Committee, we kept within the budget he speaks of, and that is fine. His agenda was his agenda, as chairman, and we could vote for or against his agenda. Mine is different and he, like any other member of that committee, Republican or Democrat, can vote for or against the matters that I want to bring up there. But I expect some consideration where that budget is going to be.

Now, I make no objections to the budget of the Senator from North Carolina he controls as the ranking minority member of the Foreign Relations Committee. That is more money than is in the budget for me as chairman of the Senate Agriculture Committee, and twice what the ranking member has on the Agriculture Committee. Each person has to make his concerns felt. In my own State, how we handle programs dealing with farmers is more important than how we handle programs dealing with foreigners. But that is a consideration each person has to make.

The fact is that of all the eight committees, the Agriculture Committee will still come out by far the least. The other factor is we are asking for a 10-percent increase over our budget; not a 50-percent increase.

I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time? The Chair would note if no one yields time, the time is charged equally to both sides.

The Senator from North Carolina.

Mr. HELMS. Would the Chair advise both the distinguished Senator from Vermont and me as to the time remaining for each side?

The PRESIDING OFFICER. The Senator from North Carolina has remaining 24 minutes, and the Senator from Vermont has remaining 30 minutes and 30 seconds.

Mr. HELMS. I thank the Chair.

Mr. President, the distinguished chairman of the Agriculture Committee, as I anticipated he would, introduced his own arithmetic into this. But I have already stated the precise numbers from the committee report, the Rules Committee report. Those figures speak for themselves.

I say again that I am not chairman of the Foreign Relations Committee. I did not prepare the budget. It was not even checked with me—but that is fine. But I will say again that I have not added one staff member to the minority, compared to the previous minority leader on the Foreign Relations Committee. I have not added any staff.

The Senator from Montana, Senator MELCHER—and he is a delightful man, and I enjoy serving in the Senate with him—he was comparing apples and oranges. If I heard him correctly, he said something to the effect that we were trying to cut the dollars for the Agriculture Committee. Not so. The issue here is added personnel; the addition of 11 new staff members of salaries ranging from $19,500 up to $46,000 a year. But the Senator from Vermont, in fact, wishes to staff the subcommittees. That is the issue. Since he brought up the other committees, I will respond, intending to be entirely friendly about it, with what the RECORD shows. The Committee on Armed Services requested an annualized supplemental authorization of 12.9 percent over their authorized budget to maintain its current staff level. They are not increasing the number of employees. They seek only to maintain their current staff level. The proposal for the Agriculture Committee is to add 11 staff members.

In its initial budget request for 1987, the Committee on Appropriations reduced its authorized staff level by one and is, in fact, at this moment operating with seven fewer staff members than the committee was using last year. Yet, the Appropriations Committee requested an annualized supplemental increase of only 2.2 percent over its current budget to cover unforeseen expenses. Not for the purpose of increasing staff.

The Committee on Finance, which has jurisdiction over trade law reform, catastrophic health care, welfare reform, technical corrections to the tax bill, and the majority of provisions under reconciliation, is requesting an annualized supplemental of 10.6 percent over its current budget—again, solely to maintain its current staff level. They do not propose to add 11 staff members.

During consideration of this resolution in the Rules Committee, of which I am a member, I recall that the able and distinguished Senator from Oregon, Mr. HATFIELD, vigorously opposed this increase because, as he put it, of the message it would send to the American people. And that is precisely the point I made at the outset of my remarks. If we cannot be good guardians of the trust in small things, no wonder this Congress has such a sloppy record in terms of the big things. I am appalled at the reconciliation bill. I am appalled at the continuing resolution. I do not intend to support either one of them. Just for the record, I have not voted to waive section 311 of the Budget Act once this year.

We are in the process of implementing drastic, across-the-board cuts in every Federal program. I have heard more complaints on this floor by Senators about that. Yet, here we are, considering increasing one Senate committee by 34 percent. That is the best possible face you can put on it because actually it is way above 50 percent annualized. I say again that clearly what is afoot here is to establish a baseline so that next year they can lock in the additional new employees, making up to $46,000 a year, and make permanent the increased cost. Sure, it costs less to operate the Agriculture Committee than other committees, but that is thanks to Herman Talmadge, who held the line; and I can tell you I did the best I could during the 6 years I was chairman of the Agriculture Committee. So it did not come to pass by accident.

What we have done in the Congress down through the years is just say, well, we want to do this and do that to the American people, raise their taxes, increase spending. But we are going to

fatten ourselves up. We are going to have all the staff members we need and all the other perquisites. We are going to look after Congress and we are going to pretend that we have solutions for farm problems. I do not care if they put 5,000 people on the Agriculture Commiteee staff, it is not going to be a substitute for increasing exports and getting back into the sale of farm commodities. Neither staff members nor Senators are going to do that. It is the free enterprise system that is going to do it.

The justification given for the 11 additional staff positions and additional expenses requested by the Ag Committee, of which I am proud to be a member, is that the distinguished chairman of the committee, Mr. LEAHY, says it faces a significantly broader legislative agenda than in the past. He says that it will not be able to meet its legislative goals without additional personnel to staff the subcommittees.

(Mr. GRAHAM assumed the chair.)

Mr. HELMS. As respectfully as I know how to do it, Mr. President, I must take exception to that assertion. The Agriculture Committee has operated with 34 staff positions since 1978. It has indeed been one of the smallest of the major legislative committees of the Senate, yet it has had an enormous legislative agenda throughout the years, if you want to call them the Helms Years, 1981 through 1986.

Since the subject was raised by my distinguished friend, perhaps we ought to take a moment to recap some of the legislation the committee produced during the past 6 years.

In 1984, the committee faced reauthorization of countless nutritional programs, including WIC, the National School Lunch Act, and the Child Nutrition Act. It reported out the sodbuster bill, and that was a lulu to get through the committee. We established new lending levels for the Farmers Home Administration, farm operating loans, farm ownership loans, emergency disaster loans.

And all during that time, the committee was making preparation for considering a massive new farm bill.

Yes, the committee staffs, bless their hearts, worked late at night and they worked on Sundays during that period, too. But I will tell you one thing, Mr. President: Staff members throughout the Senate have more days off than anybody in the private sector. You check the schedules for the next 2 or 3 weeks. You check it during August. You check it on July 4.

I did not hear one staff member, while I was chairman of the Agriculture Committee, complain about the workload. They were dedicated. And they knew and acknowledged that there were compensating factors in terms of time off. That is the way it ought to be.

Let us go to 1985.

Incidentally, I am doing this because Senator LEAHY implied that more work lies ahead for the Agriculture Committee than has been the case in the past. Well, I do not think that statement can be justified.

In 1985, the committee produced a farm bill that weighed 13 pounds. The young people who handled all the massive paperwork said that up to that time, the farm bill was the biggest piece of legislation that they had encountered. Somebody jestingly said that a couple of guys got a hernia carrying the farm bill to the desk.

There were 26 days of hearings on that farm bill, 38 days of markup, 12 days of floor debate right here, 8 marathon conference sessions. We met during eight marathon sessions. It was a pretty strenuous year. I seriously doubt that that is going to be exceeded. I have seen no evidence of it.

In that year of 1985, the committee requested a 6-percent increase in the committee budget so it could handle all that. We were commended by the Rules Committee. As a matter of fact, one of the Rules Committee members said, "Can you really get by on this?" Senator Huddleston, time and time again, sat with me as the ranking minority member at that time, and the distinguished Senator from Nebraska, the late Ed Zorinsky, sat beside me, and both said, "Yes." And we did.

In fact, the committee received a 6-percent decrease for 1985 even though we had requested a 6-percent increase. Because agency contributions were removed as a committee expenditure, the resulting authorization was equivalent to approximately a 3-percent increase over the previous year. After enactment of the bill, the staff of the Agriculture Committee received the highest praise by Senators on both the Agriculture Committee and the Rules Committee.

So I cannot sit back silently while it is implied, let alone stated, that we have a greater workload coming than we have had in the past.

Let us move on to 1986. That year we worked on FIFRA. I see the distinguished Senator from Indiana [Mr. LUGAR] on the floor. He did such a marvelous job on that. We got the bill out. We did not get it passed, but it was not DICK LUGAR's fault. It should have been passed. I hope the Senate will wake up and do that bill one of these days.

In 1986 we did FIFRA, we did the Futures Trading Act, the Food Security Act Amendments, the Food Security Act Improvements Act, the Rural Industrial Assistance Act, and the Wilderness and National Forest legislation, to name a few of them. On every one of them, time was consumed, and, yes, the staff worked at night, many nights and on Sundays. We thanked them. We were proud of them, and I am still proud of them. I think that is the way it should be.

I think the American people kind of have a right to expect that of them.

Mr. President, in the May–June 1987 issue of the Tax Foundation newsletter, there were some comparisons which highlighted the escalating cost of Congress. Trying to read these statistical figures, Mr. President, would be meaningless. I ask unanimous consent that these statistics be printed in the RECORD at this point.

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

[Cost in thousands of dollars]

	1966	1976	1986	1987
Senate	35,388	123,851	273,223	331,713
House	68,095	197,525	470,741	574,722
Joint	8,382	52,746	105,970	114,041
Total	111,865	374,122	849,934	1,020,476

Mr. HELMS. Let me say again, Mr. President, and then I shall wind up, here we are just before Christmas, 1987, facing one of the largest budget deficits in history. We are on the threshold of implementing a drastic tax increase. Yet here we are considering increasing one Senate committee by 34 percent at a minimum, annualized.

Some will say, "Well, that is a small amount of money. Not more than a half million dollars."

But that is a lot of money to the guy who is paying the bill out there in Americaland.

The figures I have just inserted in the RECORD, Mr. President, make clear that the total cost for operating the Congress of the United States increased 21 percent from 1986 to 1987. It now costs $1,021 billion to operate this place, the Congress of the United States.

I respect all Senators who disagree with me, and I want them to know that.

I am absolutely persuaded that Congress should be setting the example by reducing expenditures, even if it is only a relatively small thing. I do not mean to offend anybody, but I simply don't understand how the Congress, or any entity thereof, can propose increases. With less than 2½ months remaining, I just do not think it is appropriate to be making significant increases in the cost of operating committees. I do not think it is appropriate to propose to add 11 new staff members.

On February 2 and 3 and 4 of 1988, the leadership from each committee will appear before the Rules Committee to make budget requests for the coming committee year. It has been my hope that we would wait and con-

sider this request at that time. I do not think now is the time to do it.

Whether I win or lose is not imporant. It is important that Senators take a position on this even though they may consider it to be a small matter.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MELCHER. Mr. President, will the Senator from North Carolina yield for a question?

Mr. HELMS. I will be delighted to yield. I may not be able to answer it, but I will do my best.

Mr. MELCHER. Do the figures that were cited as the increase in cost of Congress include the Library of Congress and the General Accounting Office?

Mr. HELMS. Sure.

Mr. MELCHER. So the $1 billion also covers the cost of printing the RECORD?

Mr. HELMS. Sure.

Mr. MELCHER. And distributing that?

Mr. HELMS. Sure.

Mr. MELCHER. And by taking up an additional page or two of the RECORD that we are now doing by this debate, we are adding to that total?

Mr. HELMS. I do not know what the Senator's point is, but the Senator is right, of course.

Mr. MELCHER. I just wonder if the Senator knows if two or three pages more of the CONGRESSIONAL RECORD mailing distribution and cost associated with all of that might cost more than the $130,000 about which we are debating.

Mr. HELMS. I tell the Senator one thing, I am not going to talk long enough to run up a $100,000 bill, and I hope the Senator will not.

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

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I yield to the distinguished Senator from Indiana such time as he needs.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, it has been my privilege to serve as a member of the Committee on Agriculture under the distinguished chairmanships of Senator Herman Talmadge, the distinguished Senator from North Carolina, JESSE HELMS, and my current chairman, PAT LEAHY. They have all given strong leadership to the committee, and it has been a pleasure to be a member of the committee during the tenure of each of these three outstanding leaders. I think it is fair to say, Mr. President, that each leader had different perspectives, different goals, different styles, and that ought to be recognized. In many ways, although the debate is obviously before us; it is one in which Members wanted to enter freely, it is a debate that I regret has occurred. There are times in which the Members of the body as a whole have to give some latitude to new leadership, to the new perspectives that come into a committee, and that I believe should have been the case on this occasion.

The distinguished Senator from North Carolina has mentioned that on approximately February 2, 3, and 4, the chairman and ranking member of each of the committees will come once again before the Rules Committee to make a plea for funds for those committees. That is true, Mr. President, but it is also a fact that one of the reasons we are in this debate today is that Senator LEAHY and I went to the Rules Committee last February, a long time ago, 9 months ago, and we made a request. Largely, I think it is fair to say, through the intercession of the distinguished Senator from North Carolina, this debate has been prolonged for 9 months. It is fair enough to say we are almost to the end of the year and ready to try it again and use that as an argument as to why we should not be debating today, but my point, Mr. President, is the thing should have been resolved in February, at worst in March. By October we had to have a formal meeting of the Committee on Agriculture simply to ratify the budget the chairman and I had offered a long time ago and which was appropriately pared down as we tore pages of the calender for each day and month that passed since our original submission. At that time by a strong vote in the Committee on Agriculture with only four dissenting votes we once again reaffirmed what the chairman and I had originally requested.

That was in October. Two months have passed and we are now, as is pointed out, almost on Christmas Eve attempting to resolve a question of last February.

Now, Members have every right to be persistent, and it is clear in this case at least one Member has. I would say that it is an unusual twist to go after one committee hammer and tong this long, this hard, but that is the privilege of any Member if he feels strongly about it.

My point I suppose, Mr. President, is that it does give us a perspective, to take a look at the year. The distinguished Senator from North Carolina has taken a look at several years of work in the Agriculture Committee and discussed the role of Members and staff.

Having been a part of that procedure, I can affirm that Members and staff worked diligently and productively in each of those years, but we come now to this particular year with which we are well acquainted, having witnessed earlier this morning, by a vote of 85 to 2, passage of the conference report on the Farm Credit System, and that offers, it seems to me, a good vantage point for the work of Members and the work of staff and the work of this body.

A point can be made, I am certain, Mr. President, that we surely ought not to spend another $130,000 more or less if we could avoid it. Many Members have strong records in terms of economic spending on their personal staffs, quite apart from those of committee staff, but I think probably the broader question has to be surveyed by the body now that we have this issue in front of us.

It has been mentioned by our distinguished chairman, Mr. LEAHY, that we have now oversight of $50 billion of expenditures. That is true. And they have grown largely. The distinguished Senator from Idaho pointed out earlier that while the Agriculture Committee expenditures have increased, the number of American farmers has decreased. That is sadly the case also.

We have before us today, Mr. President, an opportunity to take a look at the poignancy of both situations. The Farm Credit System, however else one might try to define it, is complex to the ultimate. The number of entities, the number of rules, the degree of local control, and the tenuous relationships of the system are almost beyond the comprehension I think of most students who have looked at this system for a very long time, clearly well beyond the initial comprehension of members on the Agriculture Committee or their staffs.

Yet we were asked this year to try to bring about some justice and mercy and efficiency and, even more importantly, Mr. President, to try to repair, while there was still time, part of the credit fabric of this country.

The failure to do that, in my judgment, would have led to a great deal of instability in the rest of the credit functions of this country. This was not trivial material. I would simply suggest, Mr. President, that if the Farm Credit System succeeds at this point, or in fact, if it saves hundreds of millions and billions of dollars, as I believe those of us who have worked on this legislation can assure in terms of sheer efficiencies, cut of overhead in the system, a very tight control of how money gets to those who need it, they will have come about because someone had the expertise and the time to draft legislation, to argue it with many constituent groups, to move it through two Houses, and to persuade the administration. Those things do not occur by chance. That is what we are paid for as legislators, as staff members to do that kind of job well.

Mr. President, you can argue, I think clearly, that two persons in a back room can write the whole thing. And it might come out about as well as it has before but it did not come out very well before as a matter of fact. That is one reason we are back doing it again. Because in fact the farm credit legislation last time was really written very rapidly, almost on the backs of envelopes and with a fling and a prayer, the Farm Credit System lost a lot of money, and the taxpayers of the country lost a lot of money.

Sometimes you get the staff work that you pay for. That is true of legal assistants, it is true of accounting assistants, and it is true of professionals generally. Sometimes when something needs to be artfully and craftfully done in which you have some confidence in the product you need to have adequate staff with adequate legal background, adequate agricultural and credit background to do that job. And you pray that Members of the Senate will comprehend that extraordinary professional effort to be able to use their common sense and general judgment to say either aye or nay at the appropriate time to mark up on the floor and in conference.

That I think is the question, Mr. President. And as the distinguished chairman of the Agriculture Committee took a look at the complexity of legislation that we are required to look at, took a look at the resources we had, he made a judgment in which I concurrred. And I would simply say that it is well and good to say that as the Agriculture Committee budget rises the number of farmers decrease, but, Mr. President, the point of the farm credit legislation today was to save farmers, to make it possible for people to repay their debts, to have some new hope. The point of most agricultural legislation presently is to try to repair the fabric of agricultural America, and bring some new hope to that. And I think the distinguished Senator from Montana was correct when he said on occasion we have to determine in the expenditures we make on the Congress and on the staff some priorities.

I make no apology for asking for an additional $130,000 for the staff of the Agriculture Committee to serve farmers in this country. I cannot imagine a Senator who has agriculture as a priority who would not see some value in making certain the oversight, the crafting of legislation, and the ability to handle complex matters more adeptly was honored in this request.

Mr. President, I initially stated I wished the argument had not come. But now that it has come, Senators must make judgments. This is not a question of economizing. If there ever was a time for the cliche pennywise and pound foolish, this is it. What is required is the employment of persons on the agriculture staff who have some comprehension of these programs, some ability to survey what we are doing, some ability to rein in the waste that is almost bound to occur with $50 billion of expenditures. The American people want a decline in that figure, and I suspect the American people, when push comes to shove, are willing to pay when they have confidence that there is expertise to bring about that oversight and to bring about sufficient and wise agricultural policies.

So for these reasons, Mr. President, I am hopeful the Senate today will support the request made by the distinguished chairman of the committee, one in which I concur, and I have accompanied him to many sessions with the distinguished colleagues on the Rules Committee. I plan to do that again. As painful as these intramural arguments are, Mr. President, I could not remain silent when it is clear to me that the wisdom of the case allies with the distinguished Senator from Vermont.

I thank the Chair.

Mr. LEAHY and Mr. FORD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, will the distinguished chairman of the Agriculture Committee yield a couple of minutes?

Mr. LEAHY. I will after just 30 seconds. I want to comment, Mr. President, on how much I appreciate the statement of the distinguished Senator from Indiana. I said at the time the farm credit bill came up this morning what a joy it was to work with not only one of the most distinguished legislators I have ever served with, the Senator from Indiana, but a man who is a consummate and thorough gentleman. If I felt that way before, I feel even more strongly now.

I yield such time as the Senator from Kentucky, the distinguished chairman of the Rules Committee, requires.

Mr. FORD. Mr. President, I do not like to get into the discussions of differences of opinion. It is very difficult not to when you have to have the responsibility of accomplishing an end purpose.

The Rules Committee has basically heard the arguments that you hear here today. The chairman and the ranking member of the Agriculture Committee have presented their case now on three occasions. The distinguished Senator from North Carolina is a member of the Rules Committee. And on three occasions the Rules Committee has forwarded to the Senate their recommendations for the Agriculture Committee.

On figures, it depends on which calculator you put them in, I guess, or what procedure you use. But in the report to the Senate as it related to the Senate Resolution 304, these are the figures that we based our decision on. And this is the percentage that the Rules Committee figured in presenting this budget.

Let me read, then, from the report from the Rules Committee. The 1987 budget authorized by Senate Resolution 80, 100th Congress, is $1,304,430. With the revised budget for 1987 with the proposed supplemental of 130,443, it is $1,434,873. The $1,434,873 represents a 14-percent increase over the 1986 committee funding. That was the decision that we approved by the Rules Committee.

The second paragraph is the baseline budget of 1988, and with the proposed supplemental will be $1,695,759 because the proposed supplemental for 1987 is pro rated. The increase in 1988 will be 34 percent over 1986 but will only be 18 percent above 1987.

Mr. President, I ask unanimous consent that the table for the increase of percentages as it relates to the committees under this supplemental be included in the RECORD.

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

1987 SUPPLEMENTAL REQUESTS

Committee	1986 authorization	1986 supplemental	987 authorization	1987 supplemental	Percent (+ −)
Agriculture	1,263,379	0	1,304,430	130,443	10.00
Appropriations	3,999,860		4,119,856	90,000	2.18
Armed Services	2,097,190	100,000	2,167,877	279,307	12.90
Finance	2,153,790	235,000	2,223,333	235,000	10.60
Indian Affairs	790,797	5,000	842,335	300,000	35.61
Rules	1,194,353		1,231,058	12,500	1.02
Veterans'	861,749		907,901	41,500	4.57

Mr. FORD. Mr. President, I might say that we are not authorizing new money, we are not appropriating new money. This money is already there. This Senate has already voted for it. This Senate has already said that money is available. We did this last year. This is not anything new. We hit two committees that had a different type of year, and they are in this one. And they deserve it. And the Senator from North Carolina has already admitted that they need it.

So we listened to the arguments in the Rules Committee. And we felt that this was adequate, that it was the right thing to do, and that we agreed with the chairman and the ranking member of the Agriculture Committee.

We attempt to stay within the guidelines that are given to the Rules Committee as it relates to the funding and we have had on occasions the bitter pill of cutting. We cut 10 percent in 1981. Several committees ought to have been cut a lot more than that. We have committees sitting over here with 1½ staff members per room and

they have almost 70 rooms. They are budgets in $5 million or $6 million. We cannot get to them. It is a little hard to get through some of those.

We are not appropriating any new money. This does authorize this spending from the appropriated funds that we now have. Since I am chairman and the committee approved it, I will support my committee.

Mr. President, I appreciate this position of everyone I understand the sensitivity of this. It takes a lot of courage sometimes to stand up and object. You just do not like to do that. It takes courage sometimes to stand up and support something that very few people are supporting. But I hope that we will be supported in this effort.

We are authorizing an expenditure from appropriated funds. The argument is that if you do not spend it, it goes back to the general funds. That is true, but I do not want the impression left that we are digging into general funds and pulling out more money. It is already budgeted; it is already there. The Rules Committee authorized the funding for all the committees.

Mr. HELMS. Mr. President, will the Senator yield for a question, on my time?

Mr. FORD. I will do my best.

Mr. HELMS. What was it that I admitted to?

Mr. FORD. I understood that when you named some of the other committees, the supplemental——

Mr. HELMS. I thought you were talking about the Agriculture Committee.

Mr. FORD. No. I said the supplemental for the Finance Committee and the Appropriations Committee. You started enumerating various items and you thought their supplementals were in order.

Mr. HELMS. I also gave percentages for those committees.

Mr. FORD. I submitted that for the RECORD.

Mr. HELMS. I appreciate the Senator doing that.

Mr. FORD. There is a little difference between your figures and the committee figures and the way you are showing the annualizing.

If you take 1988 over 1986, it is a big boost, but if we grant the supplemental, the increase for 1988 will be somewhat less.

Mr. HELMS. Thirty-four percent.

Mr. LEAHY. Mr. President, a number of Senators have desired to have lunch with their families. Others are working on the continuing resolution conference and appropriations. I am supposed to be there, too.

I am perfectly willing to yield back the remainder of my time, if the Senator from North Carolina is willing to do so, so that we can get these matters to a vote, so that Senators can get to other business or their families.

The PRESIDING OFFICER. The Senator from Vermont yields back his time, subject to the Senator from North Carolina doing so.

Mr. HELMS. Mr. President, I am willing to do that, if the Senator will let me apologize to the distinguished Senator from Montana. I think I misheard his question and therefore gave him the wrong answer.

The cost of operating Congress is not $1.02 billion. If you include all the agencies that the distinguished Senator specified, the total cost of operating Congress is way over $2 billion.

If you want to know exactly what it costs for legislative activities, it is $1,020,476,000 for 1987, 10 times what it was in 1966. In 1976, it was $374,122,000. In 1986, the cost of operating just the legislative side was $849,931,000. For 1987, it is $1,020,476,000.

Mr. President, I ask unanimous consent to have printed in the RECORD the statistics which appeared in the Tax Foundation's "Tax Features" of May-June 1987. The headline on that newsletter is, "Cost of Congress Tops $2 Billion As Legislators Raise Their Pay 16 Percent."

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

OUTLAYS FOR THE LEGISLATIVE BRANCH OF THE FEDERAL GOVERNMENT BY UNIT SELECTED FISCAL YEARS 1966–87 [1]

[Thousands]

Unit	1966	1976	1986	1987
Total	$231,505	$775,366	$1,664,516	$2,131,457
Congress, total	111,865	374,122	849,931	1,020,476
Senate	35,388	123,851	273,223	331,713
House of Representatives	68,095	197,525	470,741	574,722
Joint activities	8,382	52,746	105,970	114,041
Legislative agencies, total	119,640	401,244	814,582	1,110,981
Architect of the Capitol	26,158	57,281	94,696	188,893
Botanic Garden	497	1,235	2,107	2,267
Congressional Budget Office		2,763	15,678	17,853
General Accouting Office	46,136	131,778	288,533	307,546
Government Printing Office	21,662	93,391	56,423	114,676
Library of Congress	25,187	117,193	334,335	442,668
Office of Technology Assessment		5,035	14,309	16,474
U.S. Tax Court		6,919	22,147	26,387
Other		1,447	1,984	3,082
Deductions for offsetting receipts		−15,798	−15,630	−8,865

[1] Data for 1987 are estimates from the Budget presented in February 1987.
Source: Office of Management and Budget.

Mr. HELMS. Mr. President, I yield back my time.

Mr. LEAHY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the resolution. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Nevada [Mr. REID], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that , if present and voting, the Senator from Maryland [Ms. MIKULSKI] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH], the Senator from New Hampshire [Mr. HUMPHREY], and the Senator from Arizona [Mr. MCCAIN] are necessarily absent.

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

The result was announced—yeas 52, nays 35, as follows:

[Rollcall Vote No. 416 Leg.]

YEAS—52

Adams	Ford	Moynihan
Baucus	Fowler	Nunn
Bentsen	Glenn	Pell
Bingaman	Graham	Pryor
Boren	Harkin	Quayle
Boschwitz	Heflin	Riegle
Breaux	Hollings	Sanford
Bumpers	Inouye	Sarbanes
Burdick	Johnston	Sasser
Byrd	Kassebaum	Shelby
Chiles	Kerry	Stafford
Cochran	Lautenberg	Stennis
Conrad	Leahy	Trible
Cranston	Levin	Warner
Daschle	Lugar	Weicker
DeConcini	Matsunaga	Wirth
Domenici	Melcher	
Exon	Mitchell	

NAYS—35

Armstrong	Hatfield	Pressler
Bond	Hecht	Proxmire
Chafee	Heinz	Roth
Cohen	Helms	Rudman
D'Amato	Karnes	Simpson
Danforth	Kasten	Specter
Dole	McClure	Stevens
Durenberger	McConnell	Symms
Evans	Metzenbaum	Thurmond
Garn	Murkowski	Wallop
Gramm	Nickles	Wilson
Grassley	Packwood	

NOT VOTING—13

Biden	Hatch	Reid
Bradley	Humphrey	Rockefeller
Dixon	Kennedy	Simon
Dodd	McCain	
Gore	Mikulski	

So the resolution (S. Res. 304) was agreed to, as follows:

S. RES. 304

Resolved, That section 3(b) of the Omnibus Committee Funding Resolution of 1987 (S. Res. 80; 100th Congress) is amended by striking out "$1,304,430" and inserting in lieu thereof "$1,434,873".

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The Senate will be in order for consideration of further business.

COMMITTEE FUNDING RESOLUTIONS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the en bloc consideration of committee funding resolutions numbered 306, 311, 319, 321, 322, and 325.

Is there debate? If not, the question is on agreeing to the resolutions en bloc.

Mr. METZENBAUM. 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. METZENBAUM. 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. METZENBAUM. Mr. President, I inquire of the majority leader whether or not it would not be possible for us to have a rollcall vote. I would have no objection to the all six being considered en bloc, but I think some of us would like the opportunity to cast a nay vote on the issue of supplemental funding for committees. I am not trying to create a problem for the leader, nor do I want to delay my colleagues unnecessarily. But if it could be put to a vote as a group, then it would not delay anybody, because we have just voted and we are all here, and we would all have a chance to cast a vote on the issue.

Mr. BYRD. Mr. President, if I might have the attention of all Senators.

The PRESIDING OFFICER. The Senate will be in order. The staff will retire and cease conversation. Senators will take their seats.

The majority leader.

Mr. BYRD. I thank the Chair.

Mr. President, if Senators will look on page 2 of the Calendar of Business, at the top of the page they will see the agreement. If they will look at the penultimate paragraph, it reads as follows:

Provided further, That action on each of these resolutions appear separately in the RECORD and that one motion to reconsider and lay on the table be in order.

This means, if we have a rollcall vote, that the action on each of the six committee requests will appear separately in the RECORD, which means also that that one rollcall vote will appear as six rollcall votes.

It is all right with me. But there are Senators on both sides of the aisle who are absent. I would hesitate for us to have what would appear to be six rollcall votes so Senators would appear as being absent and, thus, would have missed the rollcall votes.

By unanimous consent now, we could change that. I will ask unanimous consent that if the distinguished Senator wishes a rollcall vote—he is entitled to ask for that—I ask unanimous consent that if a rollcall vote is ordered on the resolutions en bloc that it appear only as one rollcall vote en bloc, just as one voice vote en bloc would complete action on all six of the resolutions.

Does the Senator intend to ask for a rollcall vote?

Mr. METZENBAUM. I intend to ask for a rollcall vote, but I would be perfectly happy to have one vote for all six. It makes the same point. So I would be very happy with that. I do not want to delay my colleagues in being able to get away.

Mr. BYRD. Mr. President, I ask unanimous consent that if a rollcall vote is ordered on the resolutions en bloc, that it be charged as only one rollcall vote en bloc and not as six, even though the resolutions be spread separately in the RECORD.

The PRESIDING OFFICER. Is there an objection? Hearing none, the unanimous-consent agreement is concurred in.

The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nebraska.

SCHEDULE

Mr. EXON. Before the yeas and nays are requested, I am wondering, since the majority leader and the minority leader are both on the floor and I just heard something about Senators being able to get away, I wonder if we might all be informed as to how long the getaway period will be? The latest intelligence this Senator had from the House side, from a Member of the Nebraska delegation, is that the present plans on the House side are not to have rollcall votes in the House of Representatives tomorrow.

I am wondering if that is a irresponsible rumor? If it is a true rumor, I take it it would have some bearing on the plans of some Senators. Not this one. I have given up, I have surrendered. I am just going to stay here. Others have different ideas.

Is there a getaway period after the rollcall vote? And, if so, how long will the getaway period be as far as we know now?

Mr. BYRD. Mr. President, of course we all know that Capitol Hill is a rumor mill just as is the rest of the capital, c-a-p-i-t-a-l. I do not wish to give credence to that rumor.

I ask unanimous consent to proceed for 2 minutes.

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

Mr. BYRD. Based on the information I have at this point the Senators may be informed as follows: Upon the disposition of the six resolutions I shall proceed to call up the nomination of Marvin T. Runyon, of Tennessee, to be a member of the Board of Directors of the Tennessee Valley Authority. That will be a rollcall vote. There are Senators who want a rollcall vote on that. I am informed that those Senators who will oppose this nomination are willing to enter into a time agreement of 20 minutes to the side.

Mr. DOLE. Equally divided, 20 minutes?

Mr. BYRD. Twenty minutes, equally divided.

Mr. STAFFORD. That would be agreeable to us.

Mr. BREAUX. Ten minutes. I do not know if anybody else is going to speak in opposition. I certainly will not take more than 10 minutes.

Mr. BYRD. I thank the able Senator. Twenty minutes to be equally divided between Mr. STAFFORD and Mr. BREAUX; that upon the expiration of the 20 minutes or the yielding back thereof, the vote occur on the nomination and that upon the disposition of the nomination, the Senate return to legislative session.

That will be the last rollcall vote in the Senate today.

There are some problems in conference but this is not unusual. We all have seen problems in these conferences before. They are difficult. But I am optimistic and hopeful that we will be able to resolve them and vote on these two conference reports tomorrow. If we do not complete action on these two conference reports tomorrow, it means the Senate and the House will have to be here Monday because I will not agree to an adjournment of either body over Christmas simply for the sake of delaying the action until after Christmas. It means we will be in session Monday, or Tuesday, or Wednesday. So, with this as a driving engine, I think we all understand that we need to get out of here.

The CR expiration date was last night as of midnight, and I know that we are getting all the stories about the monument closing down and all that. I do not think anybody is going to suffer over the weekend, but we need to get this business completed. I would hope that we would all maintain a bit of equanimity and avoid, from downtown, the threat to veto.

I said to our President yesterday that I am in favor of keeping our agreements and I also said I hope that OMB will also not shift its position too much when it comes to scoring. I understand there is some of that going

on. The President says, "Well, I will check on that." I said, "I also hope, Mr. President, it won't be too—that the talk about vetoes, threats of vetoes, will not be too loud." I said, "I have a feeling that we will find a way to work these things out." And there will be a meeting at 2:30 with some of the principals on both sides of the Hill here.

So I hope, in answer to Mr. EXON, that we will be able to complete our work tomorrow, which means that we have to agree today, hopefully this evening; the papers have to be prepared, the House has to act first on the two conferences, and my guess is that, looking at it as of right now, I would say we probably will come in in the Senate about 3 o'clock tomorrow and await the action of the House on the conference reports. We will finish up at some point, depending on how long the Senators insist on talking once the conference reports get over here.

There has to, obviously, be some give and take and I think we can all work on this together. It will come out all right in the end.

As I learn more during the afternoon, if I learn more which would indicate that such a rumor has more basis than I think we should give it credence at this point, I will certainly inform my colleagues.

Mr. EXON. I thank the majority leader.

Mr. BYRD. I thank the distinguished Senator.

I want to thank all Senators, too, for their understanding and cooperation. It has just been excellent. We are all hoping to get out, certainly in time to have at least next week, that is Christmas week for ourselves and our families and Senators can be assured that as far as the Senate is concerned, I think we are working hard toward that end.

Mr. President, I yield the floor unless another Senator wishes to ask a question.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, as chairman of the Rules Committee and in charge of the supplementals, I think the debate is there, the information is out for everybody to see. I do not intend to take any time; I am ready for them to go to vote. I understand my distinguished colleague, the Senator from Alaska, the ranking member on the committee does not wish to make any statements.

We are ready to go to a vote, Mr. President.

Mr. STEVENS. Mr. President, the Senator from Kentucky is correct. We recommend approval of these in one vote.

The PRESIDING OFFICER. The yeas and nays having been ordered——

Mr. BYRD. Mr. President, I did get consent or did I ask consent that, upon the disposition of the pending business the Senate proceed to executive session and to the nomination of Mr. Marvin T. Runyon, Calendar Order No. 476 on the executive calendar?

The PRESIDING OFFICER. The Chair believes that no such consent was obtained.

Mr. BYRD. I thank the Chair. I make such request.

The PRESIDING OFFICER. Is there objection to the majority leader's request? No objection; it is concurred in.

The clerk will call the roll on the committee funding resolutions en bloc.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Oklahoma [Mr. BOREN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Nevada [Mr. REID], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH], the Senator from New Hampshire [Mr. HUMPHREY], and the Senator from Arizona [Mr. MCCAIN] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 22, as follows:

[Rollcall Vote No. 417 Leg.]

YEAS—64

Adams	Ford	Moynihan
Baucus	Fowler	Murkowski
Bentsen	Garn	Nunn
Bingaman	Glenn	Packwood
Boschwitz	Graham	Pell
Breaux	Grassley	Pressler
Bumpers	Harkin	Pryor
Burdick	Hatfield	Riegle
Byrd	Heinz	Rudman
Chafee	Hollings	Sanford
Chiles	Inouye	Sarbanes
Cochran	Johnston	Shelby
Cohen	Kassebaum	Specter
Conrad	Kerry	Stafford
Cranston	Lautenberg	Stennis
Danforth	Leahy	Stevens
Daschle	Levin	Trible
DeConcini	Lugar	Warner
Dole	Matsunaga	Weicker
Domenici	McClure	Wirth
Evans	Melcher	
Exon	Mitchell	

NAYS—22

Armstrong	Karnes	Sasser
Bond	Kasten	Simpson
D'Amato	McConnell	Symms
Durenberger	Metzenbaum	Thurmond
Gramm	Nickles	Wallop
Hecht	Proxmire	Wilson
Heflin	Quayle	
Helms	Roth	

NOT VOTING—14

Biden	Gore	Mikulski
Boren	Hatch	Reid
Bradley	Humphrey	Rockefeller
Dixon	Kennedy	Simon
Dodd	McCain	

So the resolutions (S. Res. 306, 311, 319, 321, 322, and 325) were agreed to en bloc, as follows:

S. RES. 306

(Authorizing supplemental expenditures for the Committee on Armed Services)

Resolved, That section 5 of Senate Resolution 80, 100th Congress, agreed to January 28, 1987, is amended by striking out $2,167,877" and inserting in lieu thereof "$2,447,184".

S. RES. 311

(Authorizing supplemental expenditures by the Committee on Finance)

Resolved, That section 11(b) of S. Res. 80, One Hundredth Congress, agreed to January 28, 1987, is amended by striking out "$2,223,333" and inserting in lieu thereof "$2,458,333".

S. RES. 319

(Authorizing supplemental expenditures by the Committee on Veterans' Affairs)

Resolved, That section 18(b) of Senate Resolution 80, 100th Congress, agreed to January 28, 1987, is amended by striking out "$907,901" and inserting in lieu thereof "$949,401".

S. RES. 321

(Consolidating and authorizing supplemental expenditures by the Select Committee on Indian Affairs)

Resolved, That Senate Resolution 353, section 21, paragraph (b), 99th Congress, as amended, be amended by striking out "$790,797" and inserting in lieu thereof "$795,797"; and be it further

Resolved, That Senate Resolution 80, section 21, paragraph (b), 100th Congress, be amended by striking out "$842,335" and inserting in lieu thereof "$1,142.335".

S. RES. 322

(Authorizing supplemental expenditures for the Committee on Appropriations)

Resolved, That (a) section 4(b) of S. Res. 80, One Hundredth Congress, agreed to January 28, 1987, is amended by striking out "$4,119,856" and inserting in lieu thereof "$4,209,856".

(b) That section 4(b)(1) of such resolution is amended by striking out "$135,000" and inserting in lieu thereof "$180,000".

S. RES. 325

(Authorizing supplemental expenditures for the Committee on Rules and Administration)

Resolved, That section 16(b) of Senate Resolution 80 (One Hundredth Congress), agreed to January 28, 1987, is amended by striking out "$1,231,058" and inserting in lieu thereof "$1,243,558".

Mr. FORD. Mr. President, I move to reconsider the vote by which the resolutions were agreed to.

Mr. STAFFORD. I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider the nomination of Mr. Marvin T. Runyon, of Tennessee, to be a Member of the Board of Directors of the Tennessee Valley Authority.

The clerk will report the nomination.

TENNESSEE VALLEY AUTHORITY

The legislative clerk read the nomination of Marvin T. Runyon of Tennessee, to be a Member of the Board of Directors of the Tennessee Valley Authority.

Mr. STAFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, the Senator from Vermont understands there is 20 minutes for this nomination equally divided. Am I correct?

The PRESIDING OFFICER. The Chair must advise the Senator from Vermont that, although it was suggested, no such order has been entered. The Chair will be glad to entertain such a request.

Mr. STAFFORD. Mr. President, I ask unanimous consent that debate on this nomination be limited to 20 minutes to be equally divided between the proponents and opponents. I think the arrangement intended that the Senator from Vermont and the Senator from Louisiana, Mr. BREAUX, be the managers of the respective sides.

The PRESIDING OFFICER. Is there an objection to the request of the Senator from Vermont? Hearing none, it is so ordered.

Mr. STAFFORD. Mr. President, I support the nomination of Marvin T. Runyon to be a Member of the Tennessee Valley Authority Board of Directors. These days it is so commonly recognized there are major problems at TVA that it should be unnecessary to say it again.

Mr. President, it is true TVA has serious and well publicized problems with their nuclear program, they have employee morale problems, and they have a badly tarnished reputation.

The root of these problems is not really about machinery or reactors, nor is it necessarily about the way TVA is structured. The real root of these problems is lack of leadership and poor management—be that existing management and leadership, or the residue of failures from the past.

There is no reason to expect that TVA's problems cannot be addressed and cured by strong and consistent leadership and management—and it is an unimpeachable record of strong and consistent management that Marvin Runyon would bring to TVA.

It has been argued that what TVA needs is a person who has extensive experience in utility management of nuclear power. Those arguments will be made, I believe, by Mr. BREAUX. We are asked to answer the question "How can we possibly expect a person with no utility experience to lift TVA out of its multifaceted problems?"

But Mr. President, we do not expect the President of the United States to be an expert in, or to necessarily even have personal experience in arms control, energy policy, space exploration, Social Security benefits, or any of the other multitude of complex, technical issues in which he must lead.

Rather, we expect that person to have leadership abilities and the good sense to surround himself with the type of experts he needs to make good decisions.

This same principle is true with respect to TVA. Mr. Runyon has repeatedly demonstrated excellence in leadership and management. He has won awards and he has won the acclaim of his employees over the years for his abilities. There is every reason to expect he will carry on this tradition while at TVA.

I would also like to add that it is indeed true that many of the problems with TVA's power program are technical and mechanical in nature. But the ability to handle technical and mechanical problems is Marvin Runyon's stock-in-trade. As I have said and many Members are aware, Mr. Runyon made his career in automobile manufacturing—a very technically demanding business.

At Ford he managed 120,000 employees. At Nissan he started their American plant. I daresay that Mr. Runyon is not totally cognizant of all of the details of manufacturing tires, batteries, air conditioners, engines, transmissions, drive trains, radiators, or the other components that go into making up an automobile.

So, I have no doubt that Mr. Runyon has the ability to ask the right questions and to quickly learn whatever technical details he needs to know.

Mr. President, I would like to emphasize the hope that my colleagues will note that after conducting a hearing on Mr. Runyon and examining his record, the Committee on Environment and Public Works voted 13 to 1 to favorably recommend his nomination to the Senate.

Mr. President, Marvin Runyon will prove to be an important asset for the Tennessee Valley Authority and I urge my colleagues to vote to approve his nomination.

Mr. President, finally, I ask unanimous consent that a copy of Mr. Runyon's testimony before the Committee on Environment and Public Works along with his résumé be placed in the RECORD at this point.

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

TESTIMONY BY MARVIN T. RUNYON BEFORE THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

I am honored to be here today. I appreciate the confidence of the President in nominating me for a position on TVA's Board of Directors. I have spent 44 rewarding and successful years in the private sector, and I am excited and challenged by the opportunity to enter public service and to serve the Tennessee Valley Authority and my country.

As you know, my entire career to date has been spent in the automotive industry. In a moment, I would like to share with you some of the philosophies and practices I have developed over the years that I think will be helpful in addressing the challenges that TVA faces today and in the future.

But first, let me spend a few minutes talking about TVA. At TVA, I will have to lead and learn at the same time. As a leader, I will work hard to earn your confidence and support, as well as the confidence and support of TVA employees and the public. As a learner, I will be thorough. I will be doing a lot of listening as I become familiar with the many facets of the TVA organization. I will listen to you, as elected officials, to TVA people, and to the public. I assure you I will not be making judgments on complicated issues until I have studied them thoroughly.

Already I have heard a variety of opinions about where TVA is and where it should go. The one point of consensus in everyone's mind is that TVA is a critical resource and tremendous asset for our region and our country. TVA has developed one of America's major waterways, controlled its floods, made it navigable, and harnesses its force for hydroelectricity. TVA has brought electricity to millions of people. TVA leads the nation and world in developing new fertilizers. Very few lives in the region have not been touched by TVA; and through its power systems, its economic development programs, and its environmental efforts, the nation has become a better place to live.

Some people would say TVA has accomplished its mission, that it has completed its job of building an electric system for the region, that it has developed the river sufficiently. But the work of TVA is far from being over. It can now demonstrate for the nation how a federal corporation can operate effectively and competitively; and the nation, as well as the region, will benefit from this. TVA can also serve as the nation's testing ground in addressing such current national issues as managing solid waste, protecting groundwater resources, demonstrating new energy technologies, and increasing agricultural productivity.

The challenges TVA faces today, such as improving water quality in the Tennessee River or restarting the agency's idled nuclear program, must be addressed effectively. These are very complex and difficult problems, but TVA has tackled and solved problems of immense dimensions before. I am confident that TVA can do it again.

The term I am being nominated for will take TVA to the doorstep of the 21st Century. Although many people view TVA as an agency of tradition and past accomplishments, I want to look at it as an agency of the future—an agency that can be a model of government quality and productivity, an agency that develops and demonstrates

technologies for the nation, and an agency that blends the best of private enterprise and public service.

I have met with Mr. Dean and Mr. Waters, who now serve on TVA's Board, and look forward to working diligently with them in bringing a new era of management to TVA. With their help, and your support, I think we can create in TVA that model of government quality and productivity.

Through effective management, TVA can better accomplish the basic mission set for it by Congress. It can keep its rates as low as feasible, and it can continue to balance the need for economic development with the need to conserve the region's magnificent natural resources.

I also believe that through effective management, TVA can bring its nuclear program back into operation and take a leadership role in identifying and developing new power sources for the future.

A clear, purposeful, and positive management system can play a decisive role in enabling TVA to meet these objectives, and I believe that is what I can bring to this position.

My career of 44 years in the automotive industry has given me the opportunity to work in and help manage one of our country's most important and turbulent industries. I started my career at Ford as an hourly employee on the assembly line in Texas where I was born. When I retired in 1980 as Vice President of Body and Assembly Operations, I had the responsibility for managing 120,000 people in 29 plants.

I then went to work for Nissan to create and launch Nissan's first manufacturing operation in this county. The Nissan parent company had some reservations about whether Americans could build quality as well as their Japanese counterparts do. Today, the Nissan operation in Tennessee is building the highest quality vehicles sold in this country and often surpasses the quality of the same Nissan vehicles built in Japan.

My lifelong experiences have brought me to the conclusion that the organizations who are prepared for the future are those that commit to a participative style of management. This is a "bottom-up" style that requires the people at the top to give up some control of the process, and concentrate instead on managing people.

The employees are the real experts at making the process work, especially in high-technology operations such as the automotive and utilities industries. In a participative system, the manager pushes responsibility down to the employees so that they can make the process work. Of course, a lot of other factors go into making such a system work.

If I had to choose my first principle of participative management, it would be that everyone share a common goal for the organization and a common sense of what the organization is all about.

The second principle would be the establishment of good communications throughout the organization and with external audiences.

The third important factor in a participative management system is training. We cannot ask people to take responsibility for the process if they do not have the knowledge and skills to handle it.

The fourth important aspect is a commitment from management to the health and well being of employees.

Finally, participative management must have an atmosphere of trust. For any system to work, management must trust the employees enough to give them responsibility. In my experience, when managers concentrate on managing and trusting employees, they find themselves spending less time solving problems.

If I am confirmed for the TVA Board of Directors, you will see me bringing these same philosophies and practices to my job there. TVA is a unique agency. Its challenges are complex and diverse but its opportunities are great. No one person can make TVA realize that greatness.

But with your help and counsel, with the TVA Board, management, and employees working together, and with the confidence and support of our public, we can focus TVA on its true mission: to improve the quality of life in the region, and to serve the entire nation successfully in the years ahead.

I know you have questions, and I will be glad to try to answer them.

RESUME: MARVIN T. RUNYON, JR.

Birth date: September 16, 1924.

Marital status: Married. Spouse: Frances E., birth date, December 19, 1926. Children: Marvin T. III, birth date, March 17, 1945; Elizabeth Anne, birth date, January 22, 1952; Paul Raymond, birth date, February 3, 1957; James Andrew, birth date, January 17, 1956.

EDUCATION

December 1941–June 1943, Management Engineering, Texas A&M College, College Station, Texas.

April 1946–January 1948, Bachelor of Science Degree in Management Engineering, Texas A&M College.

April 1964, Kepner-Trego Seminar, University of Michigan.

October 1966, Managerial Grid Seminar, St. Clair, Michigan.

January 1967, University of Michigan Seminar, Ann Arbor, Michigan.

June 1967, Communications Seminar, Stratford, Ontario.

June 1967, Management by Objectives Seminar, Kitchener, Ontario.

Febuary 1968, Management Development Seminar, Toronto, Ontario.

June 1968, Quantitative Decision Making Seminar, Port Huron, Michigan.

March 1971, Xicom Confrontation-Search Workshop, Detroit, Michigan.

June 1971, Telemetrics, Hillsdale, Michigan.

November 1971, Telemetrics, Ann Arbor, Michigan.

OUTSIDE ASSOCIATIONS

Society of Automotive Engineers, Inc.; Engineering Society of Detroit.

COMPANY COMMITTEE MEMBERSHIP

Advanced Review Committee, Engineering and Research Subcommittee, Manufacturing and Supply Subcommittee, Durability, Quality and Reliability Subcommittee, Political Contributions Committee.

FORD EXPERIENCE

July 1943–October 1943, Hourly Employe, Dallas Assembly Plant.

October 1943–December 1945, Military Service, Second Lieutenant, Air Corps.

December 1945–April 1946, Hourly Employe, Dallas Assembly Plant.

April 1946–January 1948, Student, Texas A&M College.

January 1948–August 1953, Atlanta Assembly Plant, Hourly, Work Standards Engineer, Methods Engineer, Tool Engineer, Quality Control Engineer, Production General Foreman.

August 1953–August 1957, Technical Assistant to Production Manager, Ford Division General Office. This assignment consisted of traveling to fourteen assembly plants in the United States for the purpose of assisting them in problem situations concerning production techniques, tooling, material problems and other problems associated with the operation of the assembly plants. During this period worked on the launch team for planning and launching three car and truck assembly plants.

September 1957–April 1959, Planning and Engineering Manager, Lorain Assembly Plant. This assignment consisted of construction of a $45 million assembly plant; staffing and launching the traffic, production control, purchasing, process engineering and plant engineering departments during the construction, start up and operation of the assembly plant.

April 1959–October 1960, Operations Manager, Lorain Assembly Plant. This assignment consisted of performing the duties of the Planning and Engineering Manager listed above plus the responsibility for staffing, start up and management of the addition of a night shift production operation equivalent to the day shift operations. During this period the Falcon and Comet vehicles were launched. These were the first unitized cars built in the Ford Motor Company. Also, the Econoline truck, which was the first unitized truck built by Ford Motor Company, was launched at this plant.

October 1960–March 1964, Assistant Plant Manager, Mahwah Assembly Plant. Responsible to the Plant Manager for the operation of all facets of the assembly plant. The primary objective of this assignment was to reorganize the existing operation, improve cost, quality and general operation of the plant. The plant employed 4500 hourly employes and 500 salaried employes and produced Ford cars, Mercury cars and Trucks F100 through F600. During this assignment the Mahwah operation was changed from a loss position to a profit and the quality was improved to a position above the division average from last place.

March 1964–February 1965, Assistant Plant Manager, Metuchen Assembly Plant. Responsible to the Plant Manager for the operation of all facets of the assembly plant. The primary objective of this assignment was to reorganize the existing operation, improve cost, quality and general operation of the plant. This plant employed 3500 hourly employes and 400 salaried employes and produced Falcon and Comet vehicles. An additional assignment during this period was to discontinue the Falcon production and start up the Mustang, a new car line. Both of these assignments were successful as cost and quality were brought to the above average levels and the launch of the Mustang was very successful.

February 1965–May 1966, Plant Manager, Norfolk Assembly Plant. The primary objective was completion of the modernization of the Norfolk Assembly Plant and reorganize the concepts of operation from a small plant 600,000 sq. ft. to a large operation, 1,000,000 sg. ft. This plant employed 1400 hourly employes and 275 salaried employes and produced Ford cars and trucks, F100 through F600, including buses. Introduced a Zero Defects philosophy which was successful in making Norfolk achieve the best quality level of any plant in the division.

May 1966–June 1969, *Plant Manager, St. Thomas Assembly Plant.* Responsible for the planning, constructing and staffing of the St. Thomas plant starting with the corn-

field. The plant was 1.5 million sq. ft. and was constructed at a cost of $65 million. The objective of this plant was to introduce new operating facilities which were different than any other plant as a pilot installation for new plant concepts in the division. As a result of this installation, all new plants at Ford will follow the St. Thomas design. The plant employed 2,300 hourly and 400 salaried employes on a two-shift basis and produced 52 units per hour. The new Maverick was launched at the St. Thomas plant during this period. This plant was the Company's best performer in quality and cost at the end of three years from the start of construction.

June 1969–July 1970, *Regional Operations Manager, Automotive Assembly Division, General Office.* Responsible to the Division General Manager for the operation of nine assembly plants. These plants employed approximately 4,000 salaried employes and approximately 25,000 hourly employes. The majority of these plants were two-shift mixed car line plants. Units built at these plants were Thunderbird, Ford, Mercury, Torino, Mustang, Pinto, Maverick and Truck.

July 1970–November 1972, *Assembly Engineering Manager, Automotive Assembly Division, General Office.* Responsible to the Division General Manager for all engineering components of the division. This included the maintenance, upkeep and equipping of 17 assembly plants. Also responsible for the changeover from one model year to another of all equipment in the assembly plant and the design and purchase of all tooling required for assembly of all cars produced by the Ford Motor Company in the 17 assembly plants. Responsible for the approval of product design for production feasibility and for the functioning and approval of all new parts for production. Responsible for the incoming quality of all parts purchased from supplies and also maintained a surveillance over Company supplying divisions to the Automotive Assembly Division. Directed the activity of the industrial engineering, plant engineering, facilities engineering, systems engineering and forward products engineering and special studies engineering. Approximately 1,000 persons were engaged in this activity. During this period initiated the "back-to-back" launching concept whereby the assembly plants were not shut down for model changeover. By accomplishing this, it was possible to increase the capacity of the Company by the equivalent of two new assembly plants as downtime historically required from 3 to 8 weeks for changeover.

November 1972–April 1973, *General Manager, Automotive Assembly Division, General Office.* Responsible to the vice president, Body and Assembly Operations. The Automotive Assembly Division consisted of 60,000 hourly and 12,000 salaried employes who were employed in 21 assembly plants and the Division General Office. The Division was responsible for manufacture of all cars and trucks for the United States, Canada and Export. The Division was responsible for the purchase of parts and components from outside suppliers in the amount of $6 billion. It also had the responsibility of coordination of the other divisions in the Ford Motor Company who also supply parts for the manufacture of vehicles. The design and purchasing of tooling, construction and equipment of plants, sourcing of product lines to the plants considering all factors of incoming and outgoing freight, other locations, etc. were all included as part of the responsibility of this Division.

April 1973–July 1977, *Vice President, Body and Assembly Operations.* Body and Assembly Operations consisted of Automotive Assembly Division, Metal Stamping Division, Body Engineering Office, General Products Division and Purchasing and was responsible for the assembly of cars and trucks for the United States, Canada and Mexico. Body and Assembly Operations was responsible for the manufacture of sheet metal parts, paint and vinyl, electrical and mechanical parts produced by the Company with the exception of powertrain components, the body engineering portion of the vehicle, and purchasing of all parts which are not manufactured by Ford Motor Company. During this period Body and Assembly Operations was responsible for the purchase of an existing plant and installation of 8 press lines to increase stamping capacity. This job varied during the four year assignment in content regarding the divisions and components reporting to it, but the responsibility for the assembling of vehicles did not change.

July 1977–January 1979, *Vice President, Powertrain and Chassis Operations.* Powertrain and Chassis Operations consisted of the Transmission and Chassis Division which manufactured transmissions, rear axles, all suspension components, steering gears, etc., and the Engine Division which was responsible for assembly of all engines used in North American products. The purpose of this assignment was to broaden my experience as this was the only phase of manufacturing in which I had not been previously engaged. During this period it was necessary to start up a new transaxle plant and a new engine plant to meet the changing market demands. Searching for the sites, negotiating with the states, and arriving at a conclusion on location of the plants was part of the responsibility during this period.

January 1979, *Vice President, Body and Assembly Operations.* The manufacturing operations were restructured to include engineering and purchasing along with manufacturing. At this time the Automotive Assembly Division, Metal Stamping Division, Body and Electrical Engineering, Purchasing and General Services Division report to this position. At the present time there are 98,000 hourly and 22,000 salaried employees reporting to this position. There are 21 assembly and trim plants reporting to the Automotive Assembly Division. There are 8 stamping, wheel, frame, and tool and die plants reporting to the Metal Stamping Division. The Purchasing office is responsible for a $9 billion buy per year. The Body and Electrical Engineering office is responsible for design of all body and electrical components used in both cars and trucks. General Services Division is responsible for maintenance of all facilities in the Dearborn area, running of all computer facilities, reprographics, photographics and printing in the Dearborn area, running of the railroad in the Rouge, running of the Rouge trucking operations, security, fire protection, and medical facilities in the Rouge. During this past year, Body and Assembly Operations successfully completed a major launch of 12 of its assembly plants, which was the largest in Company history. This was done while maitaining high quality levels and achieving $118 million performance to budgeted cost levels.

HONORS

1985: "President" on 1985 All-Star Team, Automotive News.

1985: Manager-of-the-Year, Avco Aerostructures Chapter of National Management Association, Nashville, TN.

1985: CEO-of-the-Year, Advantage Magazine, Nashville, TN.

1986: Distinguished Service Citation, Automotive Hall of Fame.

1986: 1985 Salesman-of-the-Year, Sales and Marketing Executive Club, Nashville, TN.

1986: Honorary Chairman, Clinic Bowl, Nashville, TN.

1986–88: Honorary General Committee for the International Federation of Automotive Engineering Societies' 1988 Congress.

ATTACHMENT NO. 3—MARVIN T. RUNYON

Name	Address	Type	From	To	Office held
Southeast United States/Japan Association	Dept. of Economic and Community Development, 320 6th Ave. North, Nashville, TN 37219–5308.	Civic	1981		Governor's advisory board.
Tennessee Technology Foundation	One Energy Center, P.O. Box 23184, Knoxville, TN 37933	Professional	1982		Board of directors.
Tennessee Minority Purchasing Council	Bldg. No. 3, Suite 235, Maryland Farms, Brentwood, TN 37027	Civic	1982	1983	Chairman of corporate advisory committee.
Leadership Nashville	P.O. Box 2682, Nashville, TN 37219–0682	do	1982	1983	Participant.
INROADS/Nashville, Inc	Box 3111, Nashville, TN 37219	do	1983		Advisory board.
Nashville Area Chamber Chamber of Commerce	161 Fourth Ave., North, Nashville, TN 37219	Professional	1983	1985	Board of governors.
United Way of Nashville and Middle Tennessee	250 Venture Circle, P.O. Box 24667, Nashville, TN 37202	Civic	1984	1986	Board of trustees.
Tennessee Association of Business	226 Capitol Boulevard, Suite 800, Nashville, TN 37219	Professional	1984	1987	Board of governors.
College of Business Administration, Texas A&M University	College Station, TX 77843–1112	Professional	1984	1987	Development council member.
Automotive Hall of Fame	P.O. Box 1727, Midland, MI 48641–1727	do	1985		Board of trustees.
United Way of Nashville and Middle Tennessee	250 Venture Circle, P.O. Box 24667, Nashville, TN 37202	Civic	1985	1986	General campaign chairman.
National Conference of Christians and Jews, Inc	100 Oaks Office Tower, Suite 332, Nashville, TN 37204	do	1985	1988	Board of directors.
Rotary Club of Nashville	One Nashville Place, Box 88, Nashville, TN 37219	Fraternal	1986	1988	Do.
Nashville/Davidson County Unit of American Cancer Society	2008 Charlotte Ave., Nashville, TN 37203	Civic	1986	1988	Do.
International Federation of Automotive Engineering Societies' 1988 Congress.	400 Commonwealth Dr., Warrendale, PA 15096–0001	Professional	1986	1988	Honorary general committee member.
United Way of Rutherford County	102½ E. Vine Street, Room 204 A, Mid-State Bldg., P.O. Box 37, Murfreesboro, TN 37130.	Civic	1986	1989	Board of directors.
Cumberland Museum	800 Ridley Blvd., Nashville, TN 37203–4899	do	1986		Do.
Leadership Nashville Alumni Association	4440 Tyne Blvd., Nashville, TN 37205	do.	1986		President.

ATTACHMENT NO. 3—MARVIN T. RUNYON—Continued

Name	Address	Type	From	To	Office held
Nashville State Technical Institute	120 White Bridge Road, P.O. Box 90285, Nashville, TN 37209–4515	Professional	1987		Development advisory board.
Center for International Business Studies, Texas A&M University	College Station, TX 77843–1112	do	1987		Advisory board.
Society of Automotive Engineers, Inc	400 Commonwealth Dr., Warrendale, PA 15096–0001	do	1972		Member.
Engineering Society of Detroit	100 Farnsworth, Detroit, MI 48202	do	1972		Do.

Mr. STAFFORD. Mr. President, I reserve the balance of my time and yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I yield myself such time as I may consume.

Mr. President, Members of the Senate, let me say very clearly up front that I strongly oppose the nomination, at least the confirmation of the nomination of Marvin Runyon to be Chairman of the TVA. I do that in no way to slight the personal credibility or honesty or integrity of the nominee. He is a good man. He is a good person. He is a knowledgeable man but he is not knowledgeable in the area that we are asking him to become chairman of.

Mr. President, the TVA is an organization that receives over $100 million a year from the Congress to run. It operates the largest power system in America. It has service being provided to over 7 million people. It employs over 35,000 people. I would say, Mr. President, to my colleagues that TVA has some very serious problems. TVA has five nuclear plants that are currently shut down, four others that are under construction that are not finished and they have eight that have been canceled. TVA despite a $15 billion investment is not able to generate one single kilowatt of electric power. We cannot light a light bulb with the power from the nuclear reactors that TVA is in charge of operating despite a $15 billion investment.

Mr. President, I take the confirmation process of this body very seriously. That is the one thing that distinguishes us from the House in which I served for 14 years. We should not rubberstamp the President's nominations. What you know should be at least as important as who you know. I happen to think that what you know is more important than who you know in determining who gets what jobs in our Federal Government. I am very concerned, Mr. President, that, despite the President's nomination, for us to rubberstamp would be a very serious mistake. We should have the authority to say, Mr. President, send us someone who has some experience, some background, some training, some formal education, something, show me an article that this man has written about the TVA, tell me that he has spent some time working with TVA, tell me that he has some training in nuclear power or in hydroelectric power, tell me that he is experienced in flood control planning, tell me he has experience in building watershed projects or knows something about ground water problems.

Mr. President, the record is completely and totally devoid of any such evidence. He has 44 years of experience in building automobiles and he has done a tremendous job building automobiles. I commend him for it. But, Mr. President, TVA does not build automobiles. TVA serves 7 million people the power that is vital to this particular part of America.

Mr. President, some say this man has tremendous management capabilities. I would say that is great if we were looking at an organization that had only management problems. TVA has some structural problems that need to be looked into. TVA has some problems in the nuclear power generation facilities that need an expert to consider whether the advice from below is proper and correct advice that needs to be implemented.

I find that this man's record has none of that evidence at all in order to establish him as a credible candidate to become the Chairman of the Board of a very important institution. I certainly am delighted to do everything that I can working with Senator SASSER and Senator GORE in this Senate, who are deeply concerned and have expressed their concerns to me to make sure that we do what is right to improve TVA. I am committed to doing that.

But I think the first thing that we could do is to send a message that we want a TVA Chairman who is going to make the people of the Tennessee Valley proud, to say that this man was the right man at the right time to address the very serious problems, and not just being given a political reward. For 8 years, Mr. President, until 1996, the TVA should not be a place where people get on-the-job training so that one day he can say, "Well, I learned the job while I was at TVA."

I would like for us to be able to say he knows what the problems are now; that he does not have to become Chairman of the Board at TVA in order to learn what the problems are and suggest some answers to those particular problems.

So I say, Mr. President, to my colleagues I have nothing personal about this nominee. I find him a charming person, a man of impeccable credentials, an honest man who has built a reputation in 44 years in the automobile business which is totally beyond reproach. But I would say as an example that when Nissan picked Mr. Runyon to be the head of Nissan in the United States of America they did so because he had 37 years of experience in the automobile business. This man has zero years of experience in the subject matters that TVA has under its jurisdiction. In fact, I think the record indicates that his record is totally devoid of any experience in any of these areas.

I just think it is not too much for us to say as Members of the Senate that this person does not deserve the confirmation of the U.S. Senate. We can do better. I think we owe it to the people of this proud institution, which has served over 50 years, a better choice to be the head of that body than the President's nominee. I expect he will, in fact, be confirmed.

As chairman of the Nuclear Regulatory Subcommittee of the Environment and Public Works Committee I pledge to work with him. Some have said "Are you going to try to frustrate him after he is there?" Of course not. That is not the function of this chairman in this position. It is to help. I wish that he will get the help that I fear he is going to need. I am committed to helping him make that position a stronger and a better position.

I hope that all Members will give real consideration to his lack of professional qualifications in this particular area. I think we owe that to the Senate and to the people of the Tennessee Valley and to the people of this country.

Mr. STAFFORD. Mr. President, I yield the remainder of the time allotted to this side to the able Senator from Tennessee [Mr. SASSER].

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. I thank my distinguished friend from Vermont.

Mr. President, I rise in strong support of the nomination of Marvin Runyon to the chairmanship of the Tennessee Valley Authority Board of Directors, and I urge that we move quickly to confirm him.

I appreciate the remarks of my distinguished friend from Louisiana. I believe that his arguments are sincerely offered, and they deserve to be seriously considered.

I think the fact that the Senator from Louisiana, who will chair the subcommittee which has primary jurisdiction over the Tennessee Valley Authority, is taking this nomination so seriously bodes well for his stewardship of the Tennessee Valley Author-

ity over the next few years. I look forward to working very closely with him.

The Senator is correct in his astute comments about TVA's current difficulties. I believe he has accurately stated the issue. TVA has had serious and very well publicized problems with its nuclear program. Billions of dollars are at stake and the welfare of millions of people could weigh in the balance.

The truth is that TVA has been in a state of continuing crisis for 2 years—a crisis environment that threatens the very existence of an institution that has served the citizens of seven States for over half a century.

I do not disagree at all with the assessment of the distinguished Senator from Louisiana that this is an absolutely crucial time for TVA.

But Mr. President, I would argue that precisely because there is a crisis atmosphere at TVA, precisely because this nomination is crucial, we need to confirm Marvin Runyon forthwith and send him to Knoxville, TN, where he can begin to solve TVA's many problems.

No one's interests are served by continued delay, and I think we all know that today.

The sad truth is that the situation might not have reached this desperate pass had the administration acted more decisively in filling the position on the TVA board that has been vacant for over 2 years.

That open seat has only served to intensify the real problem at TVA. I think that problem can be stated simply: TVA has a serious crisis of need for determined and experienced management expertise.

TVA has an abundance of first-rate nuclear engineers. In recent months, it has even had an infusion of outside nuclear talent from the premier nuclear engineering firms in the country.

The technical skill is there. What TVA desperately lacks is a firm guiding hand on the tiller. In short, TVA needs a skilled, experienced, and hard-nosed manager.

That is precisely the area in which Marvin Runyon excels.

Mr. Runyon's experience is not in nuclear power. We will concede that. But he has been responsible for bringing an enormous automotive manufacturing facility up from ground zero to a point where it is now producing 30,000 automobiles per day—automobiles that are lauded worldwide, certainly in this country, for their high quality. Indeed, the Nissan automobiles produced in the factory that was the brainchild of Marvin Runyon are of higher quality than like automobiles produced in the Japanese home islands. That is an indication of what American labor can do with proper management and proper direction.

The quality assurance operations at that plant are up to the standards of any in the world—and I would observe that quality assurance has been a central point of controversy at TVA's nuclear plants.

Mr. Runyon knows how to get a plant on line. He knows how to make a plant run efficiently. TVA needs someone who knows something about efficient operation.

I see the distinguished Senator from Mississippi [Mr. STENNIS] in the Chamber. Of course, Senator STENNIS brings to this question almost a half century of experience with respect to the needs of the Tennessee Valley Authority.

The bottom line is this, and I would say to my colleagues that I am speaking from more than a decade of experience in dealing with TVA issues: TVA needs a hands-on, inspirational, decisive leader. I believe that Marvin Runyon can be that leader. And I believe that we must give him a chance to get down there and make a difference.

That, in my judgment, is our only course with this nomination. But I would feel remiss if I did not address some of the points made by my friend from Lousiana on the question of how we assess the qualifications of Presidential nominees to high Government office.

Mr. President, I ask unanimous consent that I be allowed to proceed for 1½ minutes.

The PRESIDING OFFICER. Is there objection?

Mr. DANFORTH. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SASSER. Mr. President, I ask unanimous consent that the remainder of my statement be printed in the RECORD as if read.

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

(The remainder of Mr. SASSER's statement is as follows:)

Mr. SASSER. I submit to my colleagues that we do not, as a rule, ask for direct technical background in a given field before we confirm a nominee to head a major Government agency.

Just to take a few examples, the current Secretary of State is not a career diplomat. Nor have a large number of his predecessors been.

The current Secretary of Energy is neither a geologist, nor a petroleum engineer nor a nuclear engineer.

I would have to suspect that a number of the most accomplished Cabinet officials in our history came to their jobs without previous backgrounds in the fields for which they were assuming responsibility.

If we are perfectly willing to entrust the Nation's defense, its energy policy, its diplomacy in the hands of distinguished generalists, we should certainly feel comfortable with a distinguished generalist at the helm of the Tennessee Valley Authority.

I might make one last observation about the particular position we are considering. In the course of 54 years of continuing success and controversy, TVA has had numerous chairmen. To my knowledge, only one has had any direct prior experience as a utility manager.

TVA has had agricultural specialists, numerous lawyers, construction engineers and former elected officials on the Board. Virtually all of them have had to educate themselves in many aspects of TVA's projects and programs.

Some have gone through that education process, and then moved forward to become truly fine directors in areas with which they had no familiarity when they came to the Board.

I believe that Marvin Runyon deserves the same opportunity. He has all the skill and all the qualities necessary to become a truly fine Board member.

TVA needs those qualities and it needs them right now. I urge my colleagues to vote to confirm Marvin Runyon to the TVA Chairmanship. Further delay can only jeopardize an institution that has served millions of people for more than 50 years.

The PRESIDING OFFICER. Does the Senator from Louisiana yield back the remainder of his time?

Mr. BREAUX. How much time do I have remaining?

The PRESIDING OFFICER. Three minutes and twenty seven seconds.

Mr. BREAUX. I will take 60 seconds.

Mr. President, if the question were, "Would you buy a used car from this man?" the answer is "Yes." That is what he makes.

But if the question is should we be buying nuclear power and electricity from this person as head of the company, I would suggest the answer should be, "No." His business, his background, and his training is automobiles. It is not nuclear power, hydroelectric power, or anything TVA does. My only suggestion is we ought to have a person in charge of an agency of this size, that has these type of very severe problems, who knows something about the functions of TVA to head TVA.

Mr. STENNIS. Mr. President, will the Senator yield to me 1 minute?

Mr. BREAUX. I am proud to yield to the Senator from Mississippi.

Mr. STENNIS. I thank the Senator.

I commend the Senator from Tennessee highly for a very fine and realistic presentation here talking about the facts and the problems of life particularly as they apply to the kind of work that this gentleman will do and the opportunity he is going to have.

I was well impressed with him when I saw him briefly. But you could not tell so much after all, but when you

get into his record you find this is a man of exceptional outstanding ability.

We are entering a new era and are already well into it that is somewhat new to me It is a scientific era with the outlook for creation of quality products of all kinds, not only electricity but others. For this man with his past record and future prospects now, this is a great opportunity.

I think he is a fine selection, and I highly commend the President and his helpers for finding this talented man.

For my point he is certainly going to have my backing in every way I can.

I thank the Senator.

Mr. BREAUX. I yield back my time.

The PRESIDING OFFICER. The Senator yields back his time.

The time of the Senator from Vermont has expired.

Mr. BREAUX. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Marvin T. Runyon, of Tennessee, to be a member of the Board of Directors of the Tennessee Valley Authority? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Oklahoma [Mr. BOREN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Nevada [Mr. REID], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announced that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Arizona [Mr. MCCAIN] are 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 5, as follows:

[Rollcall Vote No. 418 Ex.]

YEAS—81

Armstrong	Burdick	D'Amato
Baucus	Chafee	Danforth
Bentsen	Chiles	Daschle
Bingaman	Cochran	DeConcini
Bond	Cohen	Dole
Boschwitz	Conrad	Domenici
Bumpers	Cranston	Durenberger
Evans	Lautenberg	Rockefeller
Exon	Leahy	Roth
Ford	Levin	Rudman
Fowler	Lugar	Sanford
Garn	Matsunaga	Sarbanes
Glenn	McClure	Sasser
Graham	McConnell	Shelby
Gramm	Melcher	Simpson
Hatfield	Metzenbaum	Specter
Hecht	Mitchell	Stafford
Heflin	Moynihan	Stennis
Heinz	Murkowski	Stevens
Helms	Nickles	Symms
Hollings	Nunn	Thurmond
Inouye	Packwood	Trible
Johnston	Pell	Wallop
Karnes	Pressler	Warner
Kassebaum	Pryor	Weicker
Kasten	Quayle	Wilson
Kerry	Riegle	Wirth

NAYS—5

Adams	Byrd	Proxmire
Breaux	Harkin	

NOT VOTING—14

Biden	Gore	McCain
Boren	Grassley	Mikulski
Bradley	Hatch	Reid
Dixon	Humphrey	Simon
Dodd	Kennedy	

So the nomination was confirmed.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. BYRD. Mr. President, 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 nominee.

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

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business not to extend beyond 20 minutes and that Senators may speak therein up to 10 minutes each.

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

The minority leader.

Mr. DOLE. Mr. President, let me first yield to the distinguished Senator from Wyoming.

THE IMPENDING INF RATIFICATION DEBATE

Mr. WALLOP. Mr. President, we have heard several colleagues praising the INF Treaty that was recently signed by the United States and the Soviet Union. Some have given unqualified support to that agreement—an agreement that was still being negotiated by the U.S. Ambassador Mike Glitman and his Soviet counterpart only hours before the treaty was signed, and to which a memorandum of understanding was attached that has only recently been unclassified.

I am concerned lest this unqualified support, given at a juncture when Senators can only know and understand the broadest outline of the INF agreement, will lead this body to skirt its constitutional responsibility and not to delve systematically into the details of the agreement.

We have essentially two models to follow here, Mr. President. In 1972, after the signing of the ABM Treaty, the focus of attention of both the Armed Services Committee and the Senate Foreign Relations Committee was the interim offensive agreement, which was submitted along with the ABM Treaty as part of the SALT I package. The ABM Treaty was by far overshadowed in those hearings by an agreement that was not a treaty, but an executive agreement lasting 5 years. Virtually no debate took place on the floor over the ratification of the ABM Treaty. The floor manager of the debate, Senator Mansfield, literally begged Senators to come down and let their individual views be known on this treaty. Few did.

Need I remind my colleagues that we have recently undergone a tortuous debate over that same arms control agreement that only a handful of Senators went to the floor to debate 15 years ago. If we treat the INF Treaty in the same manner—and this is a much more complex agreement, particularly its verification provisions—we risk putting a future Senate in the same position we were in this year. While we cannot rule out future misinterpretation, it is our responsibility to do all we can to prevent it.

The other model, Mr. President, is the SALT II Treaty. Like this agreement, it was immediately hailed as a perfect arms control agreement. Some called it, by virtue of its size and detail, the most technically perfect achievement of American negotiators thus far. Many Senators, in the aftermath of the June Vienna summit, gave their support for the agreement before having had an opportunity to see it. Even so, by June 1979, when the SALT II Treaty was signed, much more was known about the details of the agreement than were known about the INF Treaty last week. The INF Treaty—if length is any standard—will take far longer than the SALT II Treaty to examine thoroughly. Then, as now, some Senators were calling for the Senate to provide its advice and consent quickly.

Fortunately for the disposition of the Senate's responsibilities, and for the security of our Nation, Senator Henry Jackson, who we so recently honored by placing his bust in the Russell Building, did not see it that way. Senator Jackson did not come out for or against the treaty immediately after its signature, much less before it was signed. He took the constitutional responsibility of the Senate—to provide its advice and consent to an agreement, not just a rubber stamp—seriously. Deadly seriously. He knew that the Founding Fathers were especially

wary of international commitments for good reason, and based on that concern gave the Senate of the United States special powers with respect to the disposition of treaties.

Mr. President, in no area save perhaps the forming of alliances is there greater cause for concern than in the signing of arms control agreements. That is because these agreements cut to the very core of our security. I know that my colleagues who have spoken on the floor this week and last did not wish to put forward the view that all arms control agreements, by definition, are good. Surely we are not going to slip into a simplistic mode of thinking that the details of these agreements—details that Senator Jackson believed in SALT II were especially important because of the obvious weaknesses in the SALT I agreement—are so unimportant that they do not need careful, deliberate consideration.

Mr. President, I believe that it is the duty of each Senator to scrutinize this agreement closely. I know that Senators PELL, HELMS, NUNN, WARNER, BOREN, and COHEN, whose committees will be holding hearings on the INF agreement, share the view that a rush to judgment on an INF agreement is neither in the interests of the national security of the United States, nor in the interests of the arms control process. Indeed, Senator NUNN has wisely asked, and I understand that the administration is considering his request, that the entire negotiating record be made available to Senators and selected staff. This will greatly aid our deliberations, Mr. President, if and only if we are determined to take the time to study these documents. Senator SHELBY, my good friend from Alabama, recently had an opinion article in Defense News on this question of whether the Senate will take a long hard look at the INF Treaty. He enumerated many of the questions that frankly trouble me about this agreement; questions that need answers before the Senate can vote. In summation, Senator SHELBY asked, "Will the 'World's Greatest Deliberative Body' live up to its name?" Working with my colleagues, I hope to ensure that we will. Mr. President, I ask unanimous consent that the article by the Senator from Alabama appear in the RECORD following the completion of my statement.

Mr. President, I can already see that the debate over the INF Treaty is being waged over symbols. These symbols are clearly meant to keep us from focusing on the strategic effect of the treaty. Let me give three examples of these symbols.

We are told that the Soviet Union has to give up four times as many warheads as the United States in this deal. This is true. But, of course, it is largely irrelevant. The Soviet Union built and deployed all these warheads in the first place. A more pertinent question is, "What will be the balance of forces after the agreement and is that balance more favorable for the West?" Here the answer is less clear.

The Soviet Union is in the process of deploying a mobile ICBM, the SS-25, that can be targeted on Europe as well as the United States. It has only been tested with one warhead, but the intelligence community believes it will have three warheads like the SS-20 it replaces some time in the next decade. The Soviet Union is also deploying the SS-24 rail mobile ICBM. A highly accurate version of this missile will also replace the six warhead SS-19 in silos. The SS-24 has 10 warheads.

What does this mean? Well if in the course of the next 5 years the Soviet Union merely replaces all its SS-19 missiles with SS-24's in silos—not counting the SS-25 or the rail mobile SS-24's—they will make up the entire reduction in warheads required by the INF Treaty. The United States has no planned compensation for the destruction of the Pershing II and Ground Launched Cruise Missile. Indeed, U.S. warheads available for NATO use are predicted to decline over the next 5 years, as is the total U.S. stockpile.

Another symbol, Mr. President, is that an entire class of missiles has been eliminated. The notion of missile class is merely an intellectual concept, but clearly not a strategic concept. Before the Soviet Union began deployment of its SS-20 in the mid-1970's, they relied primarily on a combination of SS-4 and SS-5 intermediate-range missiles and variable-range ICBM's, such as the SS-11 and SS-19. The Soviet Union has never recognized the distinction between IRBM's and strategic forces. That is a uniquely Western concept. Even the SS-20 is and has always been a part of the Soviet strategic rocket forces. The Soviet SS-20 troops train with the SRF and they will make up the personnel for the growing numbers of SS-25's.

What we see is the replacement of the SS-20 by the SS-25. This missile has all the operational characteristics of the SS-20, but with increased range, throw-weight, and accuracy. For the Soviet Union then, an "entire class of missiles" has not been eliminated, because the SS-20 was of a class indistinguishable from Soviet central strategic forces. The Soviet Union has merely superbly modernized a capability they have had for years: the ability to target Western Europe and the United States with an ICBM that is largely invulnerable to attack from either Europe or the United States. The United States, on the other hand, has lost a unique capability. We once had IRBM's the Thor and Jupiter, capable of targeting the Soviet Union from Western Europe. These weapons were retired in the aftermath of the Cuban missile crisis.

In 1979, NATO decided to deploy the Pershing II and GLCM in Europe not just to counterbalance the SS-20—although that became the political symbol—but to restore confidence in the NATO strategy of "flexible response." As Senator SHELBY stated, NATO decided that its doctrine of flexible response required an intermediate link between tactical and strategic weapons. Of primary importance, if Senators will inquire, was the deteriorating strategic nuclear balance. That balance is certainly no better today than it was in 1979; it is worse. It may well be that NATO has decided that flexible response no longer needs such a link, but we in the Senate would be foolish not to ask the question of United States and NATO military experts. After the U.S. LRINF are withdrawn, we will no longer have such a capability.

Finally, Mr. President, we are told that this agreement provides for the most intrusive verification ever negotiated. Let me concede this point, but it is largely irrelevant. The real questions Senators should ask is, "Is this verification scheme up to its task?" While the provisions are more intrusive, can anyone dispute that the job of verifying mobile missiles and cruise missiles is not more difficult? Since the SS-25 is made up of SS-20 components and since it is not limited by any part of the agreement, can anyone doubt that this complicates verification beyond anything we have ever faced?

There is yet another consideration, Mr. President, and that is the entire question of compliance. When SALT I and SALT II were negotiated, we did not have the benefit of five reports to the Congress on Soviet noncompliance. Now that we have those reports, and our Government has found the Soviet Union is in violation of every major arms control commitment it ever made, including a new violation of the ABM Treaty announced but a few days before signing the INF Treaty, should we not place a higher standard on verification because of Soviet cheating? More importantly, what do we do when we detect a Soviet violation? The administration has yet to respond to a single reported violation. Can we in the Senate presume that they, or some future administration, will respond to any new violations? If the Senate has no concerns if we respond to these violations, that, at least, should be made clear by our deliberations on this treaty.

Mr. President, despite the intrusive inspection provisions said to be contained in the INF Treaty, should we in the Senate not ask officials of the administration how much confidence they have in these provisions? I have

yet to have an administration official give it better than a 3 on a scale of 1 to 10. Is a three good enough for this Senate given the past Soviet record of violation?

Mr. President, the Senate must at least seriously consider these questions before being caught up by the symbolism of the summit and the INF Treaty.

Mr. President, clearly some want this agreement considered quickly. Indeed, the Secretary of State has been speaking and acting as though this is a perfect agreement. He has put himself on record that no reason could exist why anyone could oppose this agreement. Some in the administration regard any amendment or reservation that this body might attach to the INF Treaty as a so-called killer amendment. The obvious implications of this view, Mr. President, is that we in the Senate should reject our constitutional duties hastily and without due deliberation. To them, our views do not matter. To them, no one in this body is capable of improving this agreement. We must reject that view both on its merits and for its obvious arrogance.

The President of the United States has even suggested that if any Senators oppose this agreement, or even any particular provisions of it, that opposition will be an indication that they believe war between the superpowers is inevitable. It is a sad commentary when a lack of response seems to reduce it to accusation. Let me suggest that the opposite obtains. If any should show opposition to this agreement, or even express concerns about its effect on our national security and our relationship with the Soviet Union, it indicates a passionate desire to avoid, not induce, war. We believe that the details of such agreements can have a strong effect on the likelihood of war and we want the United States to enter agreements certain to provide for more stable international relations and a reduced risk of war.

Mr. President, I have not made up my mind on the INF Treaty. I have not made up my mind because I have not fully studied all its implications. No Senator can have fully studied them in this short period of time. I have not made up my mind because I have not listened to the hearings that will take place over February and March. I frankly cannot see how any Senator in this body could have made up his or her mind on the treaty at this juncture except that they do not care about its consequences.

Mr. President, I believe that prudence dictates that this Senate spend not just a few days but show a serious devotion to the time necessary to explore the implications of this new INF Treaty on the United States-Soviet strategic relationship, the Atlantic Alliance, United States national security generally, to say nothing of the President's announced prospects and plans for future follow-on arms control agreements. If we do, it is my hope that no matter what the outcome of the vote, we as Senators can be confident that we have discharged our constitutional responsibilities and our responsibility to the American people in good faith. If we do not, we seek a repeat of the ABM Treaty experience or worse. Let's live up to the claim that we are indeed the "world's greatest deliberative body."

Mr. President, I ask unanimous consent that a statement by the Senator from Alabama [Mr. SHELBY] be printed in the RECORD.

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

TOUGH INF QUESTIONS CONFRONT SENATE: WILL "WORLD'S GREATEST DELIBERATIVE BODY" LIVE UP TO ITS NAME?

(By Richard Shelby)

The signing of the INF (intermediate-range nuclear forces) agreement has been hailed by the administration as a foreign policy victory. However, numerous members of the U.S. Senate, the body charged by the Constitution to ratify treaties, have expressed grave concerns over the possible effects of such an agreement.

In a television interview before the summit, President Reagan said he believes that those who oppose the treaty ". . . have accepted that war is inevitable and that there must come to be a war between superpowers." However, it is perhaps more accurately thought that war with the Soviet Union is not inevitable, but rather there must be a strategic equilibrium to keep the peace.

With this second line of reasoning in mind, the Senate should thoroughly and exhaustively investigate this agreement. Although the Foreign Relations Committee is charged with reporting the treaty to the full Senate, Majority Leader Robert Byrd requested both the Armed Services and Intelligence Committees to hold hearings and report their findings.

These committee members must grapple with some tough questions regarding the effect of this treaty on NATO's conventional force structure, on NATO's nuclear capabilities and on verification. Further, the appointed committee members should painstakingly examine he entire INF U.S.-Soviet negotiating record, given the recent controversy over the broad vs. narrow interpretation of the ABM Treaty. Obviously, this process is too important to be treated as a rubber stamp approval.

Basically, the INF treaty eliminates all U.S. and Soviet nuclear missiles with ranges of 300 to 3,000 miles, namely the U.S. Pershing IIs and ground-launched cruise missiles (GLCMs), and the Soviet SS-4s, SS-12s, SS-20s and SS-23s.

In 1979, NATO decided to support a dual-track policy of deploying Pershing IIs and GLCMs while simultaneously negotiating to eliminate them and the Soviet SS-20s. NATO made this decision for several reasons. First, there existed no comparable NATO counterpart to the Soviet SS-20. Second, the NATO doctrine of "flexible response" required an intermediate link between tactical and strategic weapons. Third, the deployment was a means to politically share the burden of the responsibility of nuclear war with five other nations, rather than just the United States. It took considerable courage for European governments to support this deployment in the face of an effective Soviet propaganda attack. Now these missiles may be removed.

With the removal of INF weapons from Europe, and subsequently their destruction, NATO still is confronted with the same threat it faced in 1979. The Warsaw Pact holds a tremendous advantage in conventional forces over NATO. Other than the F-111, the NATO commander would only have battlefield tactical nuclear weapons at his disposal. Thus, the concern exists among some Europeans that by removing INF weapons, we have made Europe safe for a conventional war.

How capable are we of bolstering our conventional forces to the point where NATO could compete with the Warsaw Pact? U.S. defense budgets and those of our allies are shrinking, not growing. The Army, our prime resource for conventional defense, may be forced to cut its fiscal 1989 budget by 10 percent. Will our European allies, who have historically spent much less on defense than the United States, now spend more? Not likely. Obviously, the possibility of linking the INF treaty and Soviet conventional force reductions is an issue that must be debated by the Senate.

Looking ahead, the post-INF nuclear options available for NATO must be explored. One alternative would be a retargeting of other systems, such as sea-launched cruise missiles. This concept was rejected in the late 1970s because such action did not reflect the political resolve of land-based missiles. It is apparent this policy should be reconsidered. Another option of NATO is to increase their dependence on land-based aircraft, such as B-52s and F-111s equipped with air-to-surface missiles. However, the question remains of European governments basing these aircraft on their soil, while successfully fighting the public relations battles.

Finally, Soviet history points to several ominous and realistic questions demanding consideration during the Senate ratification hearings. Why are we entering into a treaty when it has been undeniably confirmed that the Soviets repeatedly, and even recently, violated the ABM Treaty? Will the monitoring of just one Soviet missile plant in Votkinsk be enough to ensure compliance? What assurances do we have that the Soviet delay in specifying the location of all their SS-20s was not a ploy to hide the quantity of these mobile missiles?

The administration will be working overtime to bring the INF Treaty to a vote swiftly on the Senate floor with the goal of moving quickly to a START agreement.

The Senate should carefully inspect the treaty, examine the full negotiating record and consider any and all ramifications to our national security before reaching a conclusion. The Senate has been called the world's greatest deliberative body. It is the hope of many that it lives up to its name.

The PRESIDING OFFICER. Who seeks recognition?

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

ENFORCEABLE ARMS REDUCTION

Mr. D'AMATO. Mr. President, while Washington, Moscow, and the world bask in the afterglow of the recently

concluded summit, the Senate must now prepare to do the hard work of fashioning workable results from this great opportunity.

After more than a quarter century of United States-Soviet arms control efforts, the sad fact is that we have been unable to make the Soviet Union abide by the terms of the treaties it has signed or to respond effectively to Soviet violations.

President Reagan has taken a bold and promising risk for peace. He and General Secretary Gorbachev have just signed a treaty eliminating certain intermediate and short-range nuclear weapons. This treaty, which I will support in the Senate, and the accelerated prospects for even broader negotiations in 1988, have raised hopes worldwide for a safer and more lasting peace.

This INF Treaty should be what the President intends it to be—a historic step forward, reducing nuclear arsenals, lowering tensions, and promising further progress in arms reduction. There is serious danger, though, that unless we in the Senate do our work properly in the ratification process, it could be yet another Trojan horse, delivered with false promises and filled with hidden danger to our security.

Mr. President, I plan to address a very basic issue during the ratification debate: How will this treaty—and the pospective Strategic Arms Reduction Treaty—be enforced? If this new treaty cannot be enforced, neither can a START Treaty, and ratification could be a dangerous act of self-deception without enforcement. The Senate must endeavor to put the seal of assured enforcement on the INF deal.

The Soviet Union has a very poor record of treaty compliance. Beginning with the President's January 23, 1984, report to Congress on Soviet noncompliance with arms control agreements, the United States has charged the Soviets with specific violations of: the SALT I ABM Treaty and Interim Agreement; the Geneva Protocol on Chemical Weapons; the Biological and Toxin Weapons Convention; the Limited Test Ban Treaty; and the Helsinki Final Act.

More to the point, the United States has concluded that—

> Through its noncompliance, the Soviet Union has made military gains in the areas of strategic offensive arms as well as chemical, biological, and toxin weapons.

The Arms Control and Disarmament Agency has stated that—

> Over the past several years, the Soviet Union has neither provided satisfactory explanations nor undertaken corrective actions which would bring them into full compliance with their solemn arms control obligations.

Our enforcement record is just as bad as the Soviet compliance record. Indeed, it may be said that our enforcement failures allowed and even encouraged Soviet violations.

Since the issues associated with treaty compliance are highly technical and usually hotly disputed, it has been difficult for our democratic political system to respond effectively to Soviet noncompliance. People with partisan purposes, differing views, and reputations to protect have helped negate efforts to respond to Soviet violations.

Much attention is now focused on the verification provisions of the INF Treaty. But even if we are sure we can verify and detect cheating, how will the United States respond if it discovers Soviet violations or if the Soviets block effective verification? Frankly, even the most reliable verification procedures do not do any good if the United States cannot—or will not—do anything about it.

Without a formal treaty enforcement structure, with mandatory, clearly established steps, past experience clearly shows that such factors as Soviet disinformation, United States public opinion polls, the budget deficit, and timing of the next election can paralyze our ability to respond effectively to Soviet treaty violations. And without effective enforcement, any treaty would be but a hollow promise of peace.

Unlike past arms control agreements, the INF Treaty and any future START agreement will make real and substantial reductions in nuclear arms. They go to the heart of our national security. Accordingly, we cannot afford a lack of enforcement.

Mr. President, I believe that the Congress can create an assured enforcement structure for this treaty, and the potential START agreement.

To work, it would have to provide a clear, progressive enforcement mechanism, including the opportunity to resolve compliance questions amicably through diplomatic procedures. It would proceed from there in graduated steps according to an established schedule, giving the President the options and flexibility he needs, but within a mandatory enforcement.

It would link Soviet compliance to all aspects of our mutual relations, including trade, exchanges, and other bilateral matters. It would also provide countervailing defense and intelligence measures to deny the Soviets any benefit from their violations; and finally, if the Soviets fail to respond positively to these steps, for withdrawal from the violated treaty.

Mr. President, I plan to propose appropriate legislation to this effect in the near future.

If the Soviet Union faithfully keeps its arms reduction promises, such an enforcement mechanism would never be activated. In fact, the existence of a clear enforcement mechanism should answer questions and ease fears otherwise likely to be raised in the ratification process.

If, however, the Soviets again show bad faith—if they exploit and violate the INF Treaty and other future treaties as they have past accords, then this enforcement mechanism will be a vital shield for our national security.

The President must have the power to respond effectively to Soviet violations. Assured enforcement is the key. We cannot again tolerate Soviet arms control violations without an effective response, or we will endanger our security and doom our hopes of lasting world peace.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair on behalf of the Vice President pursuant to Public Law 93-642 appoints the Senator from Missouri, Mr. DANFORTH, to be a member of the Harry S Truman Scholarship Foundation Board of Trustees.

The Chair, pursuant to Executive Order 12131, signed by the President on May 4, 1979, and extended by Executive Order 12258, signed December 30, 1980, appoints the Senator from Missouri, Mr. DANFORTH, and the Senator from California, Mr. WILSON, to the President's Export Council.

The Chair, on behalf of the Vice President, pursuant to Public Law 84-944, appoints the following Senators to the Senate Office Building Commission: The Senator from Alaska, Mr. STEVENS; the Senator from North Carolina, Mr. HELMS; and the Senator from Mississippi, Mr. COCHRAN.

The Chair, on behalf of the Vice President, pursuant to Public Law 86-380, appoints the Senator from Minnesota, Mr. DURENBERGER, to the Advisory Commission on Intergovernmental Relations.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished assistant Republican leader if the following calendar orders have been cleared on the Executive Calendar on his side of the aisle: Under the Judiciary, on page 2, Calendar Orders numbered 470 through 472; on page 3, under Mississippi River Commission, Federal Emergency Management Agency, and the Environmental Protection Agency, Calendar Orders numbered 473 through 475, inclusive, and Calendar Order No. 478 at the bottom of page 3, Executive Office of the President; all calendar orders on page 4 under Board for International Broadcasting and U.S. Arms Control and Disarmament Agency; all on page 5 under U.S. Arms Control

and Disarmament Agency, all on page 5 under New Reports including Department of Defense and Department of Commerce; and on page 6 the Coast Guard nominations placed on the Secretary's desk.

Mr. SYMMS. Mr. President, all of those items have been cleared on this side of the aisle, I advise the majority leader.

Mr. BYRD. I thank my friend.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to proceed en bloc with the consideration of the aforementioned nominations, that the Senate confirm the nominations en bloc, that the motion to reconsider be laid on the table, that the President be immediately notified of the confirmation of the nominees, that the nominations be spread severally on the record, that statements of Senators be appropriately placed in the RECORD, and that the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The nominations considered and confirmed are as follows:

THE JUDICIARY

Jerry E. Smith, of Texas, to be U.S. circuit judge for the fifth circuit vice a new position created by Public Law 98-353, approved July 10, 1984.

Rodney W. Webb, of North Dakota, to be U.S. district judge for the district of North Dakota.

Kenneth Conboy, of New York, to be U.S. district judge for the southern district of New York.

MISSISSIPPI RIVER COMMISSION

Rear Admiral Wesley V. Hull, National Oceanic and Atmospheric Administration, to be a member of the Mississippi River Commission.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Grant C. Peterson, of Washington, to be an associate director of the Federal Emergency Management Agency.

ENVIRONMENTAL PROTECTION AGENCY

Linda J. Fisher, of Ohio, to be an assistant administrator of the Environmental Protection Agency.

EXECUTIVE OFFICE OF THE PRESIDENT

Marjorie B. Kampelman, of the District of Columbia, to be a member of the Advisory Board for Radio Broadcasting to Cuba for a term of 1 year.

BOARD FOR INTERNATIONAL BROADCASTING

Malcolm Forbes Jr., of New Jersey, to be a member of the Board for International Broadcasting for a term expiring April 28, 1989.

Kenneth Y. Tomlinson, of New York, to be a member of the Board for International Broadcasting for a term expiring April 28, 1990.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Peter H. Dailey, of California, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Martin Anderson, of California, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

James T. Hackett, of Virginia, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Richard Salisbury Williamson, of Illinois, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Jack R. Lousma, of Michigan, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Marjorie S. Holt, of Maryland, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

William Schneider, Jr., of New York, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Kathleen C. Bailey, of California, to be an assistant director of the U.S. Arms Control and Disarmament Agency.

DEPARTMENT OF DEFENSE

Thomas F. Fautht, Jr., of Pennsylvania, to be an Assistant Secretary of the Navy.

T. Burton Smith, Jr., of California, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring May 1, 1993.

DEPARTMENT OF COMMERCE

Melvin N. A. Peterson, of California, to be chief scientist of the National Oceanic and Atmospheric Administration.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD, FOREIGN SERVICE

Coast Guard nominations beginning Merrill J. Schweitzer, Jr., and ending Robert P. O'Connor, which nominations were received by the Senate on November 24, 1987, and appeared in the CONGRESSIONAL RECORD of November 30, 1987.

Coast Guard nominations beginning Thomas J. Coe, and ending Robert C. Parker, which nominations were received by the Senate on November 24, 1987, and appeared in the CONGRESSIONAL RECORD of November 30, 1987.

Coast Guard nominations beginning Donald P. Wills, and ending Robert P. Sheaves, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 17, 1987.

Coast Guard nominations beginning Arnold D. Abe, and ending George M. Zeitler, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 17, 1987.

IN SUPPORT OF KENNETH CONBOY TO BE A U.S. DISTRICT COURT JUDGE

● Mr. BIDEN. Mr. President, Kenneth Conboy has been nominated to the U.S. District Court for the Southern District of New York. He was born in Manhattan on June 3, 1938, and graduated from Fordham College and the University of Virginia Law School. He also holds a masters degree in history from Columbia University. The nominee is currently the commissioner of the New York City Department of Investigations, having held that position since February 24, 1986. From 1966 to 1977, he was an assistant district attorney in Manhattan and also headed the rackets bureau. Mr. Conboy was a deputy police commissioner for legal matters and counsel to the police department from 1977 to 1983 when Mayor Edward Koch named him criminal justice coordinator. In his present position as investigations commissioner, Mr. Conboy is in charge of investigations into alleged corrupt activities by city officials.

At the hearing on his nomination on December 9, Mr. Conboy was introduced by Senator D'AMATO. Senator MOYNIHAN, although unable to attend the hearing, has submitted a statement in support of the nominee. Mr. Conboy responded satisfactorily to questions posed by me on the extent of criminal activity in New York City, his experiences as criminal justice coordinator, and his duties and activities as commissioner of investigations. Testimony was received from one opposition witness, Mr. Fred Carfora about the department of investigation's handling of allegations which resulted in a finding by Mr. Conboy that Mr. Carfora had retaliated against a "whistle blower." Mr. Conboy stated that he remained confident and satisfied with its handling of that investigation and the conclusions. The majority of the members of the ABA standing Committee on the Federal Judiciary found Mr. Conboy to be qualified for this position. A minority rated him as as well qualified.●

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

ARMS CONTROL TREATY REVIEW SUPPORT OFFICE

Mr. BYRD. Mr. President, on behalf of Mr. DOLE, I send to the desk a Senate resolution, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 348) establishing an Arms Control Treaty Review Support Office.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

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

The Senate proceeded to the immediate consideration of the resolution.

Mr. BYRD. Mr. President, the resolution I am submitting today with the distinguished minority leader establishes a support office in the Senate to provide the necessary administrative and logistical work to organize and

make usable the negotiating record of the treaty.

As Senators are well aware, as a result of the debate over the interpretation of the ABM Treaty which has consumed much of the time of the Senate, it is important that it be absolutely clear what it is that the Senate is approving, if and when it approves the ratification of the INF Treaty recently signed by President Reagan and Mr. Gorbachev.

Mr. President, treaties are the supreme law of the land, and as they are the exclusive prerogative of the Senate, the responsibility of the Senate is especially heavy, heavier than it is for a normal piece of legislation which must be approved, as well, by the other body. It is for this reason that approval of the resolution of ratification must be achieved by a supermajority. It is a wise compensating mechanism when the Senate acts alone. The obligations entered into under the provisions of the treaty bind the Nation, and bind future Presidents. Thus, if any President decides to reinterpret a treaty differently from the interpretation given by the Senate, in its approval by the Senate, then the Senate must approve any future change in that interpretation. No unilateral reinterpretation by the executive branch should be permissible, for to permit this would demean and cheapen the role and authority of the Senate in this process to an almost meaningless one.

In order to correct the confusion surrounding this question of the proper interpretation of a treaty, when it is approved by the Senate, I and the chairmen of the relevant committees have been meeting with the Secretary of State and other representatives of the executive branch to arrange for the transmission of the negotiating record of the INF Treaty to the Senate, so that no future reinterpretation can be promoted by reference to documents which are suddenly discovered to give the terms of the treaty a new meaning not understood by the Senate when it approved the treaty.

In order to provide for the orderly storage, organization, and systems of access and security for the negotiating record, this resolution provides for the creation of the necessary logistical support staff to do the job as expeditiously as possible. It is a bare bones staff, just as much as will be needed, and my staff will work closely with that of the minority leaders and the committee chairmen to make it happen.

The PRESIDING OFFICER. Is there further debate on the resolution? If not, the question is on agreeing to the resolution.

The resolution (S. Res. 348) was agreed to.

The resolution is as follows:

S. RES. 348

Resolved, That there is established within the Senate an Arms Control Treaty Review Support Office (hereafter in this resolution referred to as the "Office"), which shall be under the policy direction of the Majority Leader and the Minority Leader and which shall be under the administrative direction and supervision of the Secretary of the Senate (hereafter in this resolution referred to as the "Secretary").

SEC. 2. (a) The Office shall provide to the Senate such administrative support as the Majority and Minority Leaders may direct, with respect to Senate consideration of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-Range and Shorter-Range Missiles, done at Washington on December 8, 1987, and of any other arms control treaties submitted, during the One Hundredth Congress, by the President to the Senate for its advice and consent to ratification. Such support shall include—

(1) the temporary storage and organization, system of access to, and security of, documents related to the negotiating records of such treaties; and

(2) such other assistance to the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate, as may be deemed necessary to their consideration of such treaties.

(b) The Office shall maintain an active liaison on behalf of the Senate, or any committee listed under subsection (a)(2), with all departments and agencies of the United States on matters relating to the functions of the Office described in subsection (a).

(c) Nothing in this resolution shall be construed to alter the jurisdiction of any committee of the Senate.

SEC. 3. (a) The Office is authorized, from funds made available under section 5 of this resolution, to employ such staff (including consultants at a daily rate of pay) in the manner and at a rate not to exceed that allowed for employees of a standing committee of the Senate under paragraph (3) of section 105(e) of the Legislative Branch Appropriations Act, 1968 (2 U.S.C. 61-1(e)), and to incur such expenses as may be necessary and appropriate to carry out its duties and functions.

(b) The Secretary, upon the recommendation of the Majority and Minority Leaders, shall appoint and fix the compensation of such personnel, including clerical staff, as may be necessary to carry out the provisions of this resolution.

SEC. 4. (a)(1) The Majority and Minority Leaders shall make arrangements with the Executive Branch to provide for the transmission, organization, and system of access to, the negotiating record relating to arms control treaties submitted during the One Hundredth Congress by the President to the Senate for its advice and consent to ratification.

(2)(A) Access by staff personnel and consultants employed by the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate to any document in the possession of the Office or to the premises of the Office shall be limited to individuals who are designated jointly by the chairman of the respective committee and by the Majority Leader, in consultation with the Minority Leader.

(B) Access by staff personnel and consultants employed by any office of the Senate (other than the Office or any of the committees specified in subparagraph (A)) to any document in the possession of the Office or to the premises of the Office shall be limited to individuals who are designated jointly by the Majority Leader and the Minority Leader.

(C) The Majority Leader and the Minority Leader shall jointly determine which staff members and consultants of the Office shall be required to have security clearances.

(D) No person described in subparagraph (A), (B), or (C) may be given access to classified information held by the Office unless such person has an appropriate security clearance and a need to know such information.

(3) All staff members and consultants shall, as a condition of employment, agree in writing to abide by the conditions of an appropriate nondisclosure agreement promulgated by the Office of Senate Security.

(4) The Office shall employ a security officer qualified to administer appropriate security procedures to ensure the protection of confidential and classified information in the possession of the Office.

(5) The case of any Senator who violates the security procedures of the Office may be referred to the Select Committee on Ethics of the Senate for the imposition of sanctions in accordance with the rules of the Senate. Any staff member or consultant who violates the security procedures of the Office shall immediately be subject to dismissal or such other sanction as the Majority and Minority Leaders may direct.

(b)(1) The Office shall make suitable arrangements, in consultation with the Office of Senate Security, for the physical protection and storage of classified information in its possession.

(2) Upon termination of the Office pursuant to section 6 of this resolution, all records, files, documents, and other materials in the possession, custody, or control of the Office, under appropriate conditions established by the Office, shall be transferred to the Office of Senate Security.

SEC. 5. (a) Such sums as are necessary to carry out the provisions of this resolution, shall be made available from the contingent fund of the Senate, out of the Account of Miscellaneous Items, to pay the expenses of the Office, upon vouchers approved by the Secretary (except that vouchers shall not be required for the disbursement of salaries of employees who are paid at an annual rate).

(b)(1) Such sums as are necessary to carry out the provisions of this resolution may be expended by the Office, with the prior approval of the Committee on Rules and Administration, to procure the temporary (not in excess of one year) or intermittent services, including related and necessary expenses, of individual consultants, or organizations thereof, to make studies or advise the Office,

(2) Such services in the cases of individuals or organizations may be procured by contract as independent contractors or, in the case of individuals, by employment at daily rates of compensation not in excess of the per diem equivalent to the highest gross rate of compensation which may be paid to the regular employee of a standing committee of the Senate. Such contracts shall not be subject to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) or any other provisions of law requiring advertising.

(3) Any such consultant shall be selected by the Majority and Minority Leaders acting jointly. The Office shall submit to

the Committee on Rules and Administration of the Senate information bearing on the qualifications of each consultant whose services are procured pursuant to this subsection, including organizations, and such information shall be retained by the Office and shall be made available for public inspection upon request.

SEC. 6. The Office shall terminate not later than thirty days after the sine die adjournment of the One Hundredth Congress.

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

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

The motion to lay on the table was agreed to.

INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND JAPAN

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 3674 just received from the House.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3674) to provide congressional approval of the Governing International Fishery Agreement between the United States and Japan; to implement the provisions of Annex V to the International Convention for the Prevention of Pollution from Ships, 1973; to reauthorize the National Sea Grant College Program Act; to improve efforts to monitor, assess, and reduce the adverse impacts of driftnets; and for other purposes.

There being no objection, the Senate proceeded to the immediate consideration of the bill.

Mr. LAUTENBERG. Mr. President, this piece of legislation includes three bills that are very important to New Jersey—legislation to control the harmful disposal of plastics into our waters, implementing legislation for annex V of the Marpol Treaty and my Bight Restoration Program.

Each of these programs is an essential part of my program to clean up our oceans and restore our shorelines to an unsullied state. I strongly support this legislation and I urge my fellow Senators to approve this bill.

This bill, H.R. 3674, is the product of substantial negotiations including the Environment and Public Works and Commerce Committees and the House Merchant Marine and Fisheries and Public Works and Transportation Committees.

It incorporates the plastics legislation that Senator CHAFEE and I have worked with other members of the Environment and Public Works Committee so long to pass. It also includes my legislation, the Bight restoration plan, to abate the steady stream of pollution that pours into the badly polluted coastal waters off the coast of New Jersey.

The bill represent a broad consensus from both Democrats and Republicans, as well as from Members of both the House and Senate.

The National Academy of Science estimates that commercial fishing fleets dump more than 52 million pounds of plastic packing material into the sea each year. Another 298 million pounds of plastic fishing gear are also lost annually. All too often, this garbage ends up on our beaches, spoiling the public's enjoyment of our natural resources and depressing the tourism industry that is so important to New Jersey.

The plastics legislation will not only result in significant environmental improvements but will also prevent the death of many marine animals. Many people do not realize the tremendous hazards plastic debris presents to marine life. Every year plastic debris is responsible for the death of 30,000 fur seals, more than 200,000 birds and many other marine animals including sea turtles and great whales.

Not only are we restoring the environment along our shorelines but we will be adopting a humane measure that will prevent the slow death of many sea and shore creatures.

This legislation will put an end to careless disposal of plastic debris in our oceans. It will significantly reduce the debris which litters our beaches every summer. It will curb the number of senseless animal deaths that occur every year.

The plastic bill also mandates a comprehensive public awareness program about plastic pollution. And it provides an international approach to the problem. Once annex V is ratified and in force, the bill would implement its international restrictions on disposal of plastic products and other garbage. The domestic regulations of the bill, however, take effect even before annex V enters into force.

It is the combination of the plastic legislation and the implementing language for annex V, both included in this bill, that are needed to make this initiative work.

Once we have passed this bill, I hope the President will move swiftly to complete the ratification process for annex V. Congress will have done its part to solve the problem of plastic debris. If the administration moves swiftly U.S. ratification can trigger actual implementation of the treaty.

Mr. CHAFEE. Mr. President, I am pleased that the Senate is considering today legislation, in part based on bills I introduced in the Senate, to implement the provisions of the Internatinal Convention for the Prevention of Pollution from Ships, commonly known as Marpol, annex V, and also to require EPA to undertake a major study of how to reduce plastics in the environment. Not inclosed is legislation requiring EPA to regulate the use of nondegradable six-pack holders. However, I am confident that this legislation will receive prompt attention by both Houses of Congress early next year.

S. 3674, the Governing International Fisheries Agreement, is important for the State of Rhode Island. It establishes the framework for our international fish trade with Japan, and benefits the fishing industry in both out nations. I urge my colleagues to support this bill which will continue the useful trading agreement on fish and fish products between the United States and Japan.

Over the last decade, there has been growing concern among conservationists and scientists over discarded plastic in our Nation's waters and on land. Entrapment in plastic debris such as six-pack holders, packing bands, lost or discarded fishing nets, and ingestion of plastic materials is known to kill thousands of birds, seals, turtles, sea lions, and fish each year.

This legislation will require that EPA provide Congress with recommendations on how to reduce the harmful effects of plastic pollution on the environment and will implement the terms of an international treaty which makes it illegal for ships to intentionally dump plastic garbage in U.S. waters.

The Environmental Protection Agency recently commissioned a study entitled "Use and Disposal of Nonbiodegradable Plastics in the Marine and Great Lakes Environment," which points to a growing body of evidence that plastic, when improperly disposed of, harms the oceans and its inhabitants in a multitude of ways.

After World War II, plastic materials displayed a hundredfold growth in the marketplace. Metal, glass, paper, and cloth have rapidly replaced plastic in thousands of products. In 1985, about 50 billion pounds of plastics were used.

Of the total, over 10 billion pounds were used in packaging applications, a substantial portion of which makes its way into our marine environment. Lightweight plastic products discarded in the water neither sink nor disintegrate. This debris is virtually invisible to many types of marine life, and can float for years, causing entrapment and killing marine animals before eventually washing ashore.

Plastic debris also poses a hazard to fish and wildlife through ingestion. Raw plastic particles, from which plastic products are manufactured, enter the waters from manufacturing plants or are lost from ships. Fish and wildlife eat these particles and plastic bags because of their resemblance to natural food. Autopsies of sea turtles, seals, and sea birds have revealed, in some

cases, several pounds of ingested plastic.

Another major problem tied to plastic debris is "ghost fishing," or the tendency of lost or discarded nets to continue to catch fish indefinitely. Because these nets are made from durable plastics, they trap and kill sealife for decades.

The plastic pollution problem has grown to such a point that we cannot walk to our Nation's beaches and parks without encountering plastic litter. Beach cleanup efforts in some coastal States, including Rhode Island, have resulted in the collection of many thousands of discarded plastic products including six-pack holders, packing bands, pieces of fishing nets, and containers.

It is also reported that marine debris poses hazards to seagoing vessels. Propellers, shafts, and intakes of marine vessels have been fouled by floating nets and other plastic debris. Plastic debris also poses a threat to divers.

We cannot continue to ignore the adverse environmental impacts of these materials. Congress needs to carefully examine the environmental pollution of discarded plastics on land and in waters and take appropriate steps to correct the problem.

This legislation will tackle the plastics pollution problem in the following ways:

First, the EPA Administrator will be required to build upon the aforementioned study documenting the extent of plastic pollution in the environment, and recommend to Congress methods available to eliminate or lessen the adverse effects of the pollution. Specifically EPA will be required to look at the feasibility of using degradable plastics in fishnets, packing bands and other plastic products which pose a threat to the environment. EPA will also evaluate the use of incentives to reduce improper plastics disposal, such as recycling, bounties, and rewards.

In undertaking this study, the Administrator will consult with the National Oceanic and Atmospheric Administration other Government departments or agencies doing research in this area, as well as the affected industries.

The bill addresses a major source of plastic pollution: plastic garbage intentionally dumped from oceangoing vessels. It creates domestic legislation which implements the provisions of annex V of the International Convention for the Prevention of Pollution from Ships, commonly known as Marpol. This approach, endorsed by the Coast Guard, would make it illegal for ships operating in U.S. waters to intentionally dump plastic garbage.

According to the EPA study, most of the plastic debris in the marine environment comes from ocean sources. That amount is estimated at 6.4 million metric tons per year. While accidental loss of plastic items from ocean sources contributes to the problem of debris, deliberate disposal at sea is a greater problem.

This legislation takes a giant step toward eliminating plastic waste from our ocean and coastal environment.

I hope my colleagues in the Senate will join me in this effort to reduce the plastic pollution of our land and waters.

Mr. President, I ask unanimous consent that the balance of my text be included in the RECORD, and be considered legislative history for the bill we are now considering.

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

STUDY OF METHODS TO REDUCE PLASTIC POLLUTION

General statement: The study of methods to reduce plastic pollution shall focus on two related yet distinct components of the plastic waste problem: plastic in the marine environment, especially as it effects marine life and contributes to the aesthetic degradation or economic losses in beach, coastal and waterfront areas; and plastic in the solid waste stream. Witnesses testifying before congressional committees noted that plastic comprises an increasing percentage of the waste that is filling landfills. Critical shortages of landfill capacity are predicted for several states within the next decade.

EPA, in consultation with NOAA, shall undertake a study describing the adverse effects that the disposal, both proper and improper, of plastics have on the environment, including the effects on fish and wildlife and the habitat of such species and the effects on beaches and other waterfront areas. The study shall identify the various means that are, or due to technological advances, may be available, to control or eliminate such adverse effects.

The study shall also evaluate the relative impact of plastics, as compared to other wastes, on the solid waste stream. The study shall include a compilation of improper disposal practices and associated specific plastic articles that occur in the environment with sufficient frequency to cause death or injury to fish or wildlife, affect adversely the habitat of fish or wildlife, contribute significantly to aesthetic degradation or economic losses in beach, coastal or waterfront areas, endanger human health or safety, or cause other significant impacts. In compiling such a list, it is the intention of Congress that EPA draw on existing studies, such as *The Use and Disposal of Non-Biodegradable Plastic in the Marine and Great Lakes Environment*, EPA contract number 68-02-4228.

The study shall also evaluate the land-based sources of aquatic pollution, such as landfills and municipal sources, and identify whether improved enforcement of existing laws or regulations is necessary. The study shall evaluate the feasibility and desirability of substitutes for those articles identified in the list under paragraph (1), including comparisons between the article identified and the substitute with regard to relative environmental risks, cost effectiveness, disposability, durability, impact on public health and safety, and the availability of such alternatives.

The study shall include an evaluation of the feasibility, and if feasible, the desirability of using recycling initiatives (including recovery of energy value), to reduce the amount of plastic entering the solid waste stream, including an analysis of the status of and need for public and private research and development to develop and market recycled plastics. The committee realizes that if recycling of plastics is to become an economically viable alternative, it will be necessary to develop new uses for recycled plastics and analyze methods to facilitate the recycling of plastic materials by identifying different types of plastic material in common use and identifying methods to aid in the sorting of such different materials. Congress realizes that one obstacle to recycling of plastics is the many different plastic materials in common use. The study shall recommend methods for sorting plastic to facilitate recycling, including the desirability and feasibility of standardizing the types of plastic materials, considering protection of public health and trade secrets.

The study shall include an analysis of incentives, including deposits on plastic containers, to increase the supply of plastic material for recycling, and to decrease the amount of plastic debris, especially in the marine environment.

The effect of existing tax laws on the manufacture and distribution of virgin plastic material as compared with recycled material shall be addressed in the study. This part of the analysis should be conducted in consultation with the Secretary of the Treasury and the Secretary of Commerce, and should focus on whether a bias exists to favor virgin over recycled materials. The study shall include recommendations regarding measures, including fees or tax incentives, that can be implemented by the federal government, measures that can be implemented to encourage manufacturers of plastic articles to consider re-use and recycling in product design.

The study shall make recommendations regarding a public education campaign, carried out under another section of this act, to promote any environmental and economic advantages to recycling of plastic materials. The study shall also include a list of recycled plastic products which could be purchased by the federal government.

The study shall include an evaluation of the feasibility of making articles identified under paragraph (1) from degradable plastic materials, taking into account the risk to human health and the environment, the properties of the end-products of the degredation of plastic materials, including biotoxicity, potential for bioaccumulation, persistence and fate within the environment under various physical conditions.

The study of degradable plastics should address the effeciency and variability of degredation due to differing environmental and biological conditions, and the relative benefits and purpose of such article and its materials of construction, including the duration for which such article was designed to remain intact, paying particular attention to the protection of human health, technical considerations and cost considerations.

Report to Congress: The list compiled under paragraph (1) of this section shall be submitted to Congress within six months after the date of enactment of this act, and the balance of the study shall be submitted within eighteen months after the date of enactment of this act.

Mr. MITCHELL. Mr. President, I am pleased to add my support for title II of H.R. 3674, the Marine Plastic Pollution Research and Control Act.

The Subcommittee on Environmental Protection of the Committee on Environment and Public Works conducted three hearings earlier this year to examine problems caused by plastic debris in the environment and methods to reduce this form of pollution.

These hearings led to the development of legislation by the committee which, as Senator BURDICK has noted, has now largely been incorporated in H.R. 3674. I want to thank Senators LAUTENBERG and CHAFEE for the role they have played in the consideration and development of this important legislation.

A walk along the Maine coast reveals just how pervasive plastic products have become in our environment. In one 30-mile stretch of the State's magnificent shoreline, volunteers collected more than 1,500 pounds of debris. A third of the litter removed was composed of plastic materials which would otherwise have become an enduring eyesore.

Aside from marring the beauty of one of Maine's greatest natural assets, the plastic bags and bottles and other debris that wash ashore also are a threat to the State's tourism industry. Tourism is one of Maine's most important industries, and its continued contribution to the State's economy depends on health and attractive natural areas.

Most of the plastic waste and other garbage that fouls the coast of Maine and other States comes from ocean, rather than land, sources. Dumping of garbage at sea is still a standard operating procedure for the majority of commercial and military vessels. Worldwide, this everyday, sea-going practice introduces to the marine environment an estimated 6.4 million metric tons of plastic debris per year.

The aesthetic and concomitant economic problems caused by plastic litter accumulating on our coasts are easily seen and comprehended. Less well understood, however, are impacts to fish and wildlife that may result from the persistence of plastic products in the environment.

Individual birds, seals, fish, or sea turtles are known to be injured or killed by ingesting or becoming entangled in various plastic items. These are unfortunate occurrences, which probably all of us have seen at least in photographs.

More troubling, though, is that each individual victim suggests the possibility of larger, more serious consequences for populations of marine species, particularly those, such as the Kemp's ridley sea turtle, which are already at dangerously low levels.

The legislation before us today takes an important first step in stemming the damage caused by plastic debris by implementing annex V to the International Convention for the Prevention of Pollution from Ships. Incorporating this global agreement in U.S. law will bring a long overdue end to the routine, institutionalized dumping of plastic garbage into the world's oceans.

The bill also will expand our efforts to address the problem beyond shipboard sources of debris in marine waters and explore broader mechanisms to reduce pollution from plastic waste material more generally.

H.R. 3674 incorporates provisions from the Enviromment and Public Works Committee legislation to examine methods other than prohibitions on diposal for reducing plastic debris in the environment, including: using degradable plastics in certain products; encouraging recycling; using alternative materials for current plastic products; using labels to encourage proper disposal; and increasing public awareness of the problem and its solutions.

Mr. President, I urge my colleagues to support this effort to control one of the most pervasive problems in aquatic environments.

Mr. BURDICK. Mr. President, I strongly support title II of H.R. 3674, the Marine Plastic Pollution Research and Control Act. This legislation will reduce the pollution of our inland and ocean waters and waterfront areas that is caused by plastic debris.

The legislation is the result of the combined efforts of the Committees on Environment and Public Works and Commerce, Science, and Transportation in the Senate and several committees in the House of Representatives.

On November 10, 1987, the Committee on Environment and Public Works approved legislation to implement annex V to the International Convention for the Prevention of Pollution from Ships. The measure applied annex V's prohibition on disposal of plastic waste from ships to all waters and vessels under the jurisdiction of the United States.

The Environment and Public Works Committee's bill went further, however, to reduce the environmental and economic damage caused by plastic debris.

Specifically, the bill required the Administrator of the Environmental Protection Agency: First, to conduct a study to determine and control the adverse effects on the environment that result from improper disposal of plastic articles and to evaluate the relative impact of plastics on the solid waste stream and the desirability and methods of reducing this impact; second, to conduct a public awareness program with other Federal agencies, which consists of public outreach, public service announcements, and "Citizen Pollution Patrols"; third, to prohibit nondegradable plastic ring carries within 36 months of the date of the bill's enactment unless such a prohibition is not feasible; and fourth, to develop a plan for the restoration of the New York Bight.

The committee's legislation was developed principally by Senators LAUTENBERG and CHAFEE, and I want to recognize them for their leadership on this issue.

Mr. President, I am pleased that, with the exception of the provision relating to plastic ring carriers, all of the provisions approved earlier by the Environment and Public Works Committee have been included in title II of H.R. 3674.

Finally, Mr. President, I want to thank the distinguished chairman and ranking minority member of the Committee on Commerce, Science, and Transportation, Senator HOLLINGS and Senator DANFORTH, for their cooperation in the development of this legislation.

Mr. HOLLINGS. Mr. President, I rise today to urge support for H.R. 3674, critically important ocean legislation. Contained within this bill are provisions to approve the United States-Japan fishery agreement; reauthorize the National Sea Grant College Program; implement annex V to the International Convention for the Prevention of Pollution from Ships; and initiate actions needed to monitor, assess, and control the impacts of driftnets. The bill would also facilitate disaster assistance to North Carolina fishermen who have suffered losses from shellfish contamination as a result of a red tide event in the waters off the coasts of that State. This bill addresses several important marine issues which have been discussed and acted upon by the Commerce Committee during this session and the provisions of this bill which address those issues are in substantive agreement with committee recommendations. Consequently, I feel comfortable in requesting immediate consideration and adoption of this measure, and at this time would like to provide a more detailed background of the bill's provisions.

Title I approves an agreement negotiated between the governments of the United States and Japan to modify conditions for Japanese fishing activities within the U.S. exclusive economic zone [EEZ]. The agreement amends the current Governing International Fishery Agreement [GIFA] with Japan, making it conform to domestic laws and extending it for 2 years until December 31, 1989. Under the Magnuson Fishery Conservation and Management Act, to foreign fishing is permitted in the U.S. EEZ in the absence of such an agreement; the current GIFA with Japan expires on December 31, 1987. Thus, without affirmative congressional action before the end of

this year, all fishing activity involving Japanese nationals within our EEZ will cease.

I understand that such an interruption would be extremely costly to the U.S. fishing industry. Over the past decade, although Japan has benefited from the opportunity to harvest the fish within U.S. waters, U.S. fishermen have also profited from cooperative ventures with that nation. In 1987, United States-Japan joint venture fisheries will yield about 700,000 metric tons of fish with an estimated value to U.S. fishermen of about $100 million. In addition, joint efforts are underway for the construction of serveral fish processing plants in Alaska. Such cooperative international ventures represent an effective and responsive method for developing and wisely using our Nation's fishery resources.

Title II addresses the problem of plastic and other types of debris which are accumulating at alarming rates in the ocean and coastal waters of the world. Discarded fishing gear, plastic strapping and wrapping materials, bottles, food bags and personal hygiene products litter our beaches and foul our surface waters. Millions of birds, fish, whales, seals and sea turtles die each year from ingesting or becoming entangled in marine debris. Plastic trash represents a serious pollution problem because it does not degrade readily and may persist in the marine environment for decades.

This title represents the best efforts of the Commerce Committee and others to come to an agreement concerning the most effective approach to the plastic problem. Provisions of title II are substantively similar to the language of H.R. 940 as reported by Commerce Committee. The purpose of those provisions is to provide domestic implementation for annex V of the MARPOL Convention, the International Convention for the Prevention of Pollution from Ships. As you will recall, annex V, Regulations for the Prevention of Pollution by Garbage from Ships, was submitted to the Senate for advice and consent at the beginning of the year and was approved unanimously by the Senate on November 5. Despite current international uncertainty about which nations have ratified annex V, I understand that prompt action by the United States in implementing this agreement will ensure that it gains the force of international law in the coming year.

Annex V implementation addresses a longstanding and ubiquitous pollution practice, the disposal of garbage at sea. About 6.6 million tons of trash are dumped overboard by merchant ships annually. An estimated 1 million tons of plastic wastes are thrown from ships into the sea each year. Entry into force of annex V will change those practices by prohibiting the vessels of signatories from discharging plastic garbage anywhere in the ocean. The agreement also requires that disposal of other types of garbage be limited within specified distances from the nearest land. The regulations would apply to all vessels, down to the smallest dinghy. In addition, ports and terminals would be required to provide adequate garbage reception facilities.

Title II takes a two-pronged approach to preventing garbage pollution by regulating both disposal at sea and reception facilities in ports. With respect to disposal at sea, regulations apply to U.S. vessels wherever they are located, and to foreign vessels in the navigable waters and exclusive economic zone of the United States. Under current international and domestic law, public vessels—principally the Navy and Coast Guard—are exempt from MARPOL restrictions. These vessels do generate a significant amount of garbage, however, and the legislation directs all Federal agencies to bring their vessels into full compliance with annex V regulations. The Coast Guard and the Navy have indicated that they anticipate compliance within the specified 5-year period.

Enforcement and assessment of penalties for illegal garbage disposal would be carried out under the provisions of existing law. Enforcement difficulties are anticipated due to the large area in which violations may occur and the wide range of individuals, from merchant ship crewmen to recreational boaters, required to comply. A public education program would be initiated to improve understanding of the need for compliance. Finally, title II contains some additional provisions to those recommended by our committee. Those sections would initiate studies to examine the sources and effects of plastic pollution. Overall, I feel that the provisions of H.R. 3674 represent a responsible compromise and major progress toward controlling the marine plastic problem.

Title III reauthorizes the National Sea Grant College Program. This title is very similar to S. 1196, legislation which I introduced last May and which was passed by the Senate in August. Twenty years ago, Congress created Sea Grant to foster the understanding, use, and conservation of ocean and coastal resources through university-based research, education, and advisory services. Today, that program stands as a model for partnership among university, government, and private sectors dealing with critical resource issues. The Sea Grant network has grown to include 22 Sea Grant Colleges and 7 institutional programs. This network draws upon the academic facilities and personnel of more than 300 universities and affiliated institutions in 39 States.

Our job now is to begin to focus the network which we have developed over the last two decades on the future. For example, I am particularly interested in using that network to address increasing concerns regarding the overall health of our coastal marine environment. Last month, my good friend from Connecticut, Senator WEICKER, and I held a hearing concerning the unexplained and widespread bleaching of coral reefs throughout the Caribbean. Last summer, hundreds of dolphins washed up on the beaches on the east coast of the United States. Although researchers are still studying the cause of that dolphin epidemic, initial findings indicate that one contributor may have been poor coastal water conditions. Closures of beaches to swimming and shellfish beds to harvesting also become common occurrances in recent years. The need for such actions provides a grim reminder that if we do not understand and protect our marine resources, we almost certainly will lose them.

A national commitment to a strong marine research program is an essential step toward such understanding and protection. To that end, I sponsored and worked for the passage of a new strategic research initiative as part of the National Sea Grant Program reauthorization. This initiative is included in H.R. 3674 in addition to the 5 year reauthorization for the core program. I anticipate that the new program will permit Sea Grant to identify and focus on national research priorities such as coastal pollution, estuarine processes, and fisheries oceanography, bringing a unique expertise to bear on pressing environmental problems in coastal and marine areas. The bill also strengthens the International Sea Grant Program and broadens the fellowship program to include postdoctoral researchers.

Title IV addresses another pressing environmental and fishery issue, the impact of driftnet fisheries on marine resources. In recent years, my good friend from Alaska, Senator STEVENS, and others have become very concerned by the growth of the high seas driftnet fisheries in the North Pacific. Such concern is well taken. The fishing fleets of Japan, Korea, and Taiwan set thousands of miles of driftnets each night during the fishing season. I recently learned that over 20,000 miles of driftnets may be fished in a single evening. To get an idea of the enormous effort, that length of netting would stretch from the Senate to my home in Charleston about 35 times. It is not difficult to believe scientific estimates that these fisheries unintentionally kill many thousands of seabirds and marine mammals each year. Questions have also arisen concerning the capture of North American salmon. In addition, lost and aban-

doned nets continued to capture marine animals long after the fishermen have returned to shore.

Title IV is almost identical to Senator STEVENS' bill, S. 62, as it was reported out of the Commerce Committee last month. The purpose of title IV is to assess the effects of driftnets on the marine environment and to minimize their adverse impacts. To provide scientific assessment, the Secretary of Commerce is directed to arrange for cooperative international monitoring and research programs. An impact report is also required. Mitigation of the impacts would be addressed through international agreements for enforcement of existing laws and regulations. In addition, the bill would establish net bounty, tracking, and identification systems.

Finally, title V would facilitate red tide disaster assistance to North Carolina shellfish fishermen. This action is necessary to aid the industry's recovery from the setbacks suffered as a consequence of red tide event off the coasts of that State.

In summary, the provisions of H.R. 3674 will enhance the stewardship of our Nation's fragile and valuable marine resources and I urge the bill's speedy consideration and passage.

Mr. ADAMS. Mr. President, I would like to express my support for this legislation. This bill is in reality four individual bills dealing with fishing and oceans issues. All of these provisions are of importance to my State, and I am pleased that the Senate has apparently found a way to pass all these measures before we go home for Christmas.

The first title of this bill authorizes the new GIFA with Japan. This agreement allows the Japanese to continue those fishing activities inside our exclusive economic zone that are permitted under the Magnuson Act. Without passage of this agreement, these fishing activities would have to cease very soon. Because many of my constituents depend for their livelihoods on joint venture fishing with the Japanese, I am very pleased that this measure is now before the Senate; and I urge its swift approval.

The second and fourth titles of this bill are environmental protection measures designed to help keep our oceans from becoming the world's civic dump, especially in regards to plastic waste.

Title 2 provides for domestic implementation of annex V to the International Convention for the Prevention of Pollution from Ships. This annex, which was approved by the Senate in November, sets up regulations for disposal of garbage from ships. Disposal of plastic is forbidden, and disposal of other wastes is forbidden within certain distances from shore. The implementation legislation applies these regulations to all U.S. boats, and to all boats within U.S. waters. It also requires that ports and terminals establish regulations for garbage reception facilities.

Title 4 provides for initial steps toward assessment and control of the negative environmental effects of driftnets. It requires the United States to negotiate with the governments of the driftnet fleets agreements for assessment of the driftnet problem, and for enforcement of regulations designed to control the problem. Failure of these governments to negotiate these agreements would trigger Pelly amendment certification, and discretionary Presidential fish embargo authority. In addition, the United States would begin to develop a net bounty system to encourage retrieval of abandoned nets, and a net marking, registry, and identification system for easier enforcement.

Both provisions represent significant steps toward control of marine pollution. First, both bills target plastics pollution as a problem demanding special standards of control. Plastic debris is a particularly dangerous environmental hazard. It doesn't decompose or disintegrate, and seemingly innocuous debris can become a murderous trap for birds or marine mammals. Both bills take strong measures to control and prevent the further spread of this deadly hazard.

Second, both bills deal with this problem as an international problem demanding international solutions. This is the only realistic way to deal with a global issue like marine pollution. Recent Senate approval of annex V of MARPOL, together with domestic implementation of this agreement, means that 12 months after final U.S. ratification, this important annex will go into force around the world. The driftnet bill represents an attempt to negotiate with foreign governments regulation of activities outside our territorial waters that affects our resources within those waters. I view both of these efforts as important example of the type of international cooperation that is absolutely necessary if we, the people who live together on this Earth, are to prevent further poisoning of our home.

Finally, the third title of this bill authorizes continuation of the Sea Grant Program. This program has made enormous contributions to our ability to understand and manage the complex issues involved in ocean policy. Just from my State alone, individuals who have participated in Sea Grant-funded programs through their universities or law schools have put that training to use in the Federal Government, congressional staffs, and State and local programs across the Nation. I was a cosponsor of this title when it was considered in the Commerce Committee, I am a strong supporter of this program, and I encourage my colleagues to support this entire package of valuable legislation.

Mr. KERRY. Mr. President, I rise to support passage of the pending legislative package which incorporates several initiatives essential to the future welfare of America's ocean resources. The legislation before us includes the Plastic Pollution Research and Control Act of 1987, the Marine, Science, Technology, and Policy Development Act of 1987 and the Driftnet Impact Monitoring, Assessment, and Control Act of 1987.

Mr. President, early in November the Senate ratified annex V of the Marpol Convention. The legislation before us today provides the domestic implementation of that critical treaty. For centuries our oceans have served as a dumping ground for ships at sea and our Nation's coastal cities. Today such dumping has reached epidemic proportions and literally caused America's oceans to be swamped with garbage, particularly plastic debris. According to the National Academy of Science, it is estimated that several hundred million pounds of plastic products end up in the sea each year. Plastic trash includes discarded fishing gear, plastic bottles, styrofoam packing material, six pack holders, plastic bags, and a variety of other plastic objects. Plastic pollution is littering our beaches and killing our marine life. Millions of birds, whales, fish, seals, and sea turtles die each year from ingesting or becoming entangled in plastic debris. More alarming than the thought of a bird with a six pack holder yoked around its neck, is the fact that it takes 450 years for plastic material to be consumed by the environment.

The bill before us today directs the Coast Guard to develop regulations to establish garbage reception facilities in ports and to ensure that ships are using such facilities. Mr. President, the legislation also includes a provision which I am quite pleased about. It initiates a 3-year public outreach program to educate the public on the harmful effects of plastic pollution in our marine environment. Through workshops, public service announcements, posters, and distribution of information, the program will target recreational boaters, fishermen, and other users of the marine environment, to educate them on the need to reduce the amount of plastic pollution in our seas. It also will focus on educating citizens on the damaging effect of plastic debris when it is thoughtlessly discarded into the ocean. It is estimated that the program will cost about $500,000 and that the money will be in addition to any funds currently being spent in this area.

Mr. President, I would like to point out that a real commitment already exists at the Federal, State, and local

levels to clean up our marine environment. Billions of tax dollars are currently being leveraged to clean up polluted waterways and estuaries, such as, Chesapeake Bay, Boston Harbor, and Buzzards Bay to name a few. It would be criminal to pour money into cleaning up our oceans, rivers, and lakes and at the same time ignore one of the major irritants, plastic debris. In that regard, it is even more important to pass this provision designed to rid our waters of fouling plastic pollution.

Mr. President, discarded driftnets, particularly in the North Pacific, entangle and drown an alarming number of our Nations living marine resources each year, including; sea lions, harbor and Dall's porpoises, Northern Fur Seals, and over 21 different species of sea birds. In fact, most of the sea birds killed are included in the list of birds facing the danger of extinction. I might add, that such a list has been agreed to and signed by the United States, Japan, and three other nations. I encourage the passage of the Driftnet Impact Monitoring, Assessment and Control Act of 1987 which will improve our international efforts to monitor, assess, and reduce the adverse impacts of these driftnets. The detailed and reliable information which we will obtain in cooperation with a variety of foreign nations as a result of this legislation will allow us to be decisive. Our Nation, as steward of these resources will be able to determine the nature, extent and impact upon living marine resources of all driftnet fisheries in the North Pacific both within and beyond the exclusive economic zone. This is a positive step toward the responsibility that we all must share in controlling the adverse effects of human activity on our Earth's environment.

Mr. President, also included in this legislative package is the reauthorization of the National Sea Grant College Program. Sea Grant is a program that effectively works for further understanding of our Nations ocean and coastal resources. It was established in 1966 as a counterpart to Land Grant Colleges and has grown to include 22 Sea Grant Colleges. These colleges and an additional seven institutional programs form a Nationwide network carrying out research, education and advisory programs. They emphasize applied research and carry out cooperative programs involving university, private industry, and government partnerships. I am particularly proud of the leadersip in Sea Grant, in my home State of Massachusetts at the Massachusetts Institute of Technology [MIT] and Woods Hole Oceanographic Institution [WHOI].

I strongly support the provisions in this bill and urge my colleagues to do likewise. This legislation reauthorizes the National Sea Grant College Program for 3 years and provides an initiative to restructure the National Projects Program into a Strategic Marine Research Program. This program would allow the Sea Grant network to focus research on national or global issues that are not currently being addressed. Mr. President, I am particularly pleased to endorse the provision for Marine Affairs and Resource Management Improvement Grants. This is important to continuation of nationally recognized programs at MIT and WHOI and I am pleased to say will assist in the, development of a Sea Grant Program at the University of Massachusetts at Boston.

This legislative package before us is critical in working toward cleaning up our beaches and shores, saving millions of marine animals, and continuing valuable research on our marine resources. Mr. President, I urge my colleagues to adopt this legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3674) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

WATER RIGHTS CLAIMS OF THE LA JOLLA, RINCON, SAN PASQUAL, PAUMA, AND PALA BANDS OF MISSION INDIANS IN SAN DIEGO COUNTY, CA

Mr. BYRD. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of S. 795, and that the Senate proceed to its immediate consideration.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 795), to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, and for other purposes.

The Senate proceeded to the immediate consideration of the bill.

The PRESIDING OFFICER. The question is on agreeing to the committee perfecting amendments en bloc.

The committee perfecting amendments en bloc were agreed to.

Mr. McCLURE. I have a few questions which I would like to ask the sponsors of this legislation about the preemption of California State law contained in this measure. My understanding is that the State Water Resources Control Board in a letter which is printed in the committee report, and the State Department of Water Resources have indicated that they support the preemption contained in this legislation in order to effect this settlement, and that this view is based on the "preeminent Federal trust responsibility and authority to protect the interests of the Indian tribes". It appears that the State is apparently willing to have its procedural laws preempted, not with respect to water appurtenant to the reservation, but to deliver water from the Central Valley project in excess of the total flow of the local river. This is close to saying that whenever the Federal Government asserts a federal trust or other interest, State law should be preempted. It seems to me that this would be an unusual position for a State to take. I would like some assurances that the sponsors are not taking that position.

Mr. CRANSTON. No, and further, that is not my interpretation of the State's position.

Mr. WILSON. Neither is it mine.

Mr. McCLURE. Do I understand these responses to be an affirmation of the statement by the Water Resources Control Board that "To be very frank, I can think of no other circumstances in which we would not oppose preemptive legislation?"

Mr. CRANSTON. Absolutely.

Mr. WILSON. That is correct.

Mr. McCLURE. I further understand that the view of the State of California is that it is agreeing only because it already has administrative and judicial procedures to consider the permit changes which would be preempted and that those procedures could result in additional litigation which could frustrate the purpose of the settlement. Is it correct then that the purpose for the exemption is therefore to avoid exchanging one set of litigation for another?

Mr. WILSON. The Senator is correct.

Mr. CRANSTON. I agree.

Mr. McCLURE. So it is the view of the sponsors that the State supports the limited exemption and simply wishes to expedite the process.

Mr. CRANSTON. The Senator is correct.

Mr. WILSON. I agree.

Mr. McCLURE. Can I assume that the State's reference to "trust responsibility" in their letter is simply an indication of the Federal Government's reason for participation in the settlement rather than a recognition in any way of a Federal trust interest in the CVP water?

Mr. WILSON. I would fully agree with such an interpretation.

Mr. CRANSTON. I concur.

Mr. McCLURE. I am pleased to know that my colleagues share my interpretation of the State's position, as I thought the phrasing of the State's letter regarding the "preeminent Federal trust responsibility" was ambiguous.

Do we agree that the State's position is that it recognizes the need for this legislation to resolve only the San Luis Rey River dispute and that the State cannot envision any other circumstance where it would "not oppose preemptive legislation."

Mr. WILSON. The Senator has stated my interpretation of the State's position accurately.

Mr. CRANSTON. I agree.

Mr. McCLURE. So the reason for the State agreeing to this limited preemption is that the Federal Government has a trust responsibility to the Bands and that California is willing to cooperate in this instance by not objecting to delivery of a limited amount of CVP water sold in the area of Escondido, Vista and the Mission Indian Bands' reservations to meet local and Indian needs.

Mr. CRANSTON. That is my understanding.

Mr. WILSON. I agree.

Mr. McCLURE. With that understanding, I will not oppose movement of this legislation.

The PRESIDING OFFICER. The question is on agreeing to the committee substitute.

The committee substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 795

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

This Act may be cited as the "San Luis Rey Indian Water Rights Settlement Act".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) BANDS.—The term "Bands" means the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians which are recognized by the Secretary of the Interior as the governing bodies of their respective Reservations in San Diego County, California.

(2) CENTRAL VALLEY PROJECT.—The term "Central Valley Project" means the Federal reclamation project located in California which was reauthorized by section 2 of the Rivers and Harbors Act of August 26, 1937 (50 Stat. 850) and the Rivers and Harbors Act of October 17, 1940 (54 Stat. 1199) as amended and supplemented.

(3) FIRM PROJECT WATER.—The term "firm project water" means water developed by the Central Valley Project, the availability of which is subject to proportionately shared shortages.

(4) INDIAN WATER AUTHORITY.—The term "Indian Water Authority" means the San Luis Rey River Indian Water Authority, an inter-tribal Indian entity established by the Bands.

(5) LOCAL ENTITIES.—The term "local entities" means the City of Escondido, California; the Escondido Mutual Water Company; and the Vista Irrigation District.

(6) PROJECT USE POWER.—For the purpose of this Act only, the term "project use power" means Central Valley Project hydroelectric power and power from other sources used in the operation of the Central Valley Project irrigation facilities and for other purposes specifically authorized by Congress.

(7) SAN DIEGO AQUEDUCT.—The term "San Diego Aqueduct" means the water conveyance facilities operated and maintained by the San Diego County Water Authority and used to convey imported water into San Diego County.

(8) SETTLEMENT AGREEMENT.—The term "settlement agreement" means the agreement to be entered into by the United States, the Bands, and the local entities which will resolve all claims, controversies, and issues involved in all the pending proceedings among the parties.

SEC. 3. CONGRESSIONAL FINDINGS; LOCAL CONTRIBUTIONS; PURPOSE.

(a) CONGRESSIONAL FINDINGS.—The Congress finds the following:

(1) The Reservations established by the United States for the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians on or near the San Luis Rey River in San Diego County, California, need a reliable source of water.

(2) Diversions of water from the San Luis Rey River for the benefit of the local entities commenced in the early 1890s and continue to be an important source of supply to those communities.

(3) The inadequacy of the San Luis Rey River to supply the needs of both the Bands and the local entities has given rise to litigation to determine the rights of various parties to water from the San Luis Rey River.

(4) The pendency of the litigation has—

(A) severely impaired the Bands' efforts to achieve economic development on their respective Reservations,

(B) contributed to the continuation of high rates of unemployment among the members of the Bands,

(C) increased the extent to which the Bands are financially dependent on the Federal Government, and

(D) impeded the Bands and the local entities from taking effective action to develop and conserve scarce water resources and to preserve those resources for their highest and best uses.

(5) In the absence of a negotiated settlement—

(A) the litigation, which was initiated almost 20 years ago, is likely to continue for many more years,

(B) the economy of the region and the development of the Reservations will continue to be adversely affected by the water rights dispute, and

(C) the implementation of a plan for improved water management and conservation will continue to be delayed.

(6) An agreement in principle has been reached under which a comprehensive settlement of the litigation would be achieved, the Bands' claims would be fairly and justly resolved, the Federal Government's trust responsibility to the Bands would be fulfilled, and the local entities and the Bands would make fair and reasonable contributions.

(7) The Bands and the local entities have agreed that the settlement agreement shall include the following provisions:

(A) The right to the use of the waters of the San Luis Rey River Basin which originate above the intake to the Escondido Canal and which are now or in the future developed by the Bands or the local entities shall be shared equally between the local entities and the Bands.

(B) The local entities shall guarantee that a minimum of 7,000 acre-feet of such developed water shall be available to the Bands annually to the extent needed for use on their Reservations.

(C) In satisfying the provisions of subparagraphs (A) and (B)—

(i) the local entities shall contribute the water development, conveyance, and storage benefits made possible by the following facilities, all of which they have developed, financed, and constructed and shall maintain and, if necessary, replace—

(I) the Henshaw Dam and Reservoir,

(II) the Escondido Canal, and

(III) the Wohlford Dam and Reservoir;

(ii) the local entities shall also contribute the water development benefits of the existing Warner Ranch wellfield and related facilities, which are wholly owned and have been developed, financed, and constructed by the local entities; and

(iii) the Bands and the local entities shall share the costs of operating, maintaining, and, if necessary, replacing and further developing the Warner Ranch wellfield and related facilities.

(D) In partial settlement of the claims of the Bands in the pending litigation and in consideration of the use of the lands of the Bands for project facilities, the local entities shall make payments to the Indian Water Authority based on the local entities' diversions of the Bands' share of local water that is surplus to the needs of the Bands. The local entities shall be obligated to pay the equivalent of 90 percent of the local entities' cost of purchasing water from their alternative source for the first 7,000 acre-feet per year and 80 percent of such cost for the remainder. The local entities shall pay to the Indian Water Authority all economic benefits derived by obtaining more than 6,000 acre-feet per year of firm project water as compared to the cost of their alternative source of supply.

(E) The Bands shall be responsible for providing the funding for covering the Escondido Canal where it traverses portions of the San Pasqual Indian Reservation or placing such Canal underground.

(b) PURPOSE.—It is the purpose of this Act to provide for the settlement of the reserved water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, in a fair and just manner which—

(1) provides the Bands with a reliable water supply sufficient to meet their present and future needs;

(2) promotes conservation and the wise use of scarce water resources in the upper San Luis Rey River System;

(3) establishes the basis for a mutually beneficial, lasting, and cooperative partnership among the Bands and the local entities to replace the adversary relationships that have existed for several decades; and

(4) fosters the development of an independent economic base for the Bands.

SEC. 4. SETTLEMENT OF WATER RIGHTS DISPUTE.

Sections 5, 6, 7, 8, and 10 of this Act shall take effect only when—

(1) the United States; the City of Escondido, California; the Escondido Mutual Water Company; the Vista Irrigation District; and the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians have entered into a settlement agreement providing for the complete resolution of all claims, controversies, and issues involved in all of the pending proceedings among the parties;

(2) the Secretary of the Interior determines that all legal requirements necessary to implement or fulfill the provisions of the settlement agreement have been satisfied, including—

(A) the enactment of any legislation which is required in order for any party to fulfill its obligations under the settlement agreement or this Act, and

(B) the execution of any contracts necessary to fulfill the provisions of the settlement agreement or this Act; and

(3) stipulated judgments or other appropriate final dispositions have been entered in all pending proceedings by all parties.

SEC. 5. DUTIES OF THE UNITED STATES, THE INDIAN WATER AUTHORITY, AND THE LOCAL ENTITIES WITH RESPECT TO DELIVERY OF WATER.

(a) DELIVERY OF WATER.—

(1) IN GENERAL.—Notwithstanding any other provision of law, subject to the provisions of the settlement agreement, the Secretary of the Interior shall deliver to the Indian Water Authority and the local entities, through Federal and non-Federal facilities, annually and in perpetuity, 22,700 acre-feet of firm project water. The Secretary of the Interior shall deliver 16,700 acre-feet per year of such water to the Indian Water Authority in the San Diego Aqueduct in the vicinity of the Bands' Reservations, except for so much of such water as the Bands may not require for use on their reservations. The remainder shall be delivered to the local entities in the San Diego Aqueduct in the vicinity of their service areas. Such water shall be delivered on a schedule to be agreed upon by the Secretary of the Interior, the Indian Water Authority, and the local entities, and may be rejected by the Indian Water Authority or the local entities in whole or in part. The use of such water shall be subject to State law pursuant to the provisions of section 8 of the Act approved on June 18, 1902 (43 U.S.C. 383) (commonly known as the "Reclamation Act of 1902"), except that nothing in this Act or any other law shall require compliance with the State laws governing changes in the places of use, purposes of use, or points of diversion of the water described in this subsection in the water rights permits for the Central Valley Project.

(2) OBLIGATIONS OF THE INDIAN WATER AUTHORITY AND THE LOCAL ENTITIES.—

(A) COSTS.—

(i) 6,000 ACRE-FEET PER YEAR.—The local entities shall reimburse the United States at the rate charged for Central Valley Project irrigation water for all costs incurred in the delivery to them of 6,000 acre-feet per year which they receive of the water referred to in paragraph (1).

(ii) REMAINING WATER.—The Indian Water Authority and the local entities shall reimburse the United States for the operation and maintenance costs incurred in the delivery of all the remaining water referred to in paragraph (1). The construction costs associated with providing such water shall be a nonreimbursable cost of the Central Valley Project. Such operation and maintenance costs shall be based on the project use rate for irrigation water.

(B) CONVEYANCE.—The Indian Water Authority and the local entities shall pay all costs associated with conveying the water described in paragraph (1) to them through non-Federal facilities, and all costs, including construction costs, associated with conveying the water from the point of delivery in the San Diego Aqueduct to the Bands' Reservations and the local entities' service areas.

(3) LIMITATIONS ON WATER DELIVERY OBLIGATION.—The Secretary of the Interior shall not be obligated to deliver the water described in paragraph (1) or water from any alternative sources provided pursuant to sections 6 or 7 if—

(A) such delivery would require the construction of new Federal facilities,

(B) consent to the use of non-Federal facilities cannot be obtained from the owners and operators of such facilities, or

(C) necessary contracts have not been executed or amended.

(4) LIMITATION ON ADDITIONAL WATER COSTS.—The Secretary of the Interior shall take such steps as may be necessary to ensure that the delivery of water under subsection (a)(1) will not result in any added water costs for any Central Valley Project contractors.

(b) USE OF PROJECT USE POWER FOR PUMPING.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Interior shall use project use power from the Central Valley Project to deliver the water referred to in subsection (a)(1) from the Sacramento-San Joaquin Delta to the Indian Water Authority and to the local entities. If the Central Valley Project hydroelectric resources are inadequate to meet this obligation, the Secretary of Energy is authorized to obtain or acquire such additional power as may be needed to accomplish the delivery of the water referred to in subsection (a)(1) until such time as adequate amounts of project use power can be made available from the Central Valley Project.

(2) OBLIGATIONS OF THE INDIAN WATER AUTHORITY AND THE LOCAL ENTITIES.—

(A) COST OF POWER USED FOR DELIVERY OF 6,000 ACRE-FEET PER YEAR OF WATER.—The local entities shall reimburse the United States at the irrigation project use rate for the costs incurred in providing that portion of the power referred to in paragraph (1) that is used for the delivery of 6,000 acre-feet per year of the water referred to in paragraph (a)(1).

(B) COST OF POWER USED FOR DELIVERY OF REMAINING WATER.—The Indian Water Authority and the local entities shall reimburse the United States for the operation and maintenance costs incurred in providing the power referred to in paragraph (1) that is used for the delivery to them of all of the remaining water referred to in paragraph (a)(1). The construction costs associated with providing such power shall be a nonreimbursable cost of the Central Valley Project. Such operation and maintenance costs shall be based on the project use rate for irrigation water pumping.

(3) LIMITATION ON USE OF CERTAIN POWER.—In fulfilling the requirements of paragraph (1), the Secretary of Energy shall—

(A) make such power available for pumping only at State or Federal facilities;

(B) not utilize any power that is needed for other project use purposes or for Federal installations; and

(C) take such steps as necessary to ensure that, until December 31, 2004, or for such additional period as may be covered by any contract or obligation for Central Valley Project preference power in existence on the date of the enactment of this Act, the quantity of power made available for sale to preference customers under such contracts or obligations shall be the same as it would have been without this Act.

(4) LIMITATION ON ADDITIONAL POWER COSTS.—The Secretary of the Interior and the Secretary of Energy shall take such steps as may be necessary to ensure that the provision of power under paragraph (1) will not result in any added power costs—

(A) for project use purposes, or

(B) until after December 31, 2004, to Central Valley Project preference power customers to the extent of any contract or obligation in existence on the date of the enactment of this Act or for such additional period as may be covered by any such existing contract or obligation, nor shall any added power costs incurred during the term of any existing contract or obligation be accrued or passed on to Central Valley Project firm power customers following the expiration of such contract or obligation.

(c) DELEGATION OF AUTHORITY.—The Secretary of the Interior and the Secretary of Energy are authorized to enter into such agreements and to take such measures as each Secretary may deem necessary and appropriate to fulfill any obligation of each Secretary under this Act.

SEC. 6. PROTECTION OF WATER USERS WITHIN THE CENTRAL VALLEY PROJECT.

(a) OBLIGATION OF THE UNITED STATES.—Nothing in this Act shall diminish the amount of firm project water that is available for eventual contracting within the service area of the Central Valley Project as it existed on January 1, 1987. In the event that the full amount of firm project water becomes, or is about to become, fully contracted for, the Secretary of the Interior is authorized and directed to take and implement measures that are deemed necessary and appropriate to insure that the implementation of this Act does not result in the diminishment of the amount of firm project water that is available for contracting within the service area of the Central Valley Project as it existed on January 1, 1987. These measures may include augmenting the amount of firm project water through conservation measures, financial participation in projects undertaken by the State of California or the United States Army Corps of Engineers to increase the firm project water yield of the Central Valley Project, or providing an alternative supply of water from another source through conservation measures, purchase or exchange in lieu of the firm project water described in section 5(a). The measures undertaken by the Secretary of the Interior pursuant to this section shall only utilize water to which the State of California is entitled, shall not diminish the benefits provided to the Bands, the Indian Water Authority and the local entities under this Act, and shall not adversely affect the rights or interests of other water or power users.

(b) DUTY TO PREPARE REPORT.—The Secretary of the Interior is prohibited from implementing any measures under the authority of subsection (a) until a report describing the proposed measures, estimated costs and possible alternatives has been submitted to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources and the Select Committee on

Indian Affairs of the Senate, ninety calendar days have elapsed, and appropriations have been authorized and made available.

(c) ENFORCEMENT OF THE UNITED STATES' OBLIGATIONS.—Notwithstanding any other provision of law, any aggrieved person may enforce the obligations described in subsection (a) in an action filed in an appropriate United States District Court. In any such action, the Court may grant declaratory or injunctive relief or may order specific performance of the obligation described in subsection (a). As a last resort, if all other remedies fail to achieve the purposes of subsection (a), the Court may award damages in an amount sufficient to acquire an alternative supply of water from another source in order to insure that the implementation of this Act does not result in the diminishment of the amount of firm project water that is available for contracting within the service area of the Central Valley Project as it existed on January 1, 1987.

(d) LIMITATION OF THE AUTHORITY OF THE SECRETARY OF THE INTERIOR.—Nothing in this section or in any other provision of this Act shall authorize the construction of any new dams, reservoirs or water storage facilities.

SEC. 7. ALTERNATIVE SOURCES OF WATER AND POWER.

(a) IDENTIFICATION OF SOURCES.—Notwithstanding any other provision of this Act, the Secretary of the Interior and the Secretary of Energy may obtain water and power for the Bands, the Indian Water Authority, and the local entities from any authorized alternative source or sources other than those referred to in subsections (a)(1) and (b)(1) of section 5. Such alternative sources shall only utilize water to which the State of California is entitled, shall not diminish the benefits provided to the Bands, the Indian Water Authority and the local entities under section 5 of this Act, and shall not adversely affect the rights or interests of other water or power users.

(b) DUTY TO PREPARE REPORT.—The Secretary of the Interior and the Secretary of Energy are prohibited from implementing any measures under the authority of subsection (a) until a report describing the proposed measures, estimated costs and possible alternatives has been submitted to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate, ninety calendar days have elapsed, and appropriations have been authorized and made available.

SEC. 8. ESTABLISHMENT, STATUS, AND GENERAL POWERS OF SAN LUIS REY RIVER INDIAN WATER AUTHORITY.

(a) ESTABLISHMENT OF INDIAN WATER AUTHORITY APPROVED AND RECOGNIZED.—

(1) IN GENERAL.—The establishment by the Bands of the San Luis Rey *River* Indian Water Authority as a permanent inter-tribal entity pursuant to duly adopted ordinances and the power of the Indian Water Authority to act for the Bands are hereby recognized and approved.

(2) LIMITATION ON POWER TO REPEAL OR REVOKE ORDINANCES.—The ordinances referred to in paragraph (1) may not be revoked or repealed, and the power described in such paragraph may not be surrendered, except by Act of Congress.

(3) LIMITATION ON POWER TO AMEND OR MODIFY ORDINANCES.—Any proposed modification of any ordinance referred to in paragraph (1) must be approved by the Secretary of the Interior and no such approval may be granted unless the Secretary finds that the proposed modification will not interfere with or impair the ability of the Indian Water Authority to carry out its responsibilities and obligations pursuant to this Act and the settlement agreement.

(b) STATUS AND GENERAL POWERS OF INDIAN WATER AUTHORITY.—

(1) STATUS AS INDIAN ORGANIZATION.—To the extent provided in the ordinances of the Bands which established the Indian Water Authority, such Authority shall be treated as an Indian entity under Federal law with which the United States has a trust relationship.

(2) POWER TO ENTER INTO AGREEMENTS.—The Indian Water Authority may enter into such agreements as it may deem necessary to implement the provisions of this Act and the settlement agreement.

(3) INVESTMENT POWER.—Notwithstanding paragraph (1) or any other provision of law, the Indian Water Authority shall have complete discretion to invest and manage its own funds.

(4) LIMITATION ON SPENDING AUTHORITY.—All funds of the Indian Water Authority which are not required for administrative or operational expenses of the Authority or to fulfill obligations of the Authority under this Act, the settlement agreement, or any other agreement entered into by the Indian Water Authority shall be invested or used for economic development of the Bands, the Bands' Reservation lands, and their members. Such funds may not be used for per capita payments to members of any Band.

(c) INDIAN WATER AUTHORITY TREATED AS TRIBAL GOVERNMENT FOR CERTAIN PURPOSES.—The Indian Water Authority shall be considered to be an Indian tribal government for purposes of section 7871(a)(4) of the Internal Revenue Code of 1986.

SEC. 9. AUTHORITY TO EXECUTE SETTLEMENT AGREEMENT.

Notwithstanding any other provision of law, the Secretary of the Interior and the Attorney General of the United States, acting on behalf of the United States, and the Bands, acting through their duly authorized governing bodies, are authorized to enter into the settlement agreement to implement the terms and conditions described in section 3(a)(7) and the provisions of this Act. The execution of the settlement agreement and other necessary contracts shall not be subject to consideration by the Secretary of the Interior or the Secretary of Energy pursuant to section 7 regarding the availability of alternative sources of water or power.

SEC. 10. AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION AND THE SECRETARY OF THE INTERIOR OVER POWER FACILITIES AND GOVERNMENT AND INDIAN LANDS.

(a) POWER FACILITIES.—Any license issued under the Act of June 10, 1920 (16 U.S.C. 791a et seq.) (commonly referred to as Part I of the Federal Power Act) for any part of the system that diverts the waters of the San Luis Rey River originating above the intake to the Escondido Canal—

(1) shall be subject to all of the terms, conditions, and provisions of the settlement agreement; and

(2) shall not in any way interfere with, impair or affect the ability of the Bands, the local entities and the United States to implement, perform and comply fully with all of the terms, conditions and provisions of the settlement agreement.

(b) INDIAN AND GOVERNMENT LANDS.—Notwithstanding any other provision of law, the Secretary of the Interior is exclusively authorized, subject to subsection (c), to lease, grant rights-of-way across, or transfer title to, any Indian tribal or allotted land, or any other land subject to the authority of such Secretary, which is used, or may be useful, in connection with the operation, maintenance, repair or replacement of the system to divert, convey and store the waters of the San Luis Rey River originating above the intake to the Escondido Canal.

(c) APPROVAL BY INDIAN BANDS; COMPENSATION TO INDIAN OWNERS.—Any disposition of Indian tribal or allotted land by the Secretary of the Interior under subsection (a) shall be subject to the approval of the governing Indian Band. Any individual Indian owner or allottee whose land is disposed of by any action of the Secretary of the Interior under subsection (b) shall be entitled to receive just compensation.

SEC. 11. RULES OF CONSTRUCTION.

(a) RESERVED WATER RIGHTS.—No provision of this Act shall be construed as altering or affecting the determination of the question of whether reserved water may be put to use, or sold for use, off of any Indian Reservation to which reserved water rights may attach.

(b) LIMITATION ON SALES OR DISPOSITIONS OF POWER.—No provision of this Act shall be construed as authorizing the Indian Water Authority or any other entity to sell electric power to any retail customer or to dispose of any electric power provided pursuant to this Act separately from the water described in section 5(a)(1).

(c) EMINENT DOMAIN AND APPLICATION OF FEDERAL LAWS.—No provision of this Act shall be construed as authorizing the acquisition by the Federal Government of any water or power supply or any water conveyance or power transmission facility through the power of eminent domain or any other nonconsensual arrangement, nor shall the transportation of the water provided pursuant to this Act through non-Federal facilities subject those facilities or other water transported through those facilities to any Federal law to which they would not otherwise be subject.

(d) STATUS AND AUTHORITY OF INDIAN WATER AUTHORITY.—No provision of this Act shall be construed as creating any implication with respect to the status or authority which the Indian Water Authority would have under any other law or rule of law in the absence of this Act or if section 8 does not take effect.

SEC. 12. COMPLIANCE WITH BUDGET ACT.

To the extent any provision of this Act provides new spending authority described in section 401(c)(2)(A) of the Congressional Budget Act of 1974, such authority shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

EXTENSION OF AUTHORIZATION OF RENEWABLE RESOURCES EXTENSION ACT OF 1978

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and For-

estry be discharged from further consideration of H.R. 2401, and I ask unanimous consent for its immediate consideration.

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

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2401) to extend authorization of the Renewable Resources Extension Act of 1978, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 1369

(Purpose: To extend the authorization of the Renewable Resources Extension Act)

Mr. BYRD. Mr. President, I send to the desk an amendment by Senators LEAHY and HATFIELD.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. LEAHY (for himself and Mr. HATFIELD), proposes an amendment numbered 1369.

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:

Beginning on page 1, line 6, strike all through page 2, line 9, and insert in lieu thereof the following:

Sec. 2. Extension.

The Renewable Resources Extension Act of 1978 (16 U.S.C. 1600 note) is amended—

(1) in Section 6 (16 U.S.C. 1675) by striking out the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated to implement this Act $15,000,000 for the fiscal year ending September 30, 1988, and $15,000,000 for each of the next twelve fiscal years."; and

(2) in Section 8 (16 U.S.C. 1671 note) by striking out "1988" and inserting in lieu thereof "2000".

Mr. LEAHY. Mr. President, the bill before us today is a simple reauthorization of the Renewable Resources Extension Act [RREA], an act that has expanded and fostered natural resources extension programs within the cooperative extension system.

H.R. 2401 is very similar to S. 1279 introduced earlier this year by myself and my distinguished colleague from Oregon, Senator HATFIELD, with whom I worked in authoring the original RREA legislation in 1978. The differences are small, and it is my hope that, with the amendment I am about to offer, we will have resolved those differences in a way that is satisfactory to the House so that no conference will be necessary.

The Renewable Resources Extension Act will expire in September 1988. H.R. 2401 would reauthorize the act for a 7-year period, ending in 1995, for the purpose of improving the integration of the RREA program with the Forest Service's Resources Planning Act Program. S. 1279 is a 10-year reauthorization, consistent with the original authorization period. The amendment would address the concerns of the House by extending the authorization for a 12-year period, to 2000.

The RREA currently has an annual authorized funding level of $15 million. The Senate bill retains that level of funding. H.R. 2401, however, would reduce the authorization level to $12 million yearly. While annual appropriations for RREA have not approached the $15 million funding level in any fiscal year, the need for that program funding level is as important now as it was in 1978, and I am reticent at this time to reduce in any way our commitment to the goals of this valuable program. My amendment would therefore restore the annual authorized funding level to its current $15-million level.

I am pleased with the two minor changes the House bill makes to the current law. H.R. 2401 would require the Department of Agriculture, in doing its 5-year Renewable Resources Extension Program plan, to evaluate the progress made toward accomplishing the goals and objectives set forth in the preceding plan, both for each State and for the country as a whole. An evaluation of this type will provide Congress with an important benchmark halfway through the program's authorization, by identifying continuing needs, highlighting successes, and improving accountability.

Mr. President, we need to renew the commitment we made in 1978 in promoting sound resource management practices among private landowners and users. As the demands on America's public lands grow, we must focus our attention on the potential of this country's private lands to provide many of the resources we have depended on our public lands to provide. It is time that we recognize that our privately-owned forests and rangelands represent the greatest potential source of renewable resources in this country. They also represent a tremendous potential source of income for rural Americans. Yet their potential to provide both resources and income has been limited by the lack of knowledge among private landowners on sound land management practices and options.

The Renewable Resources Extension Act has been a highly successful program in educating landowners in resource management. RREA funds have been used in all 50 States for such things as forest and rangeland management training, environmental education, and development of forest products marketing skills. In addition, every dollar of Federal investment through the RREA has generated at least three times that in State and local investment in renewable resources extension activities.

Mr. President, I believe it is time to not just renew our commitment to this program, but to increase our commitment to it as well. Appropriations for this program have not exceeded $3 million in any fiscal year. Yet this program has proven its ability to generate State and local investment. I hope that our commitment to this program will extend to an increase in the funding level for the program in the years ahead.

Mr. President, in reauthorizing this program, we will not only be expanding the economic opportunities of rural Americans, we will also be ensuring that our private forests and rangelands will contribute to the future wealth and needs of Americans well into the next century. I urge my colleagues to give their support to this valuable legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1369) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment 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 the third time and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

EXTENSION OF TERM OF THE DELTA REGION PRESERVATION COMMISSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 480.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2566) to amend the National Parks and Recreation Act of 1978, as amended, to extend the term of the Delta Region Preservation Commission, and for other purposes.

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

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

AMENDMENT NO. 1370

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Mr. JOHNSTON.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. JOHNSTON, proposes an amendment numbered 1370.

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:

Strike all after the enacting clause and insert:

"That Title IX of the National Parks and Recreation Act of 1978, as amended (16 U.S.C. 230), is further amended as follows:

(a) In section 901 by adding the following new phrase and renumbering subsequent phrases accordingly:

'(4) folk life centers to be established in the Acadian region;';

(b) In section 902 by adding the following new subsection:

'(g) The Secretary is authorized to acquire lands or interests in lands by donation, purchase with donated or appropriated funds or exchange, not to exceed approximately 20 acres, in Acadian villages and towns. Any lands so acquired shall be developed, maintained and operated as part of the Jean Lafitte National Historical Park.'; and

(c) In Section 907(e) by striking out 'ten years' and inserting in lieu thereof 'twenty years'.".

Mr. JOHNSTON. Mr. President, in 1978 the Congress established the Jean Lafitte National Historical Park in Louisiana. One of the key elements of this legislation was the authority of the Secretary to enter into cooperative agreements with various entities in the Acadian region for the purpose of establishing Acadian Folklife Centers. These centers are to serve as a focal point in the park for the preservation, interpretation, and display of this region's rich and varied cajun culture.

After many years of planning, site selection, design work, and other effort on the part of the National Park Service, local government agencies, towns, and villages we are finally ready to move ahead with construction of these such facilities. In fact, funds have been included in the conference report accompanying the fiscal year 1988 Interior appropriation bill for this purpose.

However, before construction can begin, one problem must be resolved. In November of this year, the Solicitor's Office of the Department of the Interior informed my office that the cooperative agreements authorized in the Jean Lafitte Park legislation did not provide sufficient legal authority for the Department to obligate funds for construction of these centers and for related activities. It is the Department's view that additional authorization is necessary before the Department can begin construction of these facilities on lands covered by these cooperative agreements.

While I am not certain that I agree with this opinion, one fact is clear: Unless we provide such authorization, it will be months before this matter can be resolved administratively within the Department. In the meantime, the funds appropriated by the Congress for these purposes will not be utilized.

Therefore, I am offering an amendment to H.R. 2566 to provide this authority. I am hopeful that the Senate can enact this provision today and that the House will concur expediously so that the Department can spend these funds in the manner intended by the Congress.

Mr. President, I ask unanimous consent that a copy of the letter from the Solicitor's Office, referred to in my statement, be printed in the RECORD.

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

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Santa Fe, NM, November 17, 1987.

MEMORANDUM

Reference No. NPS.SA.0410.

To: Regional Director, Southwest Region, National Park Service; Attention: Chief, Division of Land Resources.

From: Gayle E. Manges, Field Solicitor, Southwest Region.

Subject: Proposed Acadian Folklife Centers—Jean Lafitte National Historical Park, Louisiana.

As requested October 28, 1987, the proposed construction of three Folklife Centers at Jean Lafitte has been reviewed. The construction cost for each center will be over 1 million dollars with the total expenditure exceeding 5 million. The questions concern the estate in land required to be acquired by the Park Service in order to construct each center.

Initially, as noted in your memorandum, the centers are proposed to be constructed on lands outside the area presently included within the Park as defined in 16 U.S.C. §§ 230 and 230a. Therefore, amendatory legislation or appropriations will be required to authorize the centers if the lands or interests therein for the centers are acquired by the Park Service.

Considering the proposal to acquire less than fee estates for the centers, it is the general rule that appropriated funds may not be used for the permanent improvement of privately owned property by any agency of the United States unless specifically authorized by law. 29 Comp. Gen. 279 (1949). An exception to that rule not strictly applicable to this acquisition is provided by the Economy Act, 40 U.S.C. § 278a.

This office has authorized the use of private fee subject to federal real property interests within Park Service areas where leasehold, easement or less than a fee title was acquired from local governmental bodies or cooperating nonprofit corporations or associations. These approvals were only so long as fixtures or improvements placed on the property with appropriated funds were movable or temporary low cost structures which were quickly amortized and, in addition, authorized to be removed by the Park Service upon expiration of the lease term or easement interest. However, these are exceptions applicable only in specific circumstances. Generally, the acquisition of less than fee title is not acceptable for placing improvements on private or nonfederal lands where such improvements are of a permanent nature such as the proposed structures and buildings for the three centers. Title to less than fee acquisitions in the subject instance to support the construction cannot be approved pursuant to 40 U.S.C. § 255.

GAYLE E. MANGES.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1370) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment 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 the third time and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

SAN FRANCISCO BAY NATIONAL WILDLIFE REFUGE APPROPRIATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 2583 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2583) to authorize additional appropriations for the San Francisco Bay National Wildlife Refuge.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

RURAL CRISIS RECOVERY PROGRAM ACT OF 1987

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be discharged from further consideration of H.R. 3492 and that the Senate proceed to its immediate consideration.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3492) entitled Rural Crisis Recovery Program Act of 1987.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3492) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

KNIPLING-BUSHLAND RESEARCH LABORATORY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be discharged from further consideration of H.R. 3712 and that the Senate proceed to its immediate consideration.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3712) to designate the United States Livestock Insects Laboratory in Kerrville, Texas, as the "'Knipling-Bushland Research Laboratory".

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3712) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

ACCEPTANCE OF GIFTS FOR PURCHASE OF FINE ART FOR CAPITOL

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 331.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 60) to permit the Architect of the Capitol, under the direction of the Joint Committee on the Library, to accept gifts of money for the purpose of works of fine art for the Capitol, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Rules and Administration, with an amendment:

On page 2, line 4, strike "Treasurer of the United States", and insert "Department of the Treasury"

So as to make the bill read:

H.R. 60

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

SECTION 1. ACCEPTANCE OF GIFTS OF MONEY FOR PURCHASE OF WORKS OF FINE ART FOR THE CAPITOL.

The Architect of the Capitol is authorized to accept, on behalf of the Congress and with prior approval of the Joint Committee on the Library, gifts of money for the purchase of works of fine art for the Capitol. Any gift so accepted shall be in the form of a check or similar instrument made payable to the Department of the Treasury. Such acceptance shall be carried out in the manner prescribed by the Joint Committee on the Library, which shall supervise the works of fine art in accordance with section 1831 of the Revised Statutes of the United States (40 U.S.C. 188).

SEC. 2. ESTABLISHMENT OF FUND FOR WORKS OF FINE ART FOR THE CAPITOL.

There is established in the Treasury a fund for purchase of works of fine art for the Capitol. Amounts accepted under section 1 shall be deposited in the fund, which, subject to appropriation, shall be available to the Architect of the Capitol for such purchases as may be approved by the Joint Committee on the Library, the Speaker and the minority leader of the House of Representatives, and the majority leader and the minority leader of the Senate.

SEC. 3. DISBURSEMENTS FROM THE FUND.

Disbursements from the funds shall be made on vouchers signed by the Architect of the Capitol and approved by the Joint Committee on the Library, the Speaker and the minority leader of the House of Reperesentatives, and the majority leader and the minority leader of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendent was agreed to.

AMENDMENT NO. 1371

(Purpose: To provide a substitute amendment)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 1371.

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:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. PURCHASE OF WORKS OF FINE ART FOR THE CAPITOL.

(a) ACCEPTANCE OF GIFTS OF MONEY.—

(1) AUTHORITY.—The Architect of the Capitol is authorized to accept, on behalf of the Congress and with prior approval of the Joint Committee on the Library, gifts of money for the purchase of works of fine art for the Capitol.

(2) FORM OF GIFT.—Any gift accepted under paragraph (1) shall be in the form of a check or similar instrument made payable to the Department of the Treasury.

(3) MANNER OF ACCEPTANCE.—An acceptance under paragraph (1) shall be carried out in the manner prescribed by the Joint Committee on the Library, which shall supervise the works of fine art in accordance with section 1831 of the Revised Statutes of the United States (40 U.S.C. 188).

(b) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury a fund for purchase of works of fine art for the Capitol.

(2) DEPOSITS AND AVAILABILITY.—Amounts accepted under subsection (a) shall be deposited in the fund, which, subject to appropriation, shall be available to the Architect of the Capitol for such purchases as may be approved by the Joint Committee on the Library, the Speaker and the minority leader of the House of Representatives, and the majority leader and the minority leader of the Senate.

(c) DISBURSEMENTS FROM THE FUND.—Disbursements from the fund established under subsection (b) shall be made on vouchers signed by the Architect of the Capitol and approved by the Joint Committee on the Library, the Speaker and the minority leader of the House of Representatives, and the majority leader and the minority leader of the Senate.

SEC. 2. GIFTS AND PURCHASES FOR THE SENATE AND THE CAPITOL.

(a) ACCEPTANCE OF GIFTS.—The Commission on Art and Antiquities of the United States Senate (hereinafter "Commission") is authorized to—

(1) accept gifts and bequests of money and other property of whatever character for the purpose of aiding, benefiting, or facilitating the work of the Commission, including the purchase of works of fine art for the Senate wing of the Capitol and any Senate office buildings, and rooms, spaces, or corridors thereof;

(2) hold, administer, use, invest, reinvest and sell gifts and bequests of propery received under this section for the purpose stated in paragraph (1); and

(3) apply any income produced from the use of such gifts and bequests of property for the purpose stated in paragraph (1).

(b) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury a fund for use in accordance with the provisions of this section.

(2) DEPOSITS AND AVAILABILITY.—Gifts and bequests of money and the proceeds from sales of other property accepted under subsection (a) may be deposited in the fund, which shall be available to the Executive Secretary of the Commission for the work

of the Commission and the administration of property received under this section. Such funds shall be held in trust by the Secretary of the Treasury.

(c) DISBURSEMENTS FROM THE FUND.—Disbursements from the fund established under subsection (b) shall be made on vouchers signed by the Executive Secretary of the Commission and approved by the Chairman of the Commission.

(d) TAXES.—For the purpose of Federal income, estate, and gift tax laws, property accepted under this section shall be considered a contribution to or for the use of the United States.

(e) INVESTMENTS.—The Executive Secretary of the Commission may request the Secretary of the Treasury to invest such portion of the fund established under subsection (b) as is not in the judgment of the Commission required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable to the needs of the fund as determined by the Commission and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. The income from such investments shall be credited to and form a part of the fund.

(f) PUBLIC DISCLOSURE.—At least once each year, the Executive Secretary of the Commission shall make a public disclosure of the amount and source of each gift and bequest received under this section, and any investment thereof, and the purposes for which any amounts are expended under this section.

(g) COMMISSION ON ART AND ANTIQUITIES OF THE UNITED STATES SENATE.—

(1) INCORPORATION.—The provisions of Senate Resolution 382 (Ninetieth Congress; agreed to October 1, 1968) (as amended by this Section) and Senate Resolution 95 (Ninety Second Congress; agreed to April 1, 1971) are hereby incorporated by reference.

(2) TECHNICAL CHANGES.—Senate Resolution 382 (Ninetieth Congress; agreed to October 1, 1968) is amended—

(A) in section 1(b) by adding at the end thereof "The Secretary of the Senate shall be the Executive Secretary of the Commission"; and

(B) in section 2(a)—

(i) by striking out "and protect" and inserting in lieu thereof "protect, and make known"; and

(ii) by striking out "within the Senate wing of the Capitol", and inserting in lieu thereof "within the Senate wing of the Capitol, any Senate Office Building".

(h) ADVISORY BOARD.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Commission is authorized to establish an Advisory Board (hereinafter "Board").

(B) COMPOSITION.—The Board shall be headed by a Chairman and composed of six members (including the Chairman). The membership of the Board may be expanded by Act of the Commission, consistent with the pattern established in paragraph (3)(B) of this section. The Board, with the approval of the Commission, may establish and maintain additional entities to further the purpose stated in subparagraph (C).

(C) PURPOSE.—The purpose of the Board shall be to encouarge the acquisition of fine arts, furnishings, and historical documents and to foster activities relating to the preservation and enhancement of the history and traditions of the United States Senate.

(2) COMPENSATION.—The Chairman and Board members shall be from public and private life, and shall serve without compensation. The Chairman and Board members may be reimbursed for actual and necessary expenses incurred in the performance of the duties of the Board at the discretion of the Commission.

(3) TERMS.—

(A) CHAIRMAN.—The Chairman of the Board shall be appointed by the Chairman of the Commission, and shall serve at the pleasure of the Commission for a 4-year term.

(B) OTHER MEMBERS.—The other members of the Board shall be appointed by the President pro tempore of the Senate, and shall serve staggered 4-year terms at the pleasure of the Commission. The term of the initial appointments of two Board members shall be for four years. The term of the initial appointment of the remaining three Board members shall be for two years.

(C) VACANCIES.—Any vacancies on the Board shall be filled in same manner as the appointment to such position was made.

(i) SENATE RULEMAKING POWER.—The provisions of this section (except subsections (b), (d), and (e)) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate, and as such they shall be considered as part of the rules of the Senate, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) 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.

SEC. 3 OLD EXECUTIVE OFFICE BUILDING.

(a) ACCEPTANCE OF GIFTS OF MONEY AND PROPERTY.—The Director of the Office of Administration is authorized to—

(1) accept, hold, administer, utilize and sell gifts and bequests of property, both real and personal, and loans of personal property other than money; and

(2) accept and utilize voluntary and uncompensated services; for the purpose of aiding, benefiting, or facilitating the work of preservation, restoration, renovation, rehabilitation, or historic furnishing of the Old Executive Office Building and the grounds thereof.

(b) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury a fund for use in accordance with the provisions of this section.

(2) DEPOSITS AND AVAILABILITY.—Amounts of money and proceeds from the sale of property accepted under subsection (a) shall be deposited in the fund, which shall be available to the Director of the Office of Administration. Such funds shall be held in trust by the Secretary of the Treasury.

(c) USE OF FUND.—Property accepted pursuant to this section or the proceeds from the sale thereof, shall be used as nearly as possible in accordance with the terms of gift or bequest. The Director of the Office of Administration shall not accept any gift under this section that is expressly conditioned on any expenditure not to be met from the gift itself unless such expenditure has been approved by an Act of Congress.

(d) TAXES.—For the purpose of the Federal income, estate, and gift tax laws, property accepted under this section shall be considered as a contribution to or for the use of the United States.

(e) PUBLIC DISCLOSURE.—At least once each year, the Director of the Office of Administration shall make a public disclosure of the amount and source of each gift and bequest received under this section, and the purpose for which amounts in the fund established under subsection (b) are expended.

Mr. BYRD. Mr. President, I have a strong interest in the history of the U.S. Capitol Building and I would very much like to ensure the continued improvement of this most impressive structure and its contents. I am sure my colleagues share my concern with preserving this great building and its treasures for generations of Americans and millions of visitors from around the world.

Within these walls of what is known as the "Shrine of Democracy" I have worked for over 30 years of my life as a Member of the U.S. Senate and the House of Representatives. From the very first day my admiration and appreciation for this building and its contents has only grown deeper.

However, during this same time I have seen the wonderful acquisitions exhibited at the White House, State Department, and the Library of Congress as a result of the generosity of many of our public-spirited citizens, and I commend them for their successful endeavors.

I would also like to see a collection of American furnishings and art of equal quality acquired for this building.

The purpose of this legislation is to put us in the position to accept bequests of fine art and furnishings for the Capitol and the funds with which to acquire them, and I urge its passage.

Mr. STEVENS. Mr. President, the substitute amendment would in part authorize the Office of Administration to receive gifts from the public to help renovate and refurbish the Old Executive Office Building. The need for this amendment came to our attention after the Rules and Administration Committee had already unanimously reported out H.R. 60. Had we known about the need for this amendment, I am quite sure it would have been included in our committee reported bill.

Next year we will be celebrating the 100th anniversary of the completion of the Old Executive Office Building. This building, when completed in 1888, housed the Department of State, Department of War, and Department of the Navy, and at that time was the largest office building in the world. It is still considered one of the best examples of French Second Empire architecture in the country.

Mr. President, I ask unanimous consent to have printed a letter from the Director of the Office of Administration requesting this amendment and the text of H.R. 60 including the amendment just offered.

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

THE WHITE HOUSE,
Washington, September 24, 1987.

Hon. TED STEVENS,
Committee on Rules, U.S. Senate, Hart Senate Building, Washington, DC.

DEAR SENATOR STEVENS: We would appreciate your help in providing the authority for this and future Administrations to receive gifts from the public in order to renovate and refurbish the Old Executive Office Building (OEOB). Several parties have expressed an interest in donating both cash and furniture. Attached is proposed legislation for the Office of Administration to receive gift authority for the preservation of the OEOB. We think that it would be most appropriate to make this a companion piece to the legislation now pending in the Senate to permit gifts for restoration of the Capitol, another great national monument.

The language in the attached proposal is patterned after existing gift authorities including those at the Departments of Treasury and State. The only new section, which we tailored to our needs, states that the gifts will benefit preservation and renovation. Our statement of purpose is more limited than other gift authorities that we have reviewed.

Constructed for the State, War and Navy Departments from 1871 to 1888, the OEOB is one of the most important buildings in Washington. As one of nation's finest examples of the Second Empire style it is also one of its few survivors and stands in contrast to the Neo-Classical architectural style that characterizes the majority of government buildings.

The OEOB's architectural importance is matched only by the prominent position it occupies in our national history. Many of our country's most celebrated statesmen have worked in this building, including 25 Secretaries of State, 15 Secretaries of the Navy, and 21 Secretaries of War. Theodore and Franklin D. Roosevelt, William Howard Taft and Dwight D. Eisenhower occupied offices there early in their careers. Since 1949, after the departure of the last department from the building, the OEOB has housed the Executive Office making it truly a vital part of the Presidency.

We believe that the preservation of the OEOB and an awareness of its value as an historical site is important for the American people. The public has demonstrated its interest in the building by participating in tours which are conducted weekly; these are presently oversubscribed and reservations must be made three months in advance. Since 1984, this program has been an overwhelming success.

As we celebrate the centennial anniversary of the OEOB in 1988, the passage of the attached proposed legislation will enable private sponsorship of the restoration of this historically and aesthetically important building.

I understand that in some preliminary discussions between our respective staffs there was some question raised whether custody of the gifts should reside with the Director of the Office of Administration. Since the Director of the Office of Administration has the responsibility for proper maintenance of the building, I think it is important that we not separate the management responsibility from the authority to accept gifts. We believe it would be efficient to have the maintenance and restoration functions reside with one individual. Moreover, we think it will prove beneficial to the people and to the Congress to be able to identify one individual who will be responsible for this important project. I will be very pleased to have an opportunity to discuss this particular matter with you further and any other matters on which you may want additional information, at your convenience.

Sincerely,

GORDON G. RIGGLE,
Deputy Assistant to the President, Director of the Office of Administration.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (No. 1371) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 60) was passed.

The title is amended so as to read:

To permit the Architect of the Capitol, under the direction of the Joint Committee on the Library, to accept gifts of money for the purchase of works of fine art for the Capitol, and for other purposes.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE VETERANS' EMPLOYMENT AND TRAINING AMENDMENTS OF 1987

Mr. BYRD. Mr. President, I ask unanimous consent that the action by which the Senate on August 4, 1987, indefinitely postponed S. 999, the Veterans' Employment and Training Amendments of 1987, be vitiated and that the Senate proceed to the consideration of S. 999, as reported; that it be read for the third time, passed, the motion to reconsider laid on the table.

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

The bill (S. 999), as passed, is as follows:

S. 999

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

SECTION 1. SHORT TITLE; REFERENCE TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Employment, Training, and Counseling Amendments of 1987".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. ADMINISTRATION OF EMPLOYMENT AND TRAINING PROGRAMS.

(a) Section 2002A is amended—

(1) by inserting "(a)" before "There"; and

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

"(b) The Secretary shall—

"(1) carry out all provisions of this chapter through the Assistant Secretary of Labor for Veterans' Employment and Training and administer through such Assistant Secretary all programs under the jurisdiction of the Secretary for the provision of employment and training services designed to meet the needs of disabled veterans, veterans of the Vietnam era, and all other eligible veterans and eligible persons;

"(2) in order to make maximum use of available resources, encourage all such programs and all grantees under such programs to enter into cooperative arrangements with private industry and business concerns (including small business concerns), educational institutions, trade associations, and labor unions;

"(3) ensure that maximum effectiveness and efficiency are achieved in providing services and assistance to eligible veterans under all such programs by coordinating and consulting with the Administrator with respect to (A) programs conducted under other provisions of this title, with particular emphasis on coordination of such programs with readjustment counseling activities carried out under section 612A of this title, apprenticeship or other on-job training programs carried out under section 1787 of this title, and rehabilitation and training activities carried out under chapter 31 of this title, and (B) the Veterans' Job Training Act (Public Law 98-77, 29 U.S.C. 1721 note);

"(4) ensure that job placement activities are carried out in coordination and cooperation with appropriate State public employment service officials;

"(5) subject to subsection (c)(2) of this section, make available for use in each State, directly or by grant or contract, such funds as may be necessary (A) to support (i) disabled veterans' outreach program specialists appointed under paragraph (1) of section 2003A(a) of this title, and (ii) local veterans' employment representatives assigned under section 2004(b) of this title, and (B) to support the reasonable expenses of such specialists and representatives for training, travel, supplies, and fringe benefits, including travel expenses and per diem for attendance at the National Veterans' Employment and Training Service Institute established under section 2010A of this title;

"(6) monitor and supervise on a continuing basis the distribution and use of funds provided for use in the States under this paragraph (5) of this subsection; and

"(7) monitor the appointment of disabled veterans' outreach specialists and the assignment of local veterans' employment representatives in order to ensure compliance with the provisions of section 2003A(a)(1) and 2004(a)(4), respectively.

"(c)(1) The distribution and use of funds under subsection (b)(5) of this section in order to carry out sections 2003A(a) and 2004(a) of this title shall be subject to the continuing supervision and monitoring of the Secretary and shall not be governed by the provisions of any other law, or any regulations prescribed thereunder, that are in-

consistent with this section or section 2003A or 2004 of this title.

"(2) In determining the terms and conditions of a grant or contract under which funds are made available in a State under subsection (b)(5) of this section in order to carry out section 2003A(a) or 2004 (a) and (b) of this title, the Secretary shall take into account (A) the evaluations, carried out pursuant to section 2003(c)(13) of this title, of the performance of local employment offices in the State, and (B) the results of the monitoring, carried out pursuant to paragraph (1) of this subsection, of the use of funds under subsection (b)(5) of this section.

"(d) The Secretary shall assign to each region for which the Secretary operates a regional office a representative of the Veterans' Employment and Training Service to serve as the Regional Director for Veterans' Employment and Training.".

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) Section 2003A is amended—

(A) in subsection (a)—

(i) by striking out paragraphs (1), (3), and (5) and redesignating paragraphs (2) and (4) as paragraphs (1) and (2), respectively;

(ii) in paragraph (1) (as so redesignated)—

(I) by amending the first sentence to read as follows: "The amount of funds made available for use in a State under section 2002A(b)(5)(A)(i) of this title shall be sufficient to support the appointment of one disabled veterans' outreach program specialist for each 5,300 veterans of the Vietnam era and disabled veterans residing in such State";

(II) in the third, fourth, and fifth sentences, by inserting "qualified" before "disabled" each place it appears; and

(III) in the fifth sentence, by inserting "qualified" after "any"; and

(iii) in paragraph (2) (as so redesignated), by striking our "paragraph (2) of"; and

(B) by striking out subsection (d).

(2) Section 2006 is amended—

(A) in subsection (a), by striking out the last sentence; and

(B) in subsection (d), by striking out "of Labor, upon the recommendation of the Assistant Secretary of Labor for Veterans' Employment,".

(3)(A) Section 2009 is repealed.

(B) The table of sections at the beginning of chapter 41 is amended by striking out the item relating to section 2009.

SEC. 3. LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES.

(a) IN GENERAL.—(1) Section 2004 is amended to read as follows:

"§ 2004. Local veterans' employment representatives

"(a)(1) The total of the amount of funds made available for use in the States under section 2002A(b)(5)(A)(ii) of this title shall be sufficient to support the assignment of 1,600 full-time local veterans' employment representatives and the States' administrative expenses associated with the assignment of that number of such representatives and shall be allocated to the several States so that each State receives funding sufficient to support—

"(A) the number of such representatives who were assigned in such State on January 1, 1987, plus one additional such representative;

"(B) the percentage of the 1,600 such representatives for which funding is not provided under clause (A) of this paragraph which is equal to the average of (i) the percentage of all veterans residing in the United States who reside in such State, (ii) the percentage of the total of all eligible veterans and eligible persons registered for assistance with local employment offices in the United States who are registered for assistance with local employment offices in such State, and (iii) the percentage of all full-service local employment offices in the United States which are located in such State; and

"(C) the State's administrative expenses associated with the assignment of the number of such representatives for which funding is allocated to the State under clauses (A) and (B) of this paragraph.

"(2)(A) The local veterans' employment representatives allocated to a State pursuant to paragraph (1) of this subsection shall be assigned by the administrative head of the employment service in the State, with the concurrence of the State Director for Veterans' Employment and Training, so that as nearly as practical (i) one full-time such representative is assigned to each local employment office at which a total of at least 1,100 eligible veterans and eligible persons is registered for assistance, (ii) one additional full-time such representative is assigned to each such local employment office for each 1,500 such individuals above 1,100 such individuals who are so registered at such office, and (ii) one half-time such representative is assigned to each local employment office at which at least 350 but less than 1,100 such individuals are so registered.

"(B) In the case of a local employment office at which less than 350 such individuals are so registered, the head of such office (or the designee of the head of such office) shall be responsible for ensuring compliance with the provisions of this title providing for priority services for veterans and priority referral of veterans to Federal contractors.

"(3) For the purposes of this subsection, an individual shall be considered to be registered for assistance with a local employment office during a program year if the individual—

"(A) registered, or renewed such individual's registration, for assistance with the office during that program year; or

"(B) so registered or renewed such individual's registration during a previous program year and, in accordance with regulations which the Secretary shall prescribe, is counted as still being registered for administrative purposes.

"(4) Each local veterans' employment representative shall be a veteran. Preference shall be given in the assignment of such representatives to qualified disabled veterans. If the Secretary finds that no qualified disabled veteran is available for any such assignment, such assignment may be given to a qualified veteran who is not a disabled veteran.

"(b) Local veterans' employment representatives shall be assigned, in accordance with this section, by the administrative head of the employment service in each State.

"(c)(1) The services provided by local veterans' employment representatives shall be subject to the functional supervision specified in section 2003(c)(1)(A) of this title.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, the work of local veterans' employment representatives shall be fully devoted to discharging at the local level the duties and functions specified in section 2003 (c)(1)(B) and (c)(2) through (12) of this title.

"(B) The duties of local veterans' employment representatives shall include providing, or facilitating the provision of, counseling services to veterans who, pursuant to section 5(b)(3) of the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note), are certified as eligible for participation under such Act.".

(2) The item relating to such section in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2004. Local veterans' employment representatives.".

(b) BUDGETING.—Section 2006(a) is amended—

(1) in the fifth sentence—

(A) by striking out "to fund the disabled veterans' outreach program under section 2003A" and inserting in lieu thereof "in all of the States for the purposes specified in paragraph (5) of section 2002A(b) of this title and to fund the National Veterans' Employment and Training Service Institute under section 2010A"; and

(B) by striking out "such section" and inserting in lieu thereof "such sections"; and

(2) by amending the sixth sentence to read as follows: "Each budget submission with respect to such funds shall include separate listings of the proposed numbers, by State, of disabled veterans' outreach program specialists appointed under section 2003A(a)(1) of this title and local veterans' employment representatives assigned under section 2004(b) of this title, together with information demonstrating the compliance of such budget submission with the funding requirements specified in the preceding sentence.".

(c) REPORTING REQUIREMENTS.—Subsection (c) of section 2007 is amended to read as follows:

"(c) Not later than February 1 of each year, the Secretary shall report annually to the appropriate committees of the Congress on the success during the preceding fiscal year of the Department of Labor and its affiliated State employment service agencies in carrying out the provisions of this chapter and programs for the provision of employment and training services to meet the needs of veterans. The report shall include—

"(1) specification, by State, of the numbers of eligible veterans, veterans of the Vietnam era, disabled veterans, special disabled veterans, and eligible persons who registered for assistance with the public employment service system and, of each such categories, the numbers referred to and placed in jobs, the numbers referred to and placed in jobs and job training programs supported by the Federal Government, the number counseled, and the number who received some reportable service;

"(2) any determination made by the Secretary during the preceding fiscal year under section 2006 of this title or subsection (a)(2) of this section and a statement of the reasons for such determination;

"(3) a report on activities carried out during the preceding fiscal year under sections 2003A and 2004 of this title; and

"(4) a report on the operation during the preceding fiscal year of programs for the provision of employment and training services designed to meet the needs of veterans, including an evaluation of the effectiveness of such programs during such fiscal year in meeting the requirements of section 2002A(b) of this title, the efficiency with which services were provided under such programs during such year, and such recommendations for further legislative action (including the need for any changes in the

formulas governing the appointment of disabled veterans' outreach program specialists under section 2003A(a)(2) of this title and the assignment of local veterans' employment representatives under section 2004(b) of this title and the allocation of funds for the support of such specialists and representatives) relating to veterans' employment as the Secretary considers appropriate.".

SEC. 4. PERFORMANCE OF DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS AND LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES.

(a) IN GENERAL.—Chapter 41 is amended by inserting after section 2004 the following new section:

"§ 2004A. Performance of disabled veterans' outreach program specialists and local veterans' employment representatives

"(a)(1) After consultation with State employment agencies or their representatives, or both, the Secretary shall prescribe, and provide for the implementation and application of, standards for the performance of disabled veterans' outreach program specialists appointed under section 2003A(a) of this title and local veterans' employment representatives assigned under section 2004(b) of this title and shall monitor the activities of such specialists and representatives.

"(2) Such standards shall be designed to provide for—

"(A) in the case of such specialists, the effective performance at the local level of the duties and functions of such specialists specified in section 2003A (b) and (c) of this title,

"(B) in the case of such representatives, the effective implementation at the local level of the duties and functions specified in paragraphs (1)(B) and (2) through (12) of section 2003(c) of this title, and

"(C) the monitoring and rating activities prescribed by subsection (b) of this section.

"(3) Such standards shall include as one of the measures of the performance of such a specialist the extent to which the specialist, in serving as a case manager under section 14(b)(1)(A) of the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note), facilitates rates of successful completion of training by veterans participating in programs of job training under that Act.

"(4) In entering into an agreement with a State for the provision of funding under section 2002A(b)(5) of this title, the Assistant Secretary of Labor for Veterans' Employment and Training personally may make exceptions to such standards to take into account local conditions and circumstances, including the employment, counseling, and training needs of the eligible veterans and eligible persons served by the office or offices to which the exception would apply.

"(b)(1) State Directors for Veterans' Employment and Training and Assistant State Directors for Veterans' Employment and Training shall regularly monitor the performance of the specialists and representatives referred to in subsection (a)(1) of this section through the application of the standards required to be prescribed by such subsection (a)(1).

"(2) A State Director for Veterans' Employment and Training, or a designee of such Director, shall submit to the head of the employment service in the State recommendations and comments in connection with each annual performance rating of a disabled veterans' outreach program specialist or local veterans' employment representative in the State.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 41 is amended by adding at the end the following:

"2004A. Performance of disabled veterans' outreach program specialists and local veterans' employment representatives.".

SEC. 5. WAIVER OF RESIDENCY REQUIREMENT FOR CERTAIN STATE DIRECTORS FOR VETERANS' EMPLOYMENT AND TRAINING.

Section 2003(b)(1) is amended—

(1) by inserting "(A)" after "(1)";

(2) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively;

(3) by inserting in clause (i), as redesignated by clause (2), ", except as provided in subparagraph (B) of this paragraph," after "shall"; and

(4) by adding at the end the following new subparagraph:

"(B) The Secretary, where the Secretary determines that it is necessary to consider for appointment as a State Director for Veterans' Employment and Training an eligible veteran who is an Assistant State Director for Veterans' Employment and Training and has served in that capacity for at least 2 years, may waive the requirement in subparagraph (A)(i) of this paragraph that an eligible veteran be a bona fide resident of a State for at least 2 years in order to be eligible to be assigned as a State Director for Veterans' Employment and Training. In the event of such a waiver, preference shall be given to a veteran who meets such residency requirement and is equally as qualified for the position of State Director as such Assistant State Director.".

SEC. 6. SHARING OF INFORMATION REGARDING POTENTIAL EMPLOYERS.

(a) BETWEEN THE DEPARTMENTS OF DEFENSE AND LABOR.—Section 2005 is amended—

(1) by inserting "(a)" before "All"; and

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

"(b) For the purpose of assisting the Secretary and the Administrator in identifying employers with potential job training opportunities under the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note) and otherwise in order to carry out this chapter, the Secretary of Defense shall provide to the Secretary and to the Administrator (1) not more than 30 days after the date of the enactment of this subsection, the then-current list of employers participating in the National Committee for Employer Support of the Guard and Reserve, and (2) thereafter, on the fifteenth day of each month, updated information regarding the list.".

(b) BETWEEN THE VETERANS' ADMINISTRATION AND THE DEPARTMENT OF LABOR.—(1) Section 2008 is amended—

(A) by inserting "(a)" before "In"; and

(B) by adding at the end the following new subsection:

"(b) The Administrator shall require each regional office of the Veterans' Administration to provide to appropriate employment service offices and Department of Labor offices, as designated by the Secretary, on a monthly or more frequent basis, the name and address of each employer located in the area served by such regional office that offers a program of job training which has been approved by the Administrator under section 7 of the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note).".

(2)(A) The heading of section 2008 is amended to read as follows:

"§ 2008. Cooperation and coordination".

(B) The item relating to such section in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2008. Cooperation and coordination.".

SEC. 7. RESPONSIBILITIES OF PERSONNEL.

(a) STATE AND ASSISTANT STATE DIRECTORS FOR VETERANS' EMPLOYMENT AND TRAINING.—Section 2003(c) is amended—

(1) in clause (1)—

(A) by inserting "(A) functionally supervise the provision of services to eligible veterans and eligible persons by such system and such program and their staffs, and (B)" after "(1)"; and

(B) by inserting ", including the program conducted under the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note)" after "programs";

(2) in clause (2), by inserting "and otherwise to promote the employment of eligible veterans and eligible persons" after "opportunities";

(3) in clause (11), by striking out "and" at the end;

(4) in clause (12), by striking out the period and inserting in lieu thereof "; and"; and

(5) by adding at the end the following new clause:

"(13) not less frequently than annually, conduct an evaluation at each local employment office of the services provided to eligible veterans and eligible persons and make recommendations for corrective action as appropriate.".

(b) DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS.—Section 2003A(c) is amended—

(1) in clause (4), by inserting "(including part C of title IV of the Job Training Partnership Act (29 U.S.C. 1501 et seq.))" after "programs";

(2) in clause (6), by inserting "(including the program conducted under the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note))" after "programs"; and

(3) by adding at the end the following new clauses:

"(9) Provision of counseling services to veterans with respect to veterans' selection of and changes in vocations and veterans' vocational adjustment.

"(10) Provision of services as a case manager under section 14(b)(1)(A) of the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note).".

SEC. 8. NATIONAL VETERANS' EMPLOYMENT AND TRAINING SERVICE INSTITUTE.

(a) ESTABLISHMENT OF INSTITUTE.—Chapter 41 is further amended by adding at the end the following new section:

"§ 2010A. National Veterans' Employment and Training Service Institute

"In order to provide for such training as the Secretary considers necessary and appropriate for the efficient and effective provision of employment, job-training, placement, and related services to veterans, the Secretary shall establish and make available such funds as may be necessary to operate a National Veterans' Employment and Training Service Institute for the training of disabled veterans' outreach program specialists, local veterans' employment representatives, State Directors for Veterans' Employment and Training, and Assistant State Directors for Veterans' Employment and Training, and such other personnel involved in the provision of employment, job-training, counseling, placement, or related serv-

ices to veterans as the Secretary considers appropriate.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 41 is further amended by adding at the end the following new item:

"2010A. National Veterans' Employment and Training Service Institute.".

SEC. 9. STUDY OF UNEMPLOYMENT AMONG CERTAIN DISABLED VETERANS AND VIETNAM THEATER VETERANS.

(a) IN GENERAL.—Chapter 41 is further amended by adding at the end the following new section:

"§ 2010B. Special unemployment study

"(a) The Secretary, through the Bureau of Labor Statistics, shall conduct, on a biennial basis, studies of unemployment among special disabled veterans and among veterans who served in the Vietnam Theater of Operations during the Vietnam era and promptly report to the Congress on the results of such studies.

"(b) The first study under this section shall be completed not later than July 1, 1988.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 41 is amended by adding at the end the following new item:

"2010B. Special unemployment study.".

SEC. 10. SECRETARY'S COMMITTEE ON VETERANS' EMPLOYMENT.

Clause (1) of section 2010(b) is amended—

(1) by redesignating subclauses (D), (E), and (F) as subclauses (E), (F), and (G), respectively;

(2) by inserting after subclause (C) a subclause, as follows:

"(D) the Secretary of Education;"

(3) by striking out "and" at the end of subclause (F) (as so redesignated);

(4) by adding at the end the following new subclause:

"(H) the Postmaster General; and".

SEC. 11. VETERANS' JOB TRAINING ACT AMENDMENTS.

(a) EXPANSION OF ELIGIBILITY.—(1) Paragraph (1) of section 5(a) of the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note) is amended to read as follows:

"(1) To be eligible for participation in a job training program under this Act, a veteran must—

"(A) be unemployed at the time of applying for participation in a program under this Act;

"(B)(i) have been unemployed for at least 10 of the 15 weeks immediately preceding the date of such veteran's application for participation in a program under this Act; or

"(ii)(I) have been terminated or laid off from employment as the result of a plant closing or major reduction in the number of persons employed by the veteran's prior employer, and (II) have no realistic opportunity to return to employment in the same or similar occupation in the geographical area where the veteran previously held employment; and

"(C)(i) have served in the active military, naval, or air service for a period of more than 180 days; or

"(ii)(I) have been discharged or released from the active military, naval, or air service for a service-connected disability; or (II) be entitled to compensation (or but for the receipt of retirement pay be entitled to compensation).".

(2) Section 3(3) of such Act is amended—

(A) by striking out "'Korean conflict'" and "(9)"; and

(B) by striking out "'State', and 'Vietnam era'," and "(24), and (29)" and inserting in lieu thereof "and 'State'" and "and (24)", respectively.

(b) COUNSELING.—(1) Section 14 of such Act is amended by striking out subsection (b) and inserting in lieu thereof the following:

"(b)(1) The Administrator and the Secretary shall jointly provide for—

"(A) a program under which, except as provided in paragraph (2), a disabled veteran's outreach program specialist appointed under section 2003A(a) of title 38, United States Code, is assigned as a case manager for each veteran participating in a program of job training under this Act, the veteran has an in-person interview with the case manager not later than 60 days after entering into a program of training under this Act, and periodic (not less frequent than monthly) contact is maintained with each such veteran for the purpose of (i) avoiding unnecessary termination of employment, (ii) referring the veteran to appropriate counseling, if necessary, (iii) facilitating the veteran's successful completion of such program, and (iv) following up with the employer and the veteran in order to determine the veteran's progress in the program and the outcome regarding the veteran's participation in and successful completion of the program;

"(B) a program of counseling services (to be provided pursuant to subchapter IV of chapter 3 of such title and sections 612A, 2003A, and 2204 of such title) designed to resolve difficulties that may be encountered by veterans during their training under this Act; and

"(C) a program of information services under which (i) each veteran who enters into a program of job training under this Act and each employer participating under this Act is informed of the supportive services and resources available to the veteran (I) under subparagraphs (A) and (B), (II) through Veterans' Administration counseling and career-development activities (especially, in the case of a Vietnam-era veteran, readjustment counseling services under section 612A of such title) and under part C of title IV of the Job Training Partnership Act (29 U.S.C. 1501 et seq.), and (III) through other appropriate agencies in the community, and (ii) veterans and employers are encouraged to request such services whenever appropriate.

"(2) No case manager still be assigned pursuant to paragraph (1)(A) in the case of the employees of an employer if the Secretary determines that—

"(A) the employer has an appropriate and effective employee assistance program that is available to all veterans participating in the employer's programs of job training under this Act; or

"(B) the rate of veterans' successful completion of the employer's programs of job training under this Act, either cummulatively or during the previous program year, is 60 percent or higher.

"(c) Before a veteran who voluntarily terminates from a program of job training under this Act or is involuntarily terminated from such program by the employer may be eligible to be provided with a further certificate, or renewal of certification, of eligibility for participation under this Act, such veteran must be provided by the Administrator with appropriate vocational counseling in light of the veteran's termination.".

(2) Section 7(d) of such Act is amended—

(A) by redesignating paragraph (12) as paragraph (13); and

(B) inserting after paragraph (11) the following new paragraph:

"(12) That, as applicable, the employer will provide each participating veteran with the full opportunity to participate in a personal interview pursuant to section 14(b)(1)(A) during the veteran's normal workday.".

(c) DISCONTINUANCE OF APPROVAL OF PARTICIPATION IN PROGRAMS OF EMPLOYERS WITH UNSATISFACTORY COMPLETION RATES.—Section 11 of such Act is amended—

(1) by inserting "(a)" after "SEC. 11."; and

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

"(b)(1) If the Secretary, after consultation with the Administrator and in accordance with regulations which the Administrator and the Secretary shall jointly prescribe to carry out this subsection, determines that the rates of veterans' successful completion of an employer's programs of job training previously approved by the Administrator for the purposes of this Act is disproportionately low, the Administrator shall disapprove participation in such programs on the part of veterans who had not begun such participation on the date that the employer is notified of the disapproval.

"(2)(A) A disapproval under paragraph (1) shall remain in effect until such time as the Administrator determines that adequate remedial action has been taken. In determining whether the remedial actions taken by the employer are adequate to ensure future avoidance of a disproportionately low rate of successful completion, the Administrator may, except in the case of an employer which the Secretary determines meets the criteria specified in clause (A) or (B) of section 14(b)(2), consider the likely effects of such actions in combination with the likely effects of using the payment formula described in subparagraph (B) of this paragraph. If the Administrator finds that the combined effects of such actions and such use are adequate to ensure future avoidance of such a rate, the Administrator may revoke the disapproval with the revocation conditioned upon such use for a period of time that the Administrator considers appropriate under the circumstances.

"(B) The payment formula referred to in subparagraph (A) is a formula under which, subject to sections 5(c) and 8(a)(2), the amount paid to the employer on behalf of a veteran shall be—

"(i) in the case of a program of job training of 4 or more months duration—

"(I) for the first 4 months of such program, 30 percent of the product of the starting hourly rate of wages paid to the veteran by the employer (without regard to overtime or premium pay) and the number of hours worked by the veteran during such months;

"(II) for any period after the first 4 months, 50 percent of the product of the starting hourly rate of wages paid to the veteran by the employer (without regard to overtime or premium pay) and the number of hours worked by the veteran during that period; and

"(III) upon the veteran's successful completion of the program, the amount that would have been paid, above the amount that was paid, for such first 4 months pursuant to subclause (I) if the percentage specified in subclause (I) were 50 percent rather than 30 percent; and

"(ii) in the case of a program of job training of less than 4 months duration—

"(I) for the months prior to the final scheduled month of the program, 30 percent of the product of the starting hourly rate of wages paid to the veteran by the employer (without regard to overtime or premium pay) and the number of hours worked by the veteran during the months prior to such final scheduled month;

"(II) for the final scheduled month of the program, 50 percent of the product of the actual hourly rate of wages paid to the veteran by the employer (without regard to overtime or premium pay) and the number of hours worked by the veteran during that month; and

"(III) upon the veteran's successful completion of the program, the amount that would have been paid, above the amount that was paid, for the months prior to the final scheduled month of the program pursuant to subclause (I) if the percentage specified in subclause (I) were 50 percent rather than 30 percent.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 16 of such Act is amended—

(1) by inserting "(a)" before "There";

(2) in subsection (a) (as so designated)—

(A) by inserting after the first sentence the following new sentence: "There is also authorized to be appropriated, in addition to the appropriations authorized by the preceding sentence, $60,000,000 for each of the fiscal years 1988 and 1989 for the purpose of making payments to employers under this Act."; and

(B) in the final sentence, by striking out "1989" and inserting in lieu thereof "1991"; and

(3) by adding at the end the following new subsection:

"(b) Notwithstanding any other provision of law, any funds appropriated under subsection (a) for any fiscal year which are obligated for the purpose of making payments under section 8 on behalf of a veteran (including funds so obligated which previously had been obligated for such purpose on behalf of another veteran and were thereafter deobligated) and are later deobligated shall immediately upon deobligation become available to the Administrator for obligation for such purpose. The further obligation of such funds by the Administrator for such purpose shall not be required, directly or indirectly, to be delayed in any manner by any officer or employee in the executive branch.".

(e) DEADLINES FOR VETERANS' APPLICATIONS AND ENTRY INTO TRAINING.—Section 17 of such Act is amended to read as follows:

"SEC. 17. Assistance may not be paid to an employer under this Act—

"(1) on behalf of a veteran who initially applies for a program of job training under this Act after June 30, 1989; or

"(2) for any such program which begins after December 31, 1989.".

(f) CONFORMING AMENDMENT.—Section 5(b)(3)(A) of such Act is amended by striking out "The" at the beginning of the first sentence and inserting in lieu thereof "Subject to section 14(c), the".

(g) DATA ON PARTICIPATION.—Section 15 of such Act is amended by adding at the end the following new subsection:

"(f) The Secretary shall, on a not less frequent than quarterly basis, collect from the heads of State employment services and State Directors for Veterans' Employment and Training information available to such heads and Directors, and derived from programs carried out in their respective States, with respect to the numbers of veterans who receive counseling services pursuant to section 14, who are referred to employers participating under this Act, who participate in programs of job training under this Act, and who complete such programs, and the reasons for veterans' noncompletion.".

SEC. 12. REVISIONS OF NOMENCLATURE.

(a) SECRETARY OF LABOR.—(1) Section 2001 is amended by adding at the end the following new paragraph:

"(7) The term 'Secretary' means the Secretary of Labor.".

(2) Sections 2002A, 2003 (a) and (b)(2), 2005(a) (as redesignated by the amendment made by section 6(a)(1)), 2006(a), 2007, 2008(a) (as redesignated by the amendment made by section 6(b)(1)), and 2010(b) are amended by striking out "Secretary of Labor" each place it appears except where preceded by "Assistant" and inserting in lieu thereof "Secretary".

(3) The first sentence of section 2010(b) is amended by striking out "The" and inserting in lieu thereof "Notwithstanding section 2002A(b)(1) of this title, the".

(b) ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.—(1) Sections 2000(2), 2002, 2002A(a) (as redesignated by section 2(a)) and 2010(b) are amended by inserting "and Training" after "Assistant Secretary of Labor for Veterans' Employment" each place it appears.

(2)(A) The heading of section 2002A is amended to read as follows:

"§ 2002A. Assistant Secretary of Labor for Veterans' Employment and Training; national programs".

(B) The item relating to such section in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2002A. Assistant Secretary of Labor for Veterans' Employment and Training; national programs.".

(c) STATE AND ASSISTANT STATE DIRECTORS FOR VETERANS' EMPLOYMENT AND TRAINING.—(1) Sections 2003 and 2003A(b)(2) are amended by inserting "and Training" after "State Directors for Veterans' Employment" and "Assistant State Director for Veterans' Employment" each place those terms appear.

(2)(A) The heading of section 2003 is amended to read as follows:

"§ 2003. State and Assistant State Directors for Veterans' Employment and Training".

(B) The item relating to such section in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2003. State and Assistant State Directors for Veterans' Employment and Training.".

SEC. 13. EFFECTIVE DATE.

The provisions of and amendments made by this Act shall take effect on October 1, 1987.

AMENDING TITLE 28, UNITED STATES CODE, TO PROVIDE FOR THE SELECTION OF THE COURT OF APPEALS TO DECIDE MULTIPLE APPEALS FILED WITH RESPECT TO THE SAME AGENCY ORDER

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 1162, that the Senate proceed to its immediate consideration, third reading, passed, and a motion to reconsider laid on the table.

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

JOHN W. WYDLER UNITED STATES COURTHOUSE

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1642.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1642) entitled "An Act to designate the United States Courthouse located at the intersection of Uniondale Avenue and Hempstead Turnpike in Uniondale, New York, as the 'John W. Wydler United States Courthouse' ", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. DESIGNATION OF BUILDING.

The United States Post Office located at 600 Franklin Avenue in Garden City, New York, shall be known and designated as the "John W. Wydler United States Post Office".

SEC. 2. LEGAL REFERENCES.

Any reference to the building referred to in section 1 in any law, map, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the "John W. Wydler United States Post Office".

Amend the title so as to read: An ACT to designate the United States Post Office at 600 Franklin Avenue in Garden City, New York, as the 'John W. Wydler United States Post Office'.".

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. Is there objection? Without objection, the motion is agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

EMIGRATION OF CERTAIN SOVIET CITIZENS TO THE UNITED STATES

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 376.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the resolution (H.J. Res. 376) entitled "Joint resolution calling upon the Soviet Union to immediately grant permission to emigrate to all those

who wish to join spouses in the United States", with the following amendments:

(1) Page 1, line 1, strike out all after "3,", down through "In", in line 2, and insert: strike out all that follows the resolving clause, and insert "That in".

(2) At the end of the amendment, insert: Strike out the preamble.

Amend the title so as to read: "Joint resolution to designate the Clarks Hill Dam, Reservoir, and Highway transversing the Dam on the Savannah River, Georgia and South Carolina, as the J. Strom Thurmond Dam, Reservoir, and Highway.".

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendments.

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

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of my distinguished friend, the acting Republican leader, the assistant Republican leader, who is both assistant and acting, whether or not Calendar Order No. 498 has been cleared for indefinite postponement, and whether or not Calendar Orders Nos. 470, 491, 500, and 508 have been cleared for action.

Mr. SIMPSON. Mr. President, I submit to the majority leader that those have been cleared on this side of the aisle.

Mr. BYRD. I thank my friend.

S. 62 INDEFINITELY POSTPONED

Mr. BYRD. I ask unanimous consent, Mr. President, that Calendar Order No. 498 be indefinitely postponed.

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

THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to Calendar Orders Nos. 470, 491, 500, and 508 seriatim.

ABANDONED SHIPWRECK ACT

The PRESIDING OFFICER. The clerk will report the first measure.

The assistant legislative clerk read as follows:

A bill (S. 858) to establish the title of States in certain abandoned shipwrecks, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Abandoned Shipwreck Act of 1987".

SEC. 2. FINDINGS.

The Congress finds that—

(a) States have the responsibility for management of a broad range of living and nonliving resources in State waters and submerged lands; and

(b) included in the range of resources are certain abandoned shipwrecks, which have been deserted and to which the owner has relinquished ownership rights with no retention.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(a) the term "embedded" means firmly affixed in the submerged lands or in coralline formations such that the use of tools of excavation is required in order to move the bottom sediments to gain access to the shipwreck, its cargo, and any part thereof;

(b) the term "National Register" means the National Register of Historic Places maintained by the Secretary of the Interior under section 101 of the National Historic Preservation Act (16 U.S.C. 470a);

(c) the terms "public lands," "Indian lands" and "Indian tribe" have the same meaning given the terms in the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-47011);

(d) the term "shipwreck" means a vessel or wreck, its cargo, and other contents;

(e) the term "State" means a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands; and

(f) the term "submerged lands" means the lands—

(1) that are "lands beneath navigable waters," as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301);

(2) of Puerto Rico, as described in section 8 of the Act of March 2, 1917, as amended (48 U.S.C. 749);

(3) of Guam, the Virgin Islands and American Samoa, as described in section 1 of Public Law 93-435 (48 U.S.C. 1705); and

(4) of the Commonwealth of the Northern Mariana Islands, as described in section 801 of Public Law 94-241 (48 U.S.C. 1681).

SEC. 4. RIGHTS OF ACCESS.

(a) ACCESS RIGHTS.—In order to—

(1) clarify that State waters and shipwrecks offer recreational and educational opportunities to sport divers and other interested groups, as well as irreplaceable State resources for tourism, biological sanctuaries, and historical research; and

(2) provide that reasonable access by the public to such abandoned shipwrecks be permitted by the State holding title to such shipwrecks pursuant to section 6 of this Act,

it is the declared policy of the Congress that States carry out their responsibilities under this Act to develop appropriate and consistent policies so as to—

(A) protect natural resources and habitat areas;

(B) guarantee recreational exploration of shipwreck sites; and

(C) allow for appropriate public and private sector recovery of shipwrecks consistent with the protection of historical values and environmental integrity of the shipwrecks and the sites.

(b) PARKS AND PROTECTED AREAS.—In managing the resources subject to the provisions of this Act, States are encouraged to create underwater parks or areas to provided additional protection for such resources. Funds available to States from grants from the Historic Preservation Fund shall be available, in accordance with the provisions of title I of the National Historic Preservation Act, for the study, interpretation, protection, and preservation of historic shipwrecks and properties.

SEC. 5. PREPARATION OF GUIDELINES.

(a) In order to encourage the development of underwater parks and the administrative cooperation necessary for the comprehensive management of underwater resources related to historic shipwrecks, the Secretary of the Interior, acting through the Director of the National Park Service, shall within nine months after the date of enactment of this Act prepare and publish guidelines in the Federal Register which shall seek to:

(1) maximize the enhancement of cultural resources;

(2) foster a partnership among sportdivers, fishermen, archeologists, salvors, and others interests to manage shipwreck resources of the States and the United States;

(3) facilitate access and utilization by recreational interests;

(4) recognize the interests of individuals and groups engaged in shipwreck discovery and salvage.

(b) Such guidelines shall be developed after consultation with appropriate public and private sector interests (including the Secretary of Commerce, the Advisory Council on Historic Preservation, sportdivers, State Historic Preservation Officers, professional dive operators, salvors, archeologists, historic preservationists, and fishermen).

(c) Such guidelines shall be available to assist States and the appropriate Federal agencies in developing legislation and regulations to carry out their responsibilities under this Act.

SEC. 6. RIGHTS OF OWNERSHIP.

(a) UNITED STATES TITLE.—The United States asserts title to any abandoned shipwreck that is—

(1) embedded in submerged lands of a State;

(2) embedded in coralline formations protected by a State on submerged lands of a State; or

(3) on submerged lands of a State and is included in or determined eligible for inclusion in the National Register.

(b) The public shall be given adequate notice of the location of any shipwreck to which title is asserted under this section. The Secretary of the Interior, after consultation with the appropriate State Historic Preservation Officer, shall make a written determination that an abandoned shipwreck meets the criteria for eligibility for inclusion in the National Register of Historic Places under clause (a)(3).

(c) TRANSFER OF TITLE TO STATES.—The title of the United States to any abandoned shipwreck asserted under subsection (a) of this section is transferred to the State in or on whose submerged lands the shipwreck is located.

(d) EXCEPTION.—Any abandoned shipwreck in or on the public lands of the United States is the property of the United States Government. Any abandoned shipwreck in or on any Indian lands is the property of the Indian tribe owning such lands.

(e) RESERVATION OF RIGHTS.—This section does not affect any right reserved by the United States or by any State (including any right reserved with respect to Indian lands) under—

(1) section 3, 5, or 6 of the Submerged Lands Act (43 U.S.C. 1311, 1313, and 1314); or

(2) section 19 or 20 of the Act of March 3, 1899 (33 U.S.C. 414 and 415).

SEC. 7. RELATIONSHIP TO OTHER LAWS.

(a) LAW OF SALVAGE AND THE LAW OF FINDS.—The law of salvage and the law of finds shall not apply to abandoned shipwrecks to which section 6 of this Act applies.

(b) LAWS OF THE UNITED STATES.—This Act shall not change the laws of the United States relating to shipwrecks, other than those to which this Act applies.

(c) EFFECTIVE DATE.—This Act shall not affect any legal proceeding brought prior to the date of enactment of this Act.

Mr. BRADLEY. Mr. President, the Senate is now to considering S.858, the Abandoned Shipwreck Act of 1987. This bill provides for state management of historically valuable shipwrecks found in State waters. Recent Court decisions have left these irreplaceable cultural and recreational resources prey to commercial treasure salvors. These rulings foreclosed State supervision and leave oversight to the Federal admiralty courts which are ill-equipped for the job. This bill allows States to oversee excavation and ensure access to sport divers—at no cost to the Federal Government.

In hearings before the Energy Committee, we heard much about the conflicts—perceived and real—between salvors, archeologists, the States and sport divers. Too often, this debate seems to consider shipwrecks as a zero sum proposition, a "who gets the wreck" feud. Because this legislation tries to preserve and manage these finite and fragile resources, most opponents of the legislation characterize it as a way to lock them up for one group—archeologists—to the detriment of others. Mr. President, the Energy Committee listened to these arguments and, by a 19-to-0 vote, unanimously rejected them.

The diving community is growing by leaps and bounds. Since 1970, nearly 5 million divers have been certified in the United States. In 1986, nearly 500,000 divers were certified. This represents a 10-percent increase over 1985 and is more than four times the number certified in 1970.

Technology adds to this interest and growth. On the one hand, there is the recent exploration of the *Titanic*, which is an irrefutable demonstration of old barriers to man falling away. On the other hand, lower cost and improved equipment have made diving more comfortable and accessible to the average person. For example, dry suits are now widely available and allow for expanded diving seasons in cold water areas such as in New England or off the New Jersey shore.

At current rates of growth, the sport diving community will double again in size in less than 10 years. From my perspective, this is good news. The New Jersey shore has an abundance of many things, an estimated 3,000 shipwrecks among them. Sport diving provides excellent recreational opportunities and much needed tourist revenue for the shore communities.

Yet such growth cannot be haphazard. Conflicts are emerging and not just with salvors, as in the case of the *China* wreck, a popular dive spot in the Delaware Bay that was lost to salvors. Fishermen also lay claim to shipwrecks, which serve as artificial reefs. And local communities have sometimes erected barriers or prevented divers from using beaches and other facilities. Without planning, these conflicts can only increase to the detriment of the sport and the shipwreck heritage. The legislation considered today would provide for that planning. My bill gives the States the tools and incentive to take charge of the coastal waters, create new recreational opportunities such as undersea parks, designate historic shipwreck sites with the appropriate protections, and resolve the inevitable conflicts that could threaten the sport of diving and the divers themselves.

Mr. President, I have visited great ruins in the West that have been preserved—Chaco Canyon, Mera Verde, Canyon de Chelly. Because of the Antiquities Act of 1906, these sites and others are protected for all generations. This legislation can lead to the same preservation and enhancement for underwater sites that is so obvious in the parks of New Mexico, Colorado, and Arizona.

The history of diving itself encourages the imagination. So much is possible today that was inconceivable even a few years ago. In 1906, the Congress showed true wisdom and vision in its actions to protect our national heritage. It's our turn today. I urge my colleagues in the Senate to follow the lead of the Energy Committee, and to vote unanimously for the approval of this crucial legislation.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 858), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PREPAYMENT OF LOANS MADE TO STATE AND LOCAL DEVELOPMENT COMPANIES

The PRESIDING OFFICER. The clerk will report the next bill.

The assistant legislative clerk read as follows:

A bill (S. 437) to amend the Small Business Investment Act of 1958 to permit prepayment of loans made to State and local development companies.

The Senate proceeded to consider the bill which had been reported from the Committee on Small Business, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

"In title V of the Small Business Investment Act of 1958, insert the following new section:

SEC. 506. (a) DEFINITIONS. (1) As used in this section, "issuer" means the issuer of a debenture which has been purchased by the Federal Financing Bank pursuant to section 503 of this Act.

(2) "Borrower" means the small business concern whose loan secures a debenture issued pursuant to section 503 of this Act.

(b) The issuer of a debenture purchased by the Federal Financing Bank and guaranteed under section 503 of this Act may at the election of the borrower prepay such debenture by paying to the Federal Financing Bank the outstanding principal balance and accrued interest due on the debenture at the coupon rate on the debenture, provided that:

(1) the loan that secures the debenture is not in default on the date the prepayment is made;

(2) private capital, with or without the existing debenture guarantee, is used to prepay the debenture, *and provided further*, That if private capital with the existing debenture guarantee is used, such refinancing may be done solely pursuant to sections 504 and 505 of this Act;

(3) the issuer of the debenture certifies that the benefits associated with prepayment of the debenture are entirely passed through to the borrower.

(c) No fees other than those specified in this section may be imposed as a condition on such prepayment against the issuer of the debentures, or the borrower, or the Small Business Administration or any fund or account administered by the Small Business Administration. If a debenture is refinanced without the existing debenture guarantee, the borrower may be required to pay a fee to the issuer of the debenture in the amount of one percent of the outstanding principal amount of the loan which secures the debenture. If a debenture is refinanced with the existing guarantee pursuant to section 504 of this Act, the borrower shall be subject to imposition of a fee by the issuer of the debenture in the amount of one-half of one percent of the outstanding principal amount of the loan which secures the debenture. Debentures refinanced under section 504 otherwise shall be subject to all of the provisions of such section and section 505 of this Act and the rules and regulations of the Administration promulgated thereunder, including but not limited to payment of authorized expenses and commissions, fees or discounts to brokers and dealers in trust certificates issued pursuant to section 505, provided, however, that the issuer shall be deemed to have waived any origination fee

on the new debenture to which it would have otherwise been entitled under 13 C.F.R. section 108.503-6(a)(1).

(d) Any debenture refinanced under section 504 pursuant to this section shall have a term of either 10 or 20 years, as determined by the Administration.

(e) In the event of default by a borrower, the Administration's guarantee shall be extinguished by payment by the Administration of the remaining principal balance plus accrued interest.

(f) Notwithstanding any other law, rule or regulations, the guarantee by the Administration under section 503 of this Act of existing debentures purchased by the Federal Financing Bank which are refinanced pursuant to this section under section 504 of this Act shall continue in full force and effect and the full faith and credit of the United States shall continue to be pledged to the payment of all amounts which may be required to be paid under any guarantee of debentures or trust certificates. (representing ownership of all or a fractional part of such debentures) issued by the Administration or its agent pursuant to Section 505 of this Act.

(g) The Administration shall issue regulations to implement this section and to facilitate the prepayment of debentures and loans made with the proceeds of such debentures within 60 days of the date of enactment of this section."

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 bill having been read the third time, the question is, Shall it pass?

So the bill (S. 437) as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VITIATION OF SENATE ACTION ON S. 437

(Later the following occurred:)

Mr. BYRD. Mr. President, I ask unanimous consent that action on Calendar 491, S. 437, be vitiated and that the bill be returned to the calendar.

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

DECISIONS ON MULTIPLE APPEALS WITH RESPECT TO THE SAME AGENCY ORDER

The PRESIDING OFFICER. The clerk will report the next bill.

The assistant legislative clerk read as follows:

A bill (S. 1134) to amend title 28, United States Code, to provide for the selection of the court of appeals to decide multiple appeals filed with respect to the same agency order.

The Senate proceeded to consider the bill.

Mr. THURMOND. Mr. President, as an original cosponsor, I strongly support S. 1134. This legislation is designed to resolve the "race to the courthouse" dilemma arising when multiple appellants seek review of the same Federal administrative order.

Under current law, when multiple petitions for appellate review are filed in different judicial circuits with regard to the same Federal agency order, proper venue is decided by determining which party was the "first to file." This "race to the courthouse" has led to some absurd results and a tremendous waste of private and judicial resources. Such races are sometimes decided by seconds or fractions of seconds. This irrational, unworkable procedure discredits the notion of fair play and substantial justice in the judicial process.

If enacted, S. 1134 will give each petitioner 10 days to appeal an agency order, and if multiple appeals are filed, the Judicial Panel on Multi-District Litigation will designate the circuit with proper jurisdiction. The Judicial Panel on Multi-District Litigation has the authority to transfer venue to a more convenient forum if good cause for such transfer can be shown.

This bill has widespread support and should solve the "race to the courthouse" dilemma. Therefore, I support S. 1134 and urge its passage.

Mr. GRASSLEY. Mr. President, I am delighted that the Senate has made this long-overdue correction of a quirk in Federal law regarding venue in administrative agency appeals.

This legislation, which has passed the House of Representatives in identical form, now moves on to the President for signature. Once in place, this legislation will end the unseemly and expensive contest that has come to be known as the "race to the court house."

I am referring, of course, to the so-called first to file rule now in effect when parties appeal Federal agency orders. Everyone who has studied this issue agrees that the human-chain, open-phone-line races and the subsequent proceedings to determine who was fractions of a second ahead of whom are wasteful of private and judicial resources, and are a sufficiently common spectacle to bring the legal process into public disrepute, if not ridicule.

This bill provides that whenever petitions for review of an agency order are filed in multiple appeals courts within 10 days after the issuance of a final order, the Judicial Panel on Multi-District Litigation will assign the case by lottery to one of the circuits. In all other cases, the first-to-file rule will continue to apply. Thus, while parties still have the right to file in the forum of their choice, "Races" would be reduced or eliminated. At the same time, the bill retains the court's ability to transfer cases based on the convenience of the parties and in the interests of justice.

I would like to thank a number of individuals who have supported this commonsense solution, such as Chairman BIDEN and Senator THURMOND, who agreed to clear this bill quickly, and Senator HEFLIN, who agreed to report the bill despite some reservations over random selection. I would also like to thank the Administative Conference of the United States for their tireless efforts on this issue, as well as the Administrative Office of the U.S. courts.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1134) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

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

SECTION 1. SELECTION OF COURT FOR MULTIPLE APPEALS.

Section 2112(a) of title 28, United States Code, is amended by striking out the last three sentences and inserting in lieu thereof the following: "If proceedings are instituted in two or more courts of appeals with respect to the same order, the following shall apply:

"(1) If within ten days after issuance of the order the agency, board, commission, or officer concerned receives, from the persons instituting the proceedings, the petition for review with respect to proceedings in at least two courts of appeals, the agency, board, commission, or officer shall proceed in accordance with (3) of this subsection. If within ten days after the issuance of the order the agency, board, commission, or officer concerned receives, from the persons instituting the proceedings, the petition for review with respect to proceedings in only one court of appeals, the agency, board, commission, or officer shall file the record in that court notwithstanding the institution in any other court of appeals of proceedings for review of that order. In all other cases in which proceedings have been instituted in two or more courts of appeals with respect to the same order, the agency, board, commission, or officer concerned shall file the record in the court in which proceedings with respect to the order were first instituted.

"(2) For purposes of (1) of this subsection, a copy of the petition or other pleading which institutes proceedings in a court of appeals and which is stamped by the court with the date of filing shall constitute the petition for review. Each agency, board, commission, or officer, as the case may be, shall designate by rule the office and the officer who must receive petitions for review under paragraph (1).

"(3) If an agency, board, commission, or officer receives two or more petitions for review of an order in accordance with the first sentence of paragraph (1) of this sub-

section, the agency, board, commission, or officer shall, promptly after the expiration of the ten-day period specified in that sentence, so notify the judicial panel on multidistrict litigation authorized by section 1407 of this title, in such form as that panel shall prescribe. The judicial panel on multidistrict litigation shall, by means of random selection, designate one court of appeals, from among the courts of appeals in which petitions for review have been filed and received within the ten-day period specified in the first sentence of paragraph (1), in which the record is to be filed, and shall issue an order consolidating the petitions for review in that court of appeals. The judicial panel on multidistrict litigation shall, after providing notice to the public and an opportunity for the submission of comments, prescribe rules with respect to the consolidation of proceedings under this paragraph. The agency, board, commission, or officer concerned shall file the record in the court of appeals designated pursuant to this paragraph.

"(4) Any court of appeals in which proceedings with respect to an order of an agency, board commission, or officer have been instituted may, to the extent authorized by law, stay the effective date of the order. Any such stay may thereafter be modified, revoked, or extended by a court of appeals designated pursuant to paragraph (3) with respect to that order or by any other court of appeals to which the proceedings are transferred.

"(5) All courts in which proceedings are instituted with respect to the same order, other than the court in which the record is filed pursuant to this subsection, shall transfer those proceedings to the court in which the record is so filed. For the convenience of the parties in the interest of justice, the court in which the record is filed may thereafter transfer all the proceedings with respect to that order to any other court of appeals.".

SEC. 2. CONFORMING AMENDMENT.

Section 509(b) of the Federal Water Pollution Control Act (33 U.S.C. 1369(b)) is amended by striking out paragraph (3) and redesignating paragraph (4) as paragraph (3).

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act take effect 180 days after the date of the enactment of this Act, except that the judicial panel on multidistrict litigation may issue rules pursuant to subsection (a)(3) of section 2112 of title 28, United States Code (as added by section 1) on or after such date of enactment.

Mr. BYRD. Mr. President, I move to reconsider the vote by which S. 1134 was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EMIGRATION OF CERTAIN SOVIET CITIZENS TO THE UNITED STATES

The PRESIDING OFFICER. The clerk will report the next measure.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 430) calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses or fiancees in the United States.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on third reading of the joint resolution.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass?

So the joint resolution (H.J. Res. 430) was passed.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I compliment the Chair for his proficiency in presiding. I compliment the Parliamentarian. I thank my good friend [Mr. SIMPSON], who is the acting Republican leader.

INGREDIENT LABELING

Mr. CHAFEE. Mr. President, I would like to report to my colleagues on the response of the restaurant industry to legislation I introduced requiring ingredient labeling for fast food.

When I first introduced the Fast Food Ingredient Information Act in May 1986, I was concerned about reports that individuals who need to know what is in the food they eat—those, for example, on a medically-imposed diet or who have a sensitivity to certain food constituents—were not getting the information they needed when they dined in fast food restaurants.

As I said then, roughly one-fifth of the American population daily eats in fast food restaurants and it is critical that they know what they are eating. Yet, there were complaints that many restaurant chains were not forthcoming in providing basic ingredient information to consumers. I felt that legislation was needed to require these operators to provide this information to their patrons through labeling on wrappers or on signs posted in their establishments.

At the same time, I held out hope that the restaurant industry would move on its own to provide customers with ingredient information, and I encouraged industry leaders to voluntarily disclose this information.

I am pleased to inform my colleagues that fast food operators have made positive steps in this area. Segments of the industry have moved to make the public more aware of the ingredients in their foods and to feature more nutritious and wholesome foods in their entrees.

Most of the large fast food companies have developed programs to disseminate ingredient information. McDonald's, Burger King, Denny's, Arby's, Roy Rogers, and Jack in the Box all have published informational brochures that are available to interested customers. Some are also looking into ways of providing ingredient information over a toll-free telephone line. Employee training and menu descriptions of ingredients are also being used to convey ingredient information to customers.

I might add that the National Restaurant Association has encouraged its members, which include not only most of the Nation's fast food corporations but many independent full-service, cafeteria-style and limited-service restaurants, to provide ingredient information to concerned patrons. Earlier this year, with the help of the American College of Allergists' Food Allergy Committee, the association published "Guidelines for Providing Facts to Foodservice Patrons." This booklet is designed to help foodservice operators develop both ingredient and nutrition information programs. The booklet recommends that restaurateurs pay close attention to their customers' dietary needs and be prepared to provide information about the ingredient or nutritional content of their menu offerings.

Mr. President, scientific evidence confirms that the leading causes of death in the United States—heart disease and cancer—can be diet related. As a result, many people view their eating habits as a controllable variable in the prevention of illness. For these individuals, knowledge of select ingredients, nutrients and cooking methods is crucial. Restaurant patrons need to be able to make informed choices about the foods they eat. They need to know, among other items, whether their meals are heavy in sodium or fat, whether they contain eggs or shellfish or whether MSG or sulfites have been added. In short, they have a right to know what they are eating.

When I first addressed this issue 18 months ago, I said that our economic system is based on the ideal of an informed consumer making informed choices among competing products. At the time, I believed that as far as fast food is concerned, we were a long way from that ideal. Today, the foodservice industry has begun to meet the challenge of my legislation and is taking positive steps on the ingredient labeling. Operators have found that disclosing ingredients and offering the public a greater choice of foods can be a competitive advantage.

Mr. President, I commend those restaurateurs who have acted to serve better the American consumer. I en-

courage those who have not yet taken steps to provide ingredient and nutritional information, to do so. I hope that the fast food industry will continue the good work it has started.

BICENTENNIAL MINUTE

DECEMBER 20, 1860: SENATE ESTABLISHES COMMITTEE OF THIRTEEN

Mr. DOLE. Mr. President, 127 years ago on December 20, 1860, the Senate established its so-called Committee of Thirteen, in a last-ditch effort to prevent the breakup of the Union. This action occurred on the same day that South Carolina voted for secession. Unlike its unwieldly House counterpart—the Committee of Thirty-Three, with one member from each State—the Senate panel contained a more balanced and illustrious group of members. They included Kentucky's John Crittenden, New York's William Seward, Illinois' Stephen Douglas, and Mississippi's Jefferson Davis.

From its inception, however, the committee faced insurmountable odds against success. With four States virtually out of the Union, it had to focus on reconstruction rather than on simply stopping secession. The committee's doom was sealed when members adopted Jefferson Davis' proposal that no action would be taken except by a dual majority of the five Republicans and eight other committee members. This came in recognition that no compromise proposals, particularly requiring amendment of the Constitution, could succeed without strong bipartisan and bisectional support.

The committee met four times between December 22 and 28. John Crittenden, following in Henry Clay's conciliatory tradition, presented a package of constitutional amendments. Acceptance of these compromise plans would require the Republican Party to abandon its intention to prohibit slavery in the territories—the basis on which it had been founded and had just won its first Presidential election. Taking their cue from President-elect Lincoln, Republican Senators rejected all proposals.

On New Years' Eve, the committee reported to the full Senate that it had been unable to agree on any general plan of adjustment. Louisiana's Senator Judah Benjamin sounded the panel's death knell in the final hours of 1860. "The day for the adjustment has passed," he declared. "If you would give it now, you are too late. We desire, we beseech you, to let our parting be in peace."

SOUTH KOREA

Mr. McCONNELL. Mr. President, as we look forward to the beginning of a new year, the people of South Korea look toward a new beginning under the leadership of the recently elected President Roh Tae Woo. The transition from the Presidency of Chun Doo Hwan is certainly noteworthy, and the significance to the people of Wednesday's elections is evidenced by the remarkably high voter turnout. President-elect Roh is, no doubt, weighing many issues which he must confront. I would like to take this opportunity to add one issue to his agenda.

The euphoria surrounding South Korea's achievement should not obscure the reality that we continue to have many serious concerns with the trade relationship between our two nations. Thursday's Washington Post, in discussing a recent speech by U.S. Trade Representative Clayton Yeutter, gave voice to the frustration many of us feel in confronting the issue of trade with South Korea. The matter is simply that, as Ambassador Yeutter noted, South Korea remains essentially closed to many important United States commodities.

Our concerns cover a broad range of products, but one issue of paramount interest to my State of Kentucky is that of access to the South Korean cigarette market. Since June, negotiators from the Republic of Korea and our administration have been working toward agreements on improving our access. Progress to date has been less than encouraging. Next week they will be taking up what will be the final round of talks before a mutually agreed upon deadline of the end of the year is reached. At that point, we will be compelled to reevaluate our options, and take more serious actions should an agreement not be reached. I continue to be hopeful for a less confrontational resolution of this issue.

South Korea is an important ally and a valued friend to this country. They profit much from our trade relationship, and I hope that new leadership rejuvenates efforts to resolve these difficult problems between us. It is clearly in the interest of our longstanding friendship and alliance to bridge our differences.

FOREIGN OPERATIONS—CONTRIBUTION TO THE INTERNATIONAL FUND FOR IRELAND

Mr. PELL. Mr. President, November 15, 1987, marked the second anniversary of the Anglo-Irish agreement which received the strong support of the Congress when it was adopted and continues to receive our strong support today.

An essential part of the Anglo-Irish agreement is the creation of the International Fund for Ireland, which is designed to promote the economic and social reconstruction of Northern Ireland and the border counties. As a manifestation of our support for the Anglo-Irish agreement and the International Fund for Ireland, the Congress enacted the Anglo-Irish Agreement Support Act of 1986, Public Law 99-415 which provides for contributions to the International Fund for Ireland in the amount of $50 million for fiscal year 1986 and $35 million for fiscal years 1987 and 1988. In enacting that legislation, the Congress said:

> The purpose of these United States contributions shall be to support the Anglo-Irish Agreement in promoting reconciliation in Northern Ireland and the establishment of a society in Northern Ireland in which all may live in peace, free from discrimination, terrorism, and intolerance, and with the opportunity for both communities to participate fully in the structures and processes of government.

The committee's decision to fully fund the third contribution to the International Fund for Ireland should be regarded as the strongest possible endorsement of the Anglo-Irish, agreement and the International Fund for Ireland and to the efforts of the British and Irish Governments and of those reasonable men and women within Northern Ireland who are working as diligently as possible to make that agreement work.

SUPERCONDUCTING SUPER COLLIDER

Mr. CRANSTON. Mr. President, I would like to express the support of Californians for the superconducting super collider [SSC].

In late November of this year, I was delighted to see representatives from Californians for the Collider-Central Valley Site along with representatives from Super Collider for America, visit Washington to express the magnitude of local SSC support for construction of the project in the Golden State. The groups represent a cross section of Californians who support California's proposal for the SSC including farmers, businessmen, local representatives, civic organizations and homeowners among others. These constituents of mine are convinced that the SSC needs to be built and needs to be built in California.

As my colleagues probably know by now, with a 53 mile-long circumference, the SSC is by far the largest and most expensive scientific instrument ever contemplated. The collider would be 20 times more powerful than the largest like machine available in the United States. When completed, it will be able to simulate the big bang, which scientists believe was the event that marked the start of the universe, and illuminate such critical questions as the origin of mass and unification of the fundamental forces.

The SSC's construction will reverse the trend that in recent years has led many outstanding American physicists to seek research opportunities abroad. From 1950 through the end of the last decade, nearly every major discovery in the field of particle physics was

made in the United States and nearly every Nobel Prize in the particle physics field went to an American.

However, the last three major particle discoveries have been made by Europeans at what is now the world's largest accelerator in Geneva. Many question America's role in particle physics research when the number of U.S. particle physics labs will shrink from eight labs in 1965 to maybe one or two by the 1990's. Moreover, by 1993, the Soviet's will have completed the world's largest atom smasher—more than three times the size of the largest United States machine.

Many refer to the collider as America's bid to regain the lead in high-energy physics research and, in high-energy physics, compare the development of the super collider to putting a man on the Moon. Similar research has yielded significant benefits in nuclear medicine, computer development, and other high technology fields.

Though not inexpensive, wherever the project is located it would be a great asset to basic research and the Nation in general. Without it, we would essentially relinquish America's role in high-energy physics and force many top American researchers to study abroad.

Mr. President, the main feature of this project is the oval-shaped, concrete lined tunnel 53 miles around and at least 50 feet underground. The SSC is placed underground to help ensure the structures integrity in the event of an earthquake. Tunnels are found to be highly resistant to earthquakes. For example, Mexico City's underground subway was left virtually unaffected by that city's big quake.

Some people have expressed concerns about citing the SSC in a region like California where geological movements are found more frequently. However, a recent study released by the U.S. Geological Service confirms the findings presented in California's proposal for the SSC. It has been demonstrated by experts that the SSC tunnel would, in all probability, be protected from the ground forces associated with an earthquake.

California's sincerity in gaining the SSC project has been demonstrated by the fact that California is willing to put up $1.2 billion as State costs for this $4.4 billion project. In times when the Federal deficit has reached an unprecedented level, California should be rewarded for taking a step forward to reduce the price tag of this project. In addition, many groups such as farmers, civic organizations, city councils, universities, and chambers of commerce have shown support for California's proposal. In fact, in a recent poll, over 69 percent of northern Californians support locating the SSC in their State.

The many economic and scientific benefits of buiding the SSC are obvious no matter which State ends up as home for the atom smasher. However, when considering the enormous cost associated with this project, we need to limit our criterion regarding the site proposals to reflect the best possible State for the construction of the super collider.

I believe the best State is California.

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on December 18, 1987, during the recess of the Senate, received a message from the President of the United States transmitting sundry nominations which were referred to the appropriate committees.

(The nominations received on December 18, 1987, are printed at the end of the Senate proceedings.)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, 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 9:41 a.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, without amendment:

S. 1684. An act to settle Seminole Indian land claims within the State of Florida, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3030) to provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to each of the following bills:

H.R. 403. An act to establish the El Malpais National Monument and the El Malpais National Conservation Area in the State of New Mexico, to authorize the Masau Trail, and for other purposes;

H.R. 519. An act to direct the Federal Energy Regulatory Commission to issue an order with respect to Docket No. EL-85-38-000; and

H.R. 2639. An act to repeal the Brown-Stevens Act concerning certain Indian tribes in the State of Nebraska.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1642. An act to designate the United States Courthouse located at the intersection of Uniondale Avenue and Hempstead Turnpike in Uniondale, New York, as the "John W. Wydler United States Courthouse.

The message further announced that the House agrees to the amendment of the Senate to the text of the bill (H.R. 3479) to provide for adjustments of royalty payments under certain Federal onshore and Indian oil and gas leases, and for other purposes; with an amendment, in which it requests the concurrence of the Senate, and that the House disagrees to the amendment of the Senate to the title of the bill.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2927. An act to designate the Federal courthouse being constructed at 129 Market Street, Youngstown, Ohio, as the "Thomas D. Lambros Federal Courthouse";

H.R. 3327. An act to designate the Federal building located at 324 West Market Street in Greensboro, North Carolina, as the "L. Richardson Preyer Federal Building";

H.R. 3674. An act to provide for Congressional approval of the Governing International Fishery Agreement between the United States and Japan; and

H.R. 3743. An act to improve the safety of rail transportation, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 2310. An act to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes;

H.R. 3427. An act to allow the obsolete submarine United States ship *Blenny* to be transferred to the State of Maryland before the expiration of the otherwise applicable 60-day congressional review period;

H.R. 3734. An act to recognize the significance of the administration of the Federal-Aid Highway System and to express appreciation to Ray A. Barnhart for his dedicated efforts in improving the Federal-Aid Highway System; and

H.J. Res. 426. Joint resolution authorizing the hand enrollment of the budget reconciliation bill and of the full-year continuing resolution for fiscal year 1988.

The enrolled bills and joint resolution were subsequently signed by the

Acting President pro tempore [Mr. PROXMIRE].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2927. An act to designate the Federal courthouse being constructed at 129 Market Street, Youngstown, Ohio, as the "Thomas D. Lambros Federal Courthouse"; to the Committee on Environment and Public Works.

H.R. 3327. An act to designate the Federal building located at 324 West Market Street in Greensboro, North Carolina, as the "L. Richardson Preyer Federal Building"; to the Committee on Environment and Public Works.

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-367. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

"ASSEMBLY JOINT RESOLUTION NO. 32

"Whereas, The State of California, with its long Pacific coastline, has been a maritime power since its earliest settlement; and

"Whereas, The vessels which have sailed the Pacific Ocean to and from California over the course of the state's history have been, in great measure, responsible for the development of the entire west coast of the United States and the growth and prosperity of California; and

"Whereas, It is fitting and proper for a representative collection of the vessels that made this history be preserved and exhibited in San Francisco so that generations to come may better understand our maritime history; and

"Whereas, It was one of the legislative goals of the late Representative Sala Burton of San Francisco to make a maritime museum in San Francisco a reality; and

"Whereas, Representative Burton's cause has been taken up by Representative Udall, Chairperson of the House Interior and Insular Affairs Committee, who has introduced legislation with the cosponsorship of 27 members of the California congressional delegation to establish a national maritime museum in San Francisco for the preservation and presentation of maritime artifacts and historic vessels including the sailing ship Balclutha, the steam schooner Wapama, the steamship SS Jeremiah O'Brien, the ferry Eureka, the schooner C. A. Thayer, the tug Eppleton Hall, the tug Hercules, and the scow schooner Alma presently located at the Golden Gate National Recreation Area; and

"Whereas, The preservation of these important elements of our maritime history is in the best interests of California and the nation; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the President and Congress are respectfully memorialized to support and enact legislation establishing a national maritime museum in San Francisco; 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 each Senator and Representative from California in the Congress of the United States, and to the Chairperson of the House Interior and Insular Affairs Committee."

POM-368. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Energy and Natural Resources:

"SENATE CONCURRENT RESOLUTION NO. 314

"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 U.S.C. 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: Now, therefore, be it

"Resolved by the Senate (the House of Representatives concurring), That we hereby memorialize the United States Congress to review the Low Level Radioactive Waste Policy Act of 1980 to reduce the number of proposed sites; 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) Develop a standard national approach to the management of naturally occurring or accelerator produced radioactive material, known as NARM waste.

"(5) Explore ways to assure long-term financial support and stability of each host state disposal facility, in the event of future changes in federal law or policy, or compact changes.

"(6) Consider providing a funding mechanism for the construction and long-term maintenance of low level radioactive waste facilities: And be it further

"Resolved, That we urge the United States Congress to review the current classification of Class C wastes and amend federal law to restrict the classification and relieve the states of responsibility for disposing of Class C wastes by January 1, 1989.

"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-369. A petition from the President of the Board of County Commissioners of the County of Hamilton, Ohio urging the continuation of the funding request for flood control studies in the metropolitan region of Cincinnati; to the Committee on Environment and Public Works.

POM-370. A resolution adopted by the Florida League of Cities, opposing the extension of individual and corporate alternative minimum tax to general obligations and revenue bonds issued by the State, Cities, and Counties of Florida; to the Committee on Finance.

POM-371. A resolution adopted by the Senate of the State of Michigan; to the Committee on Labor and Human Resources.

"SENATE RESOLUTION NO. 336

"Whereas, The United States of America has recently celebrated the 200th anniversary of the Constitution; and

"Whereas, The United States Constitution guarantees all citizens of this great republic the rights of freedom of speech and freedom of association; and

"Whereas, A substantial number of citizens have exercised their right to speak out freely and to associate with others for the common good to form free trade unions to advance their eocnomic, social, and political well-being; and

"Whereas, The free trade union movement has improved the working and living conditions for all Americans; and

"Whereas, The free trade union movement has provided working people a forum for expressing their views and effectively petitioning the government at all levels; and

"Whereas, History has demonstrated that the elimination of free trade unions would be the first step toward the elimination of democracy and the institution of authoritarian rule in these United States; now, therefore, be it

"Resolved by the Senate, That this legislative body hereby opposes any effort by any level or agency of government to subvert the rights fo working men and women by interfering with and/or taking over any labor organization that is a part of this country's free trade union movement; and be it further

"Resolved, That a copy of this resolution be transmitted to the President of the Untied States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, the United States Justice Department, and the National Labor Relations Board.

"The question being on the adoption of the resolution,

"The resolution was adopted.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation,

with an amendment in the nature of a substitute:

H.R. 940. A bill to provide for the regulation of the disposal of plastic materials and other garbage at sea; to provide for negotiation, regulation, and research regarding fishing with plastic driftnets; and for other purposes (Rept. No. 100-266).

S. 861. A bill to require certain actions by the Secretary of Transportation regarding certain drivers of motor vehicles and motor carriers (Rept. No. 100-267).

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. PROXMIRE (for himself and Mr. GARN) (by request):

S. 1974. A bill to enhance the enforcement authority of depository institution regulating agencies; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DECONCINI (for himself, Mr. DOMENICI, Mr. D'AMATO, and Mr. MOYNIHAN):

S. 1975. A bill to better enable Federal law enforcement officers to accomplish their missions, to assist Federal law enforcement agencies in attracting and retaining the most qualified personnel, and for other purposes; to the Committee on Governmental Affairs.

By Mr. EVANS (for himself, Mr. INOUYE, Mr. MCCAIN, Mr. HARKIN, Mr. DECONCINI, Mr. DASCHLE, Mr. BINGAMAN, Mr. PRESSLER, Mr. BURDICK, and Mr. WIRTH):

S. 1976. A bill to amend the Indian Child Welfare Act, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. MELCHER:

S. 1977. A bill to establish a demonstration project under which special magistrates with jurisdiction over Federal offenses within Indian country are to be appointed, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. EVANS:

S. 1978. A bill to amend the Internal Revenue Code of 1986 to retain a capital gains tax differential, and for other purposes; to the Committee on Finance.

By Mr. ADAMS (for himself and Mr. EVANS):

S. 1979. A bill to establish the Grays Harbor National Wildlife Refuge; to the Committee on Environment and Public Works.

By Mr. HECHT:

S. 1980. A bill entitled the "Nuclear Waste Policy Review Commission Act of 1987"; to the Committee on Energy and Natural Resources.

By Mr. DOLE:

S. 1981. A bill to provide civil penalties for the manufacturing or entering into commerce of imitation firearms which do not have markings to make them readily identifiable; to the Committee on Commerce, Science, and Transportation.

By Mr. HEINZ:

S. 1982. A bill to require the Secretary of the Treasury to mint and issue one-dollar coins in commemoration of the 100th anniversary of the birth of Dwight David Eisenhower; to the Committee on Banking, Housing, and Urban Affairs.

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

S. 1983. A bill to amend title 28, United States Code; to the Committee on the Judiciary.

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

S. 1984. A bill for the relief of Leroy W. Shebal of North Pole, Alaska; to the Committee on Energy and Natural Resources.

By Mr. DOLE:

S.J. Res. 237. Joint resolution to designate May 1988, as "Neurofibromatosis Awareness Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. BYRD (for himself and Mr. DOLE):

S. Res. 348. Resolution establishing an Arms Control Treaty Review Support Office; considered and agreed to.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE (for himself and Mr. GARN) (by request):

S. 1974. A bill to enhance the enforcement authority of depository institution regulating agencies; to the Committee on Banking, Housing, and Urban Affairs.

ENHANCED ENFORCEMENT POWERS ACT

Mr. PROXMIRE. Mr. President, today Senator GARN and I are introducing, by request of the Federal agencies supervising depository institutions, the Enhanced Enforcement Powers Act of 1987. This comprehensive measure represents the collective effort of the staffs of all of the agencies having supervisory jurisdiction over our depository institutions and is designed to beef up their enforcement authority. As the Congress considers new proposals to reform our banking laws, consideration of enhanced enforcement authority for our regulators is quite appropriate. I am therefore pleased to introduce this bill at the request of the regulators of our financial institutions. Let me give some background explaining why the regulators believe this legislation is needed.

All of the Federal financial institution supervisory agencies, the Board of Governors of the Federal Reserve System (the Board), the Federal Deposit Insurance Corporation (the FDIC), the Office of the Comptroller of the Currency (the OCC), the Federal Home Loan Bank Board (the FHLBB) and the National Credit Union Association (the NCUA), generally have been granted the same administrative enforcement powers by Congress. These powers were originally set forth in the Financial Institutions Supervisory Act of 1966 (FISA) and were later codified for each of the respective agencies in the Federal Deposit Insurance Act, as amended (FDIA), the Bank Holding Company Act of 1956, as amended (BHCA), the National Housing Act (NHA), the Homeowners Loan Act of 1933 (HOLA) and the Federal Credit Union Act of 1934, as amended (FCUA).

The agencies' enforcement powers enable them to address situations involving unsafe and unsound practices and violations of banking laws and regulations. The laws allow the agencies to issue cease-and-desist orders, suspension, removal and prohibition orders, civil money penalty assessments and other administrative remedies aimed, inter alia, at stopping abusive activities and returning the financial institutions that they regulate to healthier conditions. Under the existing statutory framework governing the Board, FDIC, OCC, FHLBB and NCUA, each of the agencies has the same legal powers to issue a cease and desist order or remove an individual from a bank, savings and loan association, bank or savings and loan holding company, or credit union. Due to the general similarity of statutory powers, an officer or director of a national bank could be subjected to the same enforcement orders as an officer or director of a savings and loan association if he or she violated a banking law or regulation; and a credit union that engaged in an unsafe and unsound practice could be subjected to the same administrative remedies as if it were a state member bank.

The last time that the Federal financial institutions supervisory agencies' enforcement powers were revised in a major way was in 1978. In that year, Congress passed the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (FIRA) and granted the agencies some important new powers and strengthened others. Most notable among the powers was the authority to assess civil money penalties for violations of final cease and desist orders and for certain law and regulation violations, including insider lending limitations, and to review and block, where necessary, transactions involving the change in control of a financial institution.

Since the adoption of FISA and its amendments, the Federal financial institutions supervisory agencies have initiated over two thousand enforcement actions against the financial institutions that they regulate and individuals associated with them. Based on their extensive experiences, the agencies have determined that their current enforcement powers are for the most part adequate and that they generally have been able to address a wide variety of situations that warranted supervisory attention. But, they also believe that some of their powers need clarification or enhancement in order to permit them to continue to better protect our nation's financial institutions and that the only way to achieve this goal is to amend the current stat-

utory scheme that was first developed for the agencies in FISA and strengthened by FIRA.

With this purpose, the legal staffs of the Federal financial institutions supervisory agencies who conduct their agencies' enforcement activities developed, through a cooperative effort, a series of proposed statutory amendments to their respective agency's enforcement laws. They also again reviewed the provisions of the Right to Financial Privacy Act (RFPA), especially as it relates to the criminal referral process, together with the other members of the Interagency Bank Fraud Enforcement Working Group (which includes Federal Bureau of Investigation and the Department of Justice). Based on this review, they developed proposed statutory amendments to RFPA.

All of these proposals have been included in the attached Enhanced Enforcement Powers Act of 1987 (EEPA). EEPA was reviewed and approved by the respective boards or heads of the Board, FDIC, NCUA, and FHLBB, and by the OCC, which has submitted the proposed amendments to the Office of Management and Budget and the Department of the Treasury.[1] By letter dated November 17, 1987, the Board, FHLBB and FDIC requested consideration of EEPA by the Senate Committee on Banking, Housing, and Urban Affairs.

The regulators tell us that they have developed the EEPA for several reasons. First, they claim some of its provisions address problems caused by recent Federal court decisions that have hindered or could in the future hinder the agencies' abilities to take enforcement actions when faced with situations involving insider abuse and misconduct by officers and directors of financial institutions and wrongdoing by the institutions themselves. Second, they tell us EEPA is needed because it will clarify several areas of the agencies' enforcement powers and will codify certain administrative enforcement interpretations and procedures already in use at the agencies. Last, they claim the provisions of EEPA ensure that the enforcement powers of the Board, FDIC, OCC, FHLBB and NCUA are as identical and complementary as possible and that the wide variety of financial institutions supervised by these agencies and the individuals who work for them are subjected to the same laws and penalties for any transgressions.

EEPA is designed to enchance and clarify the existing enforcement powers of the Federal financial institution supervisory agencies. It contains provisions relating to the cease and desist, temporary cease and desist, removal, suspension, and civil money penalty action powers of the bank, thrift and credit union supervisory agencies and provisions that modify the Change in Control Acts of 1978 (CBCA), the notice and exchange of information provisions of RFPA, the regulatory reporting requirements of FDIA, BHCA, NHA, HOLA, FCUA, the convicted criminal approval provisions of those same statutes, and the Bank Protection Act of 1968 (BPA). In brief outline, the provisions of EEPA are as follows:

(1) With respect to the agencies' cease and desist powers, EEPA (a) introduces the new term "institution-related party" to replace the terms "director, officer, employee, agent, or person participating in the conduct of the affairs of" a financial institution wherever they appear in the agencies' enforcement statutes in order to simplify the references to the broad category of individuals subject to the cease and desist authorities of the agencies; (b) expands the definition of the term "institution-related party" to include persons who have filed or are required to file notices of changes of control of financial institutions under CBCA in order to provide the agencies with enforcement powers over those individuals who are in control of financial institutions but who have not yet been officially appointed to the institutions' boards of directors or been employed by the institutions or who purposely avoid such positions; (c) clarifies the powers of the agencies to order, inter alia, reimbursement, restitution or rescission in the cease and desist orders they issue and, would the agencies believe overturns the ruling of the U.S. Court of Appeals for the 7th Circuit in the *Larimore* case, 789 F.2d 1244 (7th Cir. 1986)—a Federal court decision they believe was contrary to several other U.S. Court of Appeals' decisions that addressed the authority of the banking agencies to order such affirmative action as was necessary to correct the practices or violations of wrongdoers; (d) clarifies the powers of the agencies to limit, with specificity, the functions and activities of individuals or financial institutions who are subjected to final cease and desist orders—a clarification that is necessary to define further the meaning of the term "affirmative action" in the agencies' enforcement statutes and to permit explicitly the targeting of the provisions of enforcement orders on the activities that are giving rise to the institutions' problems; and (e) adds a new subsection to the enforcement statutes in order to make it clear that the agencies' administrative enforcement authority to address incidences of wrongdoing is in addition to, and not limited by, any other statutory grant of authority provided to the agencies under Federal or State law and, the regulators believe, modifies in part the ruling to the Court in the Larimore case.

(2) With regard to the authority of the agencies to issue emergency relief in the form of a temporary cease and desist order, EEPA (a) provides that the agencies can issue a temporary cease and desist order against any "institution-related party" and thus simplifies the agencies' current statutes and expands the coverage of this power to those who have filed or are required to file CBCA notices; (b) in the same manner described for the agencies' cease and desist powers, clarifies the authority of the agencies to issue temporary cease and desist orders that limit, with specificity, the activities and functions of those who are subjected to their provisions; and (c) establishes a new legal basis for the issuance of a temporary cease and desist order by providing that the agencies can issue such an order when they find that the books or records of a financial institution that they are examining are in such disarray that the examiners cannot determine the financial condition of the institution or the nature of its transactions.

(3) Concerning the removal and suspension powers of the agencies over individuals, EEPA (a) amends the Board's, OCC's, FDIC's and FHLBB's authority to suspend or remove an individual from a Federally supervised financial institution subject to its jurisdiction by providing, in a manner consistent with the already existing statutory powers of the NCUA, that the suspended or removed individual is barred, by operation of law, from all such financial institutions, including insured banks and savings and loan associations and bank holding companies—this so called "universal" removal provision will clarify the agencies' powers to remove wrongdoers from all Federally supervised financial institutions through one agency's actions and will make it clear that an individual who is prohibited from serving as an officer or director of a commercial bank may not serve in such a capacity at a savings and loan association or credit union or vice versa without appropriate approvals; (b) provides that the agencies can use their suspension and removal powers to address misconduct and abuse by any "institution-related party" and not just the limited category of officers, directors and participants in the conduct of the affairs of financial institutions as under the current law; (c) makes the grounds for removing an individual based on his or her activities at the individual's current place of employment or former place of employment consistent; and (d) recodifies the criminal sanctions for violations of outstanding suspension or removal orders in order to simplify the statutory language and in

[1] The legal staff of the Farm Credit Administration also participated in the development of statutory amendments, and it is now in the process of presenting its agency's amendments to the Board of the Farm Credit Administration for consideration.

order to make it clear that an individual subject to such an order can become an officer or director or participate in the conduct of the affairs of a financial institution only upon receiving the approval of the appropriate Federal financial institution supervisory agency.

(4) With respect to the agencies' cease and desist, temporary cease and desist, civil money penalty and removal powers, EEPA clarifies the agencies' powers over individuals who resign or are, for whatever reason, no longer associated with a financial institution at the time one of the agencies initiates its enforcement action. EEPA makes clear that the agencies' authority to proceed with enforcement action against an "institution-related party" is not affected by the individual's resignation, termination of employment or separation from a financial institution or the institution's failure.

(5) EEPA addresses the agencies authority to assess civil money penalties by (a) providing that each of the agencies can assess such penalties for violations of conditions imposed on financial institutions in writing in connection with applications submitted to the agencies; and (b) granting the FHLBB the same civil money penalty assessment powers over the institutions that it supervises for violations of HOLA, NHA and its implementing regulations as the OCC has over national banks for violations of the National Bank Act and the OCC's implementing regulations.

(6) EEPA contains provisions that amend the civil money penalty assessment provisions of CBCA. CBCA would be modified (a) to eliminate the requirement that the agencies demonstrate that an individual or institution "willfully" violated the law in order to assess a civil money penalty and, in this manner, make the agencies' authority to assess fines for this type of law violation consistent with their authority to address all other law and regulation violations which do not require a showing of a willful violation; and (b) consistent with the agencies' other existing enforcement powers, to permit the agencies to assess civil money penalties for violations of CBCA through the use of administrative procedures rather than actions in U.S. district courts.

(7) EEPA amends FDIA, FCUA, HOLA and NHA to permit the FDIC, NCUA and FHLBB to assess a civil money penalty of up to $1,000 per day against any individual or insured bank, credit union, or savings and loan association that, without the prior approval of the FDIC, NCUA, or FHLBB, hires the individual after he or she has been convicted of a crime involving dishonesty or breach of trust. Current law authorizes the FDIC's, NCUA's and FHLBB's assessment of only $100 per day against the bank, credit union, and savings and loan association for such violations.

(8) The provisions relating to the submission of reports of condition and income and bank holding company financial reports to the responsible agencies have been modified by EEPA. The proposed amendments (a) provide that, in addition to the submission of untimely reports, the submission of false or misleading reports to the agencies will subject the financial institutions who make such submissions to civil money fines; and (b) increases the amount of the potential fine to $1,000 per day from $100 per day. EEPA also grants the FHLBB new authority to request such reports and to fine for the submission of false or misleading reports.

(9) EEPA amends BPA by eliminating the requirement that banks file periodic reports relating to the installation, maintenance, and operation of security devices and procedures.

(10) With respect to RFPA, EEPA (a) would make it clear that the provisions of RFPA apply to the records of bank and savings and loan holding companies and their officers, directors, employees, agents, and persons participating in their affairs as well as to banks and thrift associations; (b) permits the disclosure of information and records covered by RFPA by a financial institution or one of its employees to any agency of the United States so long as such information is relevant to a possible violation of any law relating to crimes by or against a financial institution or an agency or any drug control or money laundering statute; and (c) provides that the provisions of RFPA will not apply when financial records in the possession of a supervisory agency or department of the United States are lawfully obtained in the first instance and are transferred by the agency or department to another agency or department of the United States in connection with a matter within the lawful jurisdiction of the receiving agency or department.

The Federal financial institutions supervisory agencies believe the adoption of EEPA's enforcement statute amendments is important to the overall effectiveness of their enforcement activities. Therefore I am pleased to introduce this act at their request.

I am also including in the RECORD with this bill a detailed section-by-section summary of it and an analysis of title I, both of which have been prepared by the staff of the banking agencies. And I ask unanimous consent that this material be printed in the RECORD.

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

S. 1974

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 "Enhanced Enforcement Powers Act of 1987".

TITLE I—REGULATION OF BANKS

SEC. 101. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.

(a) AMENDMENTS TO SECTION 8.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(1) by striking out the phrases "director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank"; "director, officer or other person" and "director, officer, employee, agent or other person" each place they appear and inserting in lieu thereof "institution-related party";

(2) by striking out the period at the end of paragraph (1) of subsection (b) and inserting: "including, without limitation, reimbursement, restitution, indemnification, rescission, the disposal of loans or assets, guarantees against loss, or other action the appropriate Federal banking agency deems appropriate. Such order may place limitations on the activities or functions of the bank or any institution-related party necessary to correct the conditions resulting from any such violation or practice.";

(3) by inserting the following sentence after the first sentence of paragraph (1) of subsection (c): "Such order may place limitations on the activities or functions of the bank or any institution-related party.";

(4) by adding at the end of subsection (c) the following new paragraph:

"(3) Whenever a notice of charges specifies that an insured bank's books and records are so incomplete or inaccurate that the appropriate Federal banking agency is unable with reasonable effort to determine the financial condition of that bank or the details or purpose of any transaction or transactions that may have a substantial effect on the financial condition of that bank, the agency may issue a temporary order requiring cessation of any activities the agency deems appropriate until completion of proceedings conducted under paragraph (1) of subsection (b) of this section. Such order shall become effective upon service, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the agency determines by examination or otherwise that the bank's books and records are accurate and capable of reflecting the financial condition of the bank.";

(5) by striking out paragraph (2) and amending paragraph (1) of subsection (e) to read as follows:

"(1) Whenever the appropriate Federal banking agency determines that—

"(A) any institution-related party, directly or indirectly, has violated any law, rule, regulation, or cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any insured bank or business institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty;

"(B) such insured bank or business institution has suffered or will probably suffer substantial financial loss or other damage, or the interests of its depositors have been or could be seriously prejudiced by reason of such violation, practice, or breach, or the institution-related party has received finan-

cial gain by reason of such violation, practice or breach; and

"(C) such violation, practice, or breach involves personal dishonesty on the part of such institution-related party or demonstrates willful or continuing disregard for the safety or soundness of such insured bank or business institution,

the agency may serve upon such institution-related party a written notice of its intention to remove such party from office or to prohibit his further participation in any manner in the conduct of the affairs of any insured bank.";

(6) by redesignating paragraphs (3) through (6) of subsection (e) as paragraphs (2) through (5), respectively, and by amending paragraph (3) of subsection (e), as redesignated, to read as follows:

"(3) In respect to any institution-related party referred to in paragraph (1) or (2) of this subsection, the appropriate Federal banking agency may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written order to such effect served upon such party, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank. Such suspension or prohibition shall become effective upon service of such order on the institution-related party and, unless stayed by a court in proceedings authorized by subsection (f) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the agency shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this paragraph shall also be served upon any bank where the party involved is presently associated.";

(7) by inserting after paragraph (5) of subsection (e) as redesignated, the following new paragraph:

"(6) Any person who, pursuant to this subsection or subsection (g), is removed, suspended, or prohibited from participation in the conduct of the affairs of an insured bank, a banking holding company, a subsidiary of a bank or bank holding company, or an organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of any insured institution, any bank holding company or subsidiary of a bank holding company, any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan company (as those terms are defined in the National Housing Act), and any institution chartered under the Farm Credit Act of 1971, as amended, unless the party involved has received the prior written approval of the appropriate Federal regulatory agency to continue such affiliation or to continue participating in the affairs of such institution.";

(8) by striking out "(e)(4)" in subsection (f) and inserting in lieu thereof "(e)(3)", and by striking out "(e)(1), (e)(2), or (e)(3)" in subsection (f) and inserting in lieu thereof "(e)(1) or (e)(2)";

(9) by redesignating paragraphs (1) and (2) of subsection (i) as paragraphs (2) and (3), respectively, and by inserting after "(i)" the following new paragraph:

"(1) The jurisdiction and authority of the appropriate Federal banking agency to proceed under this section against any institution-related party shall not be affected by the resignation, termination of employment, or other separation of such person from an insured bank.";

(10) by inserting after "this section" in the first sentence of subsection (i)(3)(i), as redesignated, the following: "or any condition imposed in writing by the agency in connection with the granting of any application or other request by the bank";

(11) by amending subsection (j) to read as follows:

"(j) PENALTY.—Any person against whom there is outstanding and effective any order served upon such person under paragraph (3) or (4) of subsection (e) or under subsection (g) who, directly or indirectly, without the prior written approval of the appropriate Federal regulatory agency—

"(1) participates in any manner in the conduct of the affairs of any insured institution, any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan holding company (as those terms are defined in the National Housing Act), or any institution chartered under the Farm Credit Act of 1971, from which he has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorization in respect to any voting rights in such institution; or

"(2) votes for a director, or serves or acts as a director, officer, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any bank holding company or subsidiary thereof or any other institution described in paragraph (i) of this subsection;

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (e) of this section may prohibit any act that would violate this subsection.";

(12) by amending subsection (k) to read as follows:

"(k) DEFINITIONS.—As used in this section:

"(1) The term 'appropriate Federal regulatory agency' means—

"(A) the appropriate Federal banking agency, as provided in subsection (q) of section 3 (12 U.S.C. 1813);

"(B) the Federal Home Loan Bank Board, acting either in its own name or as operating head of the Federal Savings and Loan Insurance Corporation, in the case of a depository institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation, or the subsidiary of such an institution, a Federal savings bank or a subsidiary of such a savings bank, a savings and loan holding company, or a subsidiary of a savings and loan holding company;

"(C) the National Credit Union Administration Board in the case of a depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, and

"(D) the Farm Credit Administration in the case of an institution chartered under the Farm Credit Act of 1971, as amended.

"(2) The terms 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the appropriate Federal Banking agency: (i) with the consent of the bank or the institution-related party concerned; (ii) with respect to which no petition for review of the action of the agency has been filed and perfected in a court of appeals as specified in paragraph (2) of subsection (h) of this section; (iii) with respect to which the action of the court in which such a petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in that paragraph; or (iv) an order issued under paragraph (1) or (3) of subsection (g) of this section.

"(3) The term 'institution-related party' means a director, officer, employee, agent, or other person participating in the conduct of the affairs of an insured bank or a subsidiary of an insured bank; and any person who has filed or is required to file a change-in-control notice with the appropriate Federal banking agency under the Change in Bank Control Act of 1978.

"(4) The term 'insured institution' means an insured bank or a depository institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation or the National Credit Union Share Insurance Fund.

"(5) The term 'or' is not exclusive.

"(6) The term 'violation' includes without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation."; and

(13) by adding at the end thereof the following new subsection:

"(t) EFFECT ON OTHER AUTHORITY.—The authority granted to the Federal banking agencies under this section shall be in addition to, and not restricted by, any other authority provided by Federal or State law.".

(b) INCREASED PENALTY FOR PARTICIPATION BY CONVICTED INDIVIDUAL.—Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended to read as follows:

"PENALTY FOR PARTICIPATION

"SEC. 19. Except with the written consent of the Corporation, no person shall serve as the director, officer, or employee of an insured bank or shall participate in the conduct of the affairs of such bank who has been convicted, or who is hereafter convicted of any criminal offense involving dishonesty or a breach of trust. For each knowing violation of this section, the bank or the individual involved shall each be subject to a penalty of not more than $1,000 for each day such prohibition is violated, which the Corporation may recover for its use.".

SEC. 102. PENALTY FOR VIOLATION OF "CHANGE IN BANK CONTROL ACT".

Section 7(j)(16) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(16)) is amended to read as follows:

"(16)(A) Any person who violates any provision of this subsection, or any regulation or order issued by the appropriate Federal banking agency pursuant thereto, shall forfeit and pay a civil money penalty of not more than $10,000 per day for each day during which such violation continues. The agency having authority to impose a civil money penalty may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under such authority. The penalty may be assessed and collected by the appropriate Federal banking agency by written notice. As used in this section, the term "violates" includes without any limitation any action (alone or with another

or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the appropriate Federal banking agency shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The person assessed shall be afforded an opportunity for agency hearing upon request made within 10 days after receipt of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within 20 days from the service of such notice by registered or certified mail to the appropriate Federal banking agency. The agency shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the agency shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) All penalties collected under authority of this section shall be covered into the Treasury of the United States.".

SEC. 103. REPORTS.

(a) AMENDMENT TO THE BANK PROTECTION ACT OF 1968.—Section (3) of the Bank Protection Act of 1968 (12 U.S.C. 1882) is amended by striking out in the first sentence of subsection (b) the phrase "and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures".

(b) REPORTS OF CONDITION; FORM; CONTENT; DATE OF MAKING PUBLICATION; PENALTY FOR FAILURE TO MAKE REPORTS; PENALTIES FOR FALSE OR MISLEADING REPORTS.—Section 5211 of the Revised Statutes (12 U.S.C. 161) is amended—

(1) by striking out, in the fifth sentence of subsection (a), "within ten days after the receipt of a request thereof from him;" and inserting in lieu thereof "within the period of time specified by him;";

(2) by striking out "; penalties" in the heading of subsection (c); and

(3) by striking out the last sentence of subsection (c).

(c) NATIONAL BANKS.—Section 5213 of the Revised Statutes (12 U.S.C. 164) is amended by striking out the first sentence and inserting in lieu thereof "Every association which fails to make, obtain, transmit or publish any report or information required by the Comptroller under section 161 of this title or which submits any false or misleading report or information shall be subject to a penalty of $1,000 for each day during which such failure continues or such false or misleading information is not corrected.".

(d) STATE NONMEMBER BANKS.—Section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(1)) is amended by striking out the last sentence and inserting in lieu thereof "Every such bank which fails to make or publish any such report within the period of time specified by the Corporation or which submits or publishes any false or misleading report or information shall be subject to a penalty of not more than $1,000 for each day during which such failure continues or such false or misleading information is not corrected. Such penalty shall be recoverable by the Corporation for its use, and may be collected by the Corporation by suit or otherwise.".

(e) FEDERAL RESERVE MEMBERS.—Section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended by striking out the fourth sentence and inserting in lieu thereof "Every bank which fails to make such reports within the period of time specified by the Board or which submits or publishes any false or misleading report or information shall be subject to a penalty of $1,000 for each day during which such failure continues or such false or misleading information is not corrected; such penalty to be assessed and collected in the same manner as prescribed by section 8(i)(3) of the Federal Deposit Insurance Act.".

(f) BANK HOLDING COMPANIES.—Section 8(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1847(b)(1)), is amended by inserting after the word "thereto" in the first sentence "or any company which fails to make such reports as are required by this chapter or any regulation or order issued pursuant thereto within the period of time specified by the Board or which submits or publishes any false or misleading report or information,".

SEC. 104. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT.

(a) DEFINITIONS.—Section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively,

(2) by inserting after paragraph (5) the following new paragraph:

"(6) 'holding company' means any 'bank holding company' as that term is defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841), any company described in section 4(f)(1) of the Bank Holding Company Act, or any 'savings and loan holding company' as defined in the National Housing Act (12 U.S.C. 1730(a)).''; and

(3) by striking out all of paragraph (7), as redesignated, up to subparagraph (A) and inserting in lieu thereof:

"(7) 'supervisory agency' means, with respect to any particular financial institution, holding company or any subsidiary of a financial institution or holding company, any of the following which has statutory authority to examine the financial condition or business operations of that institution, holding company or subsidiary—".

(b) CLARIFICATION OF DISCLOSURE EXEMPTIONS FOR SUPERVISORY AGENCIES.—Section 1113(b) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(b)) is amended to read as follows:

"(b) Nothing in this title applies to the examination by or disclosure to any supervisory agency of financial records or information, in the exercise of its supervisory, regulatory or monetary functions with respect to any financial institution, holding company or any subsidiary of a financial institution or holding company or any officer, director, employee, agent or other person participating in the affairs thereof.".

(c) TRANSFER OF RECORDS RELATING TO POSSIBLE VIOLATIONS OF LAW.—Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413) is amended by adding at the end thereof the following new subsection:

"(l) Nothing in this title shall apply when a financial institution or supervisory agency, or any officer, director, employee, or agent of a financial institution or a supervisory agency, provides to an agency of the United States financial records which such financial institution or supervisory agency has reason to believe may be relevant to—

"(1) a possible violation of any law relating to crimes by or against financial institutions or supervisory agencies,

"(2) a possible violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. 1903 et seq.), or

"(3) a possible violation of a provision contained in subchapter II of chapter 53 of title 31, United States Code, or of section 1956 or 1957 of title 18, United States Code.".

(d) TRANSFER OF FINANCIAL RECORDS TO OTHER AGENCIES OR DEPARTMENTS.—Section 1112(a) of the Right To Financial Privacy Act of 1978 (12 U.S.C. 3412(a)) is amended to read as follows:

"(a) Nothing in this title shall apply when financial records obtained by an agency, including a supervisory agency or department of the United States, are transferred to another agency or department if there is reason to believe that the records may be relevant to a matter within the jurisdiction of the receiving agency or department.".

TITLE II—REGULATION OF SAVINGS AND LOAN ASSOCIATIONS

SEC. 201. SHORT TITLE.

This title may be cited as the "Savings Institutions Supervisory Amendments of 1987".

SEC. 202. DEFINITION OF "INSTITUTION-RELATED PARTY".

(a) NATIONAL HOUSING ACT.—Section 407, of the National Housing Act (12 U.S.C. 1730) is amended—

(1) by striking out the following phrases:

(A) "director, officer, employee, agent or other person participating in the conduct of the affairs of such institution":

(B) "director or officer";

(C) "director, officer, employee, agent, or other person";

(D) "directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such institution";

(E) "director, or other person";

(F) "director or officer of an insured institution, or other person participating in the conduct of the affairs of such institution"; and

(G) "director or officer or other person";

(H) "director or officer thereof or other person participating in the conduct of its affairs";

(I) "director or officer or other person participating in the conduct of its affairs",

each place that such phrases appear, and

(2) by inserting in lieu of each such phrase the phrase "institution-related party".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(f), is amended—

(1) by striking out the following phrases:

(A) "director, officer, employee, agent or other person participating in the conduct of the affairs of such association"

(B) "director or officer";

(C) "director, officer, employee, agent, or other person";

(D) "its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such association";

(E) "director, officer, or other person";

(F) "director or officer of an association, or other person participating in the conduct of the affairs of such association"; and

(G) "director or officer or other person" each place that such phrases appear, and

(2) by inserting in lieu thereof the phrase "association-related party".

SEC. 203. CEASE AND DESIST ORDERS.

(a) NATIONAL HOUSING ACT.—Section 407(e)(1) of the National Housing Act (12 U.S.C. 1730(e)(1)) is amended by striking out the period at the end of paragraph (1) and inserting in lieu thereof ", including, without limitation, reimbursement, restitution, indemnification, rescission, the disposal of loans or assets, guarantees against loss, or other action the Corporation deems appropriate. Such order may place limitations on the activities or functions of the institution or any institution-related party necessary to correct the conditions resulting from any such violation or practice. The authority granted to the Corporation under this section shall be in addition to, and not restricted by, any other authority provided by Federal or State law".

(b) HOME OWNER'S LOAN ACT OF 1933.—Section 5(d)(2)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(2)(A)) is amended by striking out the period at the end of paragraph (2)(A) and inserting in lieu thereof ", including, without limitation, reimbursement, restitution, indemnification, rescission, the disposal of loans or assets, guarantees against loss, or other action the Board deems appropriate. Such order may place limitations on the activities or functions of the association or any association-related party necessary to correct the conditions resulting from any such violation or practice. The authority granted to the Board under this subsection shall be in addition to, and not restricted by, any other authority provided by Federal or State law".

SEC. 204. SERVICE CORPORATIONS.

Section 407(e)(3) of the National Housing Act (12 U.S.C. 1730(e)(3)) and section 5(d)(2)(C) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(2)(C)) both are amended by striking out the phrase "affiliate service corporation" and inserting in lieu thereof the phrase "service corporation or any subsidiary of a service corporation, whether wholly or partly owned,".

SEC. 205. TEMPORARY ORDERS.

(a) NATIONAL HOUSING ACT.—Section 407(f) of the National Housing Act (12 U.S.C. 1730(f)) is amended—

(1) by striking out the phrase "or any institution any of the accounts of which are insured" in the first sentence of paragraph (1) and inserting in lieu thereof the phrase "with respect to the served institution";

(2) by inserting the following sentence after the first sentence of paragraph (1) of subsection (f): "Such order may place limitations on the activities or functions of the institution or any institution-related party.";

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following:

"(3) Whenever a notice of charges specifies that an institution's books and records are so incomplete or inaccurate that the Corporation is unable with reasonable efforts to determine the financial condition of that institution or the details or purpose of any transaction or transactions that may have a substantial effect on the financial condition of that institution, the Corporation may issue a temporary order requiring cessation of any activities the Corporation deems appropriate until completion of proceedings conducted under subsection (e) of this section. Such order shall become effective upon service, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the Corporation determines by examination or otherwise that the institution's books and records are accurate and capable of reflecting the financial condition of the institution.".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d)(3) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(3)) is amended—

(1) by inserting the following sentence after the first sentence of subparagraph (A) of subsection (d)(3): "Such order may place limitations on the activities or functions of the association or any association-related party.".

(2) by redesignating subparagraph (C) as subparagraph (D).

(3) by inserting after subparagraph (B) the following:

"(C) Whenever a notice of charges specifies that an association's books and records are so incomplete or inaccurate that the Board is unable with reasonable effort to determine the financial condition of that association or the details or purpose of any transaction or transactions that may have a substantial effect on the financial condition of that association, the Board may issue a temporary order requiring cessation of any activities the Board deems appropriate until completion of proceedings conducted under subsection (d)(2) of this section. Such order shall become effective upon service, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (B) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the Board determines by examination or otherwise that the association's books and records are accurate and capable of reflecting the financial condition of the association.".

SEC. 206. REMOVAL AND SUSPENSION.

(a) NATIONAL HOUSING ACT.—Section 407(g) of the National Housing Act (12 U.S.C. 1730(g)) is amended—

(1) by striking out paragraph (2) and amending paragraph (1) to read as follows:

"(1) Whenever, in the opinion of the Corporation—

"(A) any institution-related party, directly or indirectly, has committed any violation of law, rule, or regulation, or of a cease-and-desist order, which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any insured institution or other business institution, or has committed or engaged in any act, omission or practice which constitutes a breach of its fiduciary duty;

"(B) such insured institution or other business institution has suffered or will probably suffer substantial financial loss or other damage or that the interests of savings account holders have been or could be seriously prejudiced by reason of such violation, practice, or breach or the institution-related party has received financial gain by reason of such violation, practice, or breach; and

"(C) such violation, practice, or breach involves personal dishonesty on the part of the institution-related party or demonstrates willful or continuing disregard for the safety or soundness of the insured institution or other business institution, the Corporation may serve on such institution-related party a written notice of its intention to remove such party from office or to prohibit the party's further participation in any manner in the conduct of the affairs of any insured institution.";

(2) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4) respectively, and by amending paragraph (3) of subsection (g) (as so redesignated) to read as follows:

"(3) In respect to any institution-related party or any other person referred to in paragraph (1) or (2) of this subsection, the Corporation may if it deems it necessary for the protection of the institution or the interest of its savings account holders or of the Corporation, by written order to such effect served upon such party, suspend that party from office or prohibit that party from further participation in any manner in the conduct of the affairs of the institution. Such suspension or prohibition shall become effective upon service of such order upon the institution-related party and, unless stayed by a court in proceedings authorized by paragraph (6) of this subsection, shall remain in effect pending the completion of the administrative proceeding pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the Corporation shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this paragraph shall also be served upon the institution with which the party involved is presently associated."; and

(3) by inserting after paragraph (4) of subsection (g) (as so redesignated) the following:

"(5) Any person who, pursuant to this subsection or subsection (h), is removed, suspended, or prohibited from participation in the conduct of the affairs of an insured institution or a service corporation or a subsidiary of a service corporation of an insured institution, whether wholly or partly owned, shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of any insured bank (as that term is defined in the Federal Deposit Insurance Act), any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25 of the Federal Reserve Act, any insured institution, any service corporation or subsidiary of a service corporation of an insured institution, whether wholly or partly owned, any savings and loan holding company or subsidiary of a savings and loan holding company,

any depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, and any institution chartered under the Farm Credit Act of 1971, as amended, without the prior written approval of the appropriate Federal regulatory agency, as that term is defined in the Federal Deposit Insurance Act, to continue participation in the affairs of such institution.".

(b) Home Owners' Loan Act of 1933.—Section 5(d)(4) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(4)) is amended—

(1) by deleting subparagraph (B) and amending subparagraph (A) to read as follows:

"(4)(A) Whenever, in the opinion of the Board—

"(i) any association-related party, directly or indirectly, has committed any violation of law, rule, or regulation, or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any association or other business institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of its fiduciary duty;

"(ii) such association or other business institution has suffered or will probably suffer substantial financial loss or other damage or the interests of savings account holders have been or could be seriously prejudiced by reason of such violation, practice, or breach, or the association-related party has received financial gain by reason of such violation, practice, or breach; and

"(iii) such violation, practice, or breach involves personal dishonesty on the part of the association-related party, or demonstrates willful or continuing disregard for the safety or soundness of the association or other business institution,

the Board may serve upon such association-related party a written notice of its intention to remove such party from office or to prohibit the party's further participation in any manner in the conduct of the affairs of any institution.";

(2) by redesignating subparagraphs (C) through (E) as subparagraphs (B) through (D) respectively, and by amending subparagraph (C) (as so redesignated) to read as follows:

"(C) In respect to any association-related party or any other person referred to in subparagraph (A) or (B) of this paragraph, the Board may, if it deems it necessary for the protection of the association or the interests of its savings account holders, by written order to such effect served upon such party, suspend that party from office or prohibit that party from further participation in any manner in the conduct of the affairs of the association. Such suspension or prohibition shall become effective upon service of such order upon the association-related party and, unless stayed by a court in proceedings authorized by subparagraph (F) of this paragraph, shall remain in effect, pending the completion of the administrative proceedings pursuant to the notice served under subparagraph (A) or (B) of this paragraph and until such time as the Board shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this subparagraph shall also be served upon the association with which the party involved is presently associated."; and

(3) by inserting after subparagraph (D) of subsection (d)(4) (as so redesignated) the following:

"(E) Any person who, pursuant to this subsection or subsection (d)(5), is removed, suspended, or prohibited from participation in the conduct of the affairs of an association or a service corporation or a subsidiary of a service corporation of an association, whether partly or wholly owned, shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of any insured bank (as that term is defined in the Federal Deposit Insurance Act), any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under Section 25 of the Federal Reserve Act, any association or any institution insured by the Federal Savings and Loan Insurance Corporation, any service corporation or subsidiary of a service corporation of an association or an institution insured by the Federal Savings and Loan Insurance Corporation, any savings and loan holding company or subsidiary of a savings and loan holding company, any depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, and any institution chartered under the Farm Credit Act of 1971, as amended, without the prior written approval of the appropriate Federal regulatory agency, as that term is defined in the Federal Deposit Insurance Act, as amended, to continue participation in the affairs of such institution.".

SEC. 207. RETENTION OF JURISDICTION.

(a) National Housing Act.—Section 407(k) of the National Housing Act (12 U.S.C. 1730(k)) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively, and by adding the following at the beginning of subsection (k):

"(1) The jurisdiction and authority of the Corporation to proceed under this section against any institution-related party shall not be affected by the resignation, termination of employment, or other separation of such person from an institution."; and

(2) by inserting after "this section" in the first sentence of paragraph (4)(A) of subsection (k) (as redesignated) the following: "or any of the provisions of this subchapter, or any regulation issued pursuant thereto,".

(b) Home Owners' Loan Act of 1933.—Section 5(d)(8) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)) is amended—

(1) by redesignating subparagraph (A) as subparagraph (B) and subparagraph (B) as subparagraph (C), and by inserting the following at the beginning of subsection (d)(8):

"(A) The jurisdiction and authority of the Board to proceed under this section against any association-related party shall not be affected by resignation, termination of employment, or other separation of such person from an association."; and

(2) by inserting after "this subsection" in the first sentence of the redesignated paragraph (8)(C)(i) of subsection (d) the following: "or any of the provisions of this chapter, or any regulation issued pursuant thereto,".

SEC. 208. PENALTIES.

(a) National Housing Act.—Section 407(p) of the National Housing Act (12 U.S.C. 1730(p)) is amended to read as follows:

"(p) Penalties.—(1) Any person against whom there is outstanding and effective any order served upon such person under paragraph (3) or (4) of subsection (g) or under subsection (h) who, directly or indirectly, without the prior written approval of the appropriate Federal regulatory agency, as that term is defined in the Federal Deposit Insurance Act—

"(A) participates in any manner in the conduct of the affairs of any insured institution, any insured bank (as that term is defined in the Federal Deposit Insurance Act), any service corporation of an insured institution or subsidiary of a service corporation, any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan holding company or subsidiary of a savings and loan holding company (as these terms are defined in the National Housing Act), any depositary institution whose accounts are insured by the National Credit Union Share Insurance Fund, or any institution chartered under the Farm Credit Act of 1971, from which that person has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorizations in respect to any voting rights in such institutions; or

"(B) votes for a director, or serves or acts as a director, officer, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any insured bank or any other institution described in paragraph (i) of this subsection,

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (g) of this section may prohibit any act that would violate this subsection.

"(2) Except with the prior written consent of the Corporation, no person shall serve as a director, officer, or employee of an insured institution or shall participate in the conduct of the affairs of such institution who has been convicted, or who is hereafter convicted of any criminal offense involving dishonesty or a breach of trust. For each knowing violation of this prohibition, the institution or the individual involved shall each be subject to a penalty of not more than $1,000 for each day this prohibition is violated, which the Corporation may recover by suit or otherwise for its own use.".

(b) Home Owners' Loan Act of 1933.—Section 5(d)(12) of the Home Owner's Loan Act of 1933 (12 U.S.C. 1464(d)(12)) is amended by striking out paragraphs (A) and (B) and inserting in lieu thereof the following:

"(12) Penalties.—(A) Any person against whom there is outstanding and effective any order served upon such person under subparagraph (C) or (D) of paragraph (4) or under (5) who, directly or indirectly, without the prior written approval of the appropriate Federal regulatory agency (as that term is defined in the Federal Deposit Insurance Act, as amended)—

"(i) participates in any manner in the conduct of any association or institution insured by the Federal Savings and Loan Insurance Corporation, any insured bank (as that term is defined in the Federal Deposit Insurance Act), any bank holding company

or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan holding company or subsidiary of a savings and loan holding company (as those terms are defined in the National Housing Act), any depositary institution whose accounts are insured by the National Credit Union Share Insurance Fund, any association or other institution insured by the Federal Savings and Loan Insurance Corporation, any service corporation of an association or institution insured by the Federal Savings and Loan Insurance Corporation or subsidiary of a service corporation, or any institution chartered under the Farm Credit Act of 1971, from which he has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents or authorizations in respect to any voting rights in such institutions; or

"(ii) votes for a director, or serves or acts as a director, officer, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any insured bank, or any other institution described in subparagraph (A)(i) of this subsection;

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (d)(4) of this section may prohibit any act that would violate this subsection.

"(B) Except with the prior written consent of the Board, no person shall serve as a director, officer, or employee of an association or shall participate in the conduct of the affairs of such association who has been convicted, or who is hereafter convicted of any criminal offense involving dishonesty or a breach of trust. For each knowing violation of this prohibition, the association or the individual involved shall be subject to a penalty of not more than $1,000 for each day this prohibition is violated, which the Board may recover by suit or otherwise for its own use.".

SEC. 209. CIVIL PENALTY.

Section 407(q)(17) of the National Housing Act (12 U.S.C. 1730(q)(17)) is amended to read as follows:

"(17)(A) Any person who violates any provision of this subsection, or any regulation or order issued by the Corporation pursuant thereto, shall forfeit and pay a civil money penalty of not more than $10,000 per day for each day during which such violation continues. The Corporation may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed. The penalty may be assessed and collected by the Corporation by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5. The Corporation's determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any insured institution or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured institution is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within twenty days from the service of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such Court the record upon which the penalty was imposed, as provided in section 2112 of title 28. The findings of the Corporation shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the agency shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) All penalties collected under authority of this section shall be paid into the Treasury of the United States.".

SEC. 210. DEFINITIONS.

(a) NATIONAL HOUSING ACT.—Section 407(r) of the National Housing Act (12 U.S.C. 1730(r)) is amended—

(1) by redesignating subparagraphs (B) through (D) of paragraph (1) as subparagraphs (D) through (F); respectively;

(2) by striking out subparagraph (A) of paragraph (1) and inserting in lieu thereof the following:

"(A) The term 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the Corporation (i) with the consent of the institution or the institution-related party concerned; (ii) with respect to which no petition for review of the action of the Corporation has been filed and perfected in a court of appeals as specified in paragraph (2) of subsection (j) of this section; (iii) with respect to which the action of the court in which such a petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in subsection (j); or (v) an order issued under subsection (h) of this section.

"(B) The term 'institution-related party' means a director, officer, controlling person, employee, agent, or other person participating in the conduct of the affairs of an insured institution or of any service corporation or any subsidiary of a service corporation or an insured institution, whether partly or wholly owned, or of any savings and loan holding company or any subsidiary of a savings and loan holding company as those terms are defined in section 408 of this title; and any person who has filed or is required to file a change-in-control notice with the Corporation under subsection (q) of this section. For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, 'institution-related party' includes an employee or officer with management functions, an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity.

"(C) The term 'or' is not exclusive."; and

(3) by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) As used in subsections (e), (f), (g), (h), and (p) of this section, the term 'insured institution' means any institution the deposits of which are insured by the Corporation, any institution that retains deposits insured by the Corporation notwithstanding termination of its status as an insured institution, a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation, and any former Federal savings bank that retains deposits insured by the Federal Deposit Insurance Corporation notwithstanding termination of its status as an insured bank.".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended—

(1) by redesignating paragraphs (2) through (4) of paragraph (13)(A) as paragraphs (4) through (6) respectively; and

(2) by striking out paragraph (1) of paragraph (13)(A) and inserting in lieu thereof the following:

"(1) The terms 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the Board (i) with the consent of the association or the association-related party concerned; (ii) with respect to which no petition for review of the action of the Board has been filed and perfected in a court of appeals as specified in paragraph (7)(B) of this subsection; (iii) with respect to which the action of the court in which such a petition is filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in paragraph (7)(B); or (iv) an order issued under paragraph (5) (A) or (C) of this subsection.

"(2) The term 'association-related party' means a director, officer, controlling person, employee, agent, or other person participating in the conduct of affairs of an association or of any service corporation or of any subsidiary of a service corporation of an association, whether partly or wholly owned, or of any savings and loan holding company or any subsidiary of a savings and loan holding company, as those terms are defined in section 408 of this title, or of any association with respect to which the Federal Loan Bank Board now or hereafter has any statutory power of examination or supervision under any Act or joint resolution of Congress other than this Act, the Federal Home Loan Bank Act and the National Housing Act; or any person who has filed or is required to file a change-in-control notice with the Federal Savings and Loan Insurance Corporation under subsection (q) of section 407 of this title. For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, 'association-related party' includes an employee or officer with management functions, an advisory or honorary director, a trustee of an association under the control of trustees, or any person

who has a representative or nominee serving in any such capacity.

"(3) The term 'or' is not exclusive."; and

(3) by striking paragraph (14) and inserting the following:

"(14)(A) As used in paragraphs (2), (3), (4), (5), and (12) of this subsection, the term 'association' includes any former association that retains deposits insured by the Federal Savings and Loan Insurance Corporation notwithstanding termination of its status as an institution insured by such Corporation, and any Federal savings bank whose deposits are insured by the Federal Deposit Insurance Corporation, and any former Federal savings bank that retains deposits insured by the Federal Deposit Insurance Corporation notwithstanding termination of its status as an insured bank.

"(B) As used in this subsection, the terms 'Federal savings and loan association' and 'association' include any institution with respect to which the Federal Home Loan Bank Board now or hereafter has any statutory power of examination or supervision under any Act or joint resolution of Congress other than this Act, the Federal Home Loan Bank Act, and the National Housing Act.

"(C) References in this subsection to savings account holders and to members of associations shall be deemed to be references to holders of withdrawable accounts in institutions over which the Board has any statutory power of examination or supervision as provided in this paragraph, and references therein to boards of directors of associations shall be deemed to be references to boards of directors or other governing boards of such institutions. The Board shall have power by regulation to define, for the purposes of this paragraph, terms used or referred to in the preceding sentence and other terms used in this subsection.".

SEC. 211. REPORTS OF CONDITION.

Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by adding at the end thereof the following:

"(u) REPORTS OF CONDITION; PENALTIES.—

"(1) Each insured institution or Federal saving bank shall make reports of condition to the Corporation which shall be in such form and shall contain such information as the Corporation may require. The Corporation may require reports of condition to be published in such manner, not inconsistent with any applicable law, as it may direct.

"(2) Any insured institution or Federal saving bank which fails to obtain and furnish any report or information required by the Corporation under this section within the period of time the Corporation specifies or which submits any false or misleading report or information shall be subject to a penalty of $1,000 each day during which such failure continues or is not corrected. Such penalty shall be assessed and collected in the manner as prescribed by section 407(q)(17) of this title.".

SEC. 212. TECHNICAL AMENDMENTS.

(a) NATIONAL HOUSING ACT.—Section 407(h) of the National Housing Act (12 U.S.C. 1730(h)) is amended by striking out "(1), (2), (3), or (4)" from the fifth sentence of paragraph (1) and inserting in lieu thereof "(1), (2), or (3)".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended by striking out "(A), (B), (C) or (D)" from the fifth sentence of subparagraph (5)(A) and inserting "(A), (B) or (C)".

SEC. 213. PENALTY FOR FAILURE TO REPORT.

Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by adding at the end of subsection (b)(2) thereof the following: "Every savings and loan holding company which fails to make such reports within the period of time specified by the Corporation or which submits or publishes any false or misleading report or information shall be subject to a penalty of $1,000 for each day during which such failure continues or such information is not corrected; such penalty to be assessed and collected in the same manner as prescribed by subsection (j)(4) of this section.".

SEC. 214. REPEALER.

Section 5(d)(15) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(15)) is deleted, and section 5(d)(16) (12 U.S.C. 1464(d)(16)) is redesignated as section 5(d)(15) (12 U.S.C. 1464(d)(15)).

TITLE III—CREDIT UNIONS

SEC. 301. AMENDMENTS TO SECTION 206.

(a) Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended—

(1) by striking out the phrases "director, officer, committee member, employee, agent, and other persons participating in the conduct of the affairs of such credit union"; "director, officer, committee member, employee, agent or other person"; "director, officer, committee member or employee"; "director, officer, or committee member"; "director, committee member, or officer"; "director, committee member, officer, or other person"; "officer, director, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union"; and "officer, director, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union"; each place they appear and inserting in lieu thereof "institution-related party.";

(2) by striking out the period at the end of paragraph (1) of subsection (e) and inserting in lieu thereof: "including, without limitation, reimbursement, restitution, indemnification, rescission, the disposal of loans or assets, guarantees against loss, or other action the Board deems appropriate. Such order may place limitations on the activities or functions of the credit union or any institution-related party necessary to correct the conditions resulting from any such violation or practice";

(3) by inserting the following sentence after the first sentence of paragraph (1) of subsection (f): "Such order may place limitations on the activities or functions of the credit union or any institution-related party.";

(4) by redesignating paragraphs (2) and (3) of subsection (f) as paragraphs (3) and (4), respectively, and by adding after paragraph (1) the following new paragraph:

"(2) Whenever a notice of charges specifies that any insured credit union's books and records are so incomplete or inaccurate that the Board is unable with reasonable effort to determine the financial condition of that credit union or the details or purpose of any transactions that may have a substantial effect on the financial condition of that credit union, the Board may issue a temporary order requiring cessation of any activities the Board deems appropriate until completion of proceedings conducted under paragraph (1) of subsection (e) of this section. Such order shall become effective upon service, and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (3) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the Board determines by examination or otherwise that the credit union's books and records are accurate and capable of reflecting the financial condition of the credit union.";

(5) by striking out paragraph (2) and amending paragraph (1) of subsection (g) to read as follows:

"(1) Whenever the Board determines that—

"(A) any institution-related party, directly or indirectly, has violated any law, rule, regulation, or cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any insured credit union or other business institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty, or by conduct or practice has evidenced his personal dishonesty or unfitness to continue as an institution related party; and

"(B) such insured credit union or other business institution has suffered or will probably suffer substantial financial loss or other damage, or the interests of its insured members have been or could be seriously prejudiced by reason of such violation, practice, or breach, or the institution-related party has received financial gain by reason of such violation, practice, or breach,

the Board may serve upon such institution-related party a written notice of its intention to remove such party from office or to prohibit his further participation in any manner in the conduct of the affairs of any insured credit union.";

(6) by striking out "(A)" and striking out subparagraph (B) of subsection (g)(7), and by redesignating paragraphs (3) through (7) of subsection (g)(7) as paragraphs (2) through (6), respectively, and by amending paragraph (3) of subsection (g) (as so redesignated) to read as follows:

"(3) In respect to any institution-related party referred to in paragraph (1) or (2) of this subsection, the Board may, if it deems necessary for the protection of the credit union or the interests of its members, by written order to such effect served upon such party, suspend that party from office or prohibit that party from further participation in any manner in the conduct of the affairs of the credit union. Such suspension or prohibition shall become effective upon service of such order on the institution-related party and, unless stayed by a court in proceedings authorized by paragraph (5) of this subsection, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraphs (1) and (2) of this subsection and until such time as the Board shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this paragraph shall also be served upon any institution where the party involved is presently associated.";

(7) by striking out all language after "National Housing Act)," in paragraph (6)(A) of subsection (g) (as redesignated) and inserting in lieu thereof: "and any institution chartered under the Farm Credit Act of 1971, unless the party involved has received the prior written approval of the appropriate Federal regulatory agency to continue

such affiliation or to continue participating in the affairs of such institution.";

(8) by striking out "(4)" in paragraph (5) of subsection (g) (as redesignated) and inserting in lieu thereof "(3)", and by striking out "(1), (2), or (3)" in paragraph (5) and inserting in lieu thereof "(1) or (2)";

(9) by redesignating paragraph (1) of subsection (k) as paragraph (2), by redesignating paragraph (2) of subsection (k) as paragraph (3), and by inserting after "(k)" the following:

"(1) The jurisdiction and authority of the Board to proceed under this section against any institution-related party shall not be affected by the resignation, termination of employment, or other separation of such person from an insured credit union.";

(10) by inserting after "this section" in the first sentence of paragraph (3)(A) of subsection (k) (as redesignated) the following: "or any condition imposed in writing by the Board in connection with the granting of any application or other request by the credit union", by deleting "subsection (e), (f), or (q)" in the same sentence of redesignated paragraph (3)(A) of subsection (k) and inserting in lieu thereof "subsection (e), (f), or (p)";

(11) by amending subsection (l) to read as follows:

"(l) Any person against whom there is outstanding and effective any order served upon such person under paragraph (3) or (4) of subsection (g) or under subsection (i) who, directly or indirectly, without the prior written approval of the Board—

"(1) participates in any manner in the conduct of the affairs of any insured institution, any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan holding company or subsidiary of a savings and loan holding company (as those terms are defined in the National Housing Act), or any institution chartered under the Farm Credit Act of 1971, from which he has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorization in respect to any voting rights in such institution"; or

"(2) votes for a director, or serves or acts as a director, officer, committee member, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any bank holding company or subsidiary thereof, or any other institution described in paragraph (1) of this subsection,

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (g) of this section may prohibit any act that would violate this subsection.";

(12) by striking out subsection (m) and redesignating subsections (n), (o), (p) and (q) of this section as subsections (m), (n), (o) and (p) respectively; and

(13) by adding at the end thereof the following:

"(q) DEFINITIONS.—As used in this section:

"(1) The term 'appropriate Federal regulatory agency' means—

"(A) the Federal Reserve Board;

"(B) the Office of Comptroller of the Currency;

"(C) the Federal Deposit Insurance Corporation;

"(D) the Federal Home Loan Bank Board, acting either in its own name or as operating head of the Federal Savings and Loan Insurance Corporation, in the case of a depository institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation, or the subsidiary of such an institution, a Federal savings bank or a subsidiary of such a savings bank, a savings and loan holding company, or a subsidiary of a savings and loan holding company;

"(E) the National Credit Union Administration Board in the case of a credit union whose accounts are insured by the National Credit Union Share Insurance Fund, and

"(F) the Farm Credit Administration in the case of an institution chartered under the Farm Credit Act of 1971, as amended.

"(2) The terms 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the Board: (i) with the consent of the credit union or the institution-related party concerned; (ii) with respect to which no petition for review of the action of the agency has been filed and perfected in a court of appeals as specified in paragraph (2) of subsection (j) of this section; (iii) with respect to which the action of the court in which such a petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in that paragraph; or (iv) an order issued under paragraphs (1) or (3) of subsection (i) of this section.

"(3) The term 'institution-related party' means a director, officer, or committee member, employee, agent, or other person participating in the conduct of the affairs of an insured credit union.

"(4) The term 'insured institution' means an insured credit union, as defined in section 101, or a depository institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation.

"(5) The term 'or' is not exclusive.

"(6) The term 'violation' includes without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(r) EFFECT OF OTHER LAW.—The authority granted to the Board under this section shall be in addition to, and not restricted by, any other authority provided by Federal or State law.".

SEC. 302 AMENDMENTS TO SECTION 205.

Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended—

(1) by inserting after the phrase "insured credit union" in the first sentence of subsection (d) "or shall participate in the conduct of the affairs of such insured credit union";

(2) by striking out the second sentence of subsection (d) and inserting in lieu thereof "For each knowing violation of this subsection, the credit union or the individual involved shall each be subject to a penalty of not more than $1,000 for each day this prohibition is violated, which the Board may recover for its use."; and

(3) in the first sentence of paragraph (2) of subsection (e), by inserting a period after the word "standards" in the first sentence and striking out the phrase "and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures".

ANALYSIS OF TITLE I OF THE ENHANCED ENFORCEMENT POWERS ACT OF 1987

1. Section 101(a)(1) of the proposal amends section 8 of the Federal Deposit Insurance Act, as amended (the "FDI Act") (12 U.S.C. 1818) by introducing the new definitional phrase "institution-related party". This new phase will be substituted for the terms "director, officer, employee, agent, or other person participating in the conduct of the affairs" of a bank throughout the enforcement statute. Rather than continually referring to the long list of persons in the statute, this new phrase will permit a simpler reference. The definition of this new phrase is described in paragraph 12 hereof.

2. Section 101(a)(2) of the proposal amends section 8(b)(1) of the FDI Act to address a problem caused by a decision of the U.S. Court of Appears for the 7th Circuit in the Larimore matter. In that case, the court ruled that the cease and desist powers granted to the banking agencies under section 8(b) did not authorize the OCC to seek reimbursement from a director of a national bank who participated in a violation of the overline prohibitions of the National Bank Act. In a case that did not involve unjust enrichment or insider abuse, the court held that another section of the National Bank Act (12 U.S.C. 93) required that the OCC use its authority to seek civil remedies against the director in U.S. district court, rather than the administrative remedies set forth in the FDI Act.

The Larimore decision has caused some confusion at the banking agencies and in the banking legal community. When faced with enforcement actions involving reimbursements or repayments for insider abuse, individuals and their attorneys raise the matters described in the Larimore case as a defense to the banking agencies' actions. Since the Larimore case only involved a director who did not profit or benefit in any manner from his malfeasance, the legal staffs of the banking agencies do not believe that the decision is applicable to cases involving individuals who engage in abusive insider transactions, unjustly enrich themselves, and harm their financial institutions in the process.

In order to clarify the agencies' enforcement powers, this section, inter alia, proposes to list explicitly the types of remedial relief that the agencies can require in a cease and desist order in addition to the current general statutory phrase relating to "affirmative action".

This section of the amendments also clarifies the enforcement powers granted to the banking agencies in another way. Currently, the agencies can order such affirmative actions as are necessary to correct the conditions resulting from violations and unsafe or unsound practices. Remedial relief ordered by the banking agencies is structured to fit the offense. Often that relief involves limitations on the functions or activities of an institution. If there are problems in the management of a bank's lending operations, an order issued by the agencies addresses the problem by requiring, for example, new loan policies and procedures and limitations on the powers of loan officers, such as reductions in lending limits, senior officer reviews and board oversight.

The last part of this proposed amendment codifies a clarification to the current law. It simply provides that the agencies can order, in the context of a cease and desist order, certain limitations on the functions and ac-

tivities of individuals and institutions. This proposal will permit the agencies to address limited problems caused by individuals without the necessity of seeking their complete removal or suspension from the institutions. Each of the banking agencies currently interprets its powers to include the ability to order this type of relief.

3. Section 101(a)(3) of the amendments modifies the statute that grants the banking agencies the authority to issue temporary cease and desist orders. This modification clarifies the agencies' authority to issue temporary orders that limit the activities or functions of institutions or persons associated with them in the same manner and for the same reason described in paragraph 2 hereof. This change is made in order to make the agencies' remedial powers identical for both final cease and desist orders and temprorary cease and desist orders.

4. Section 101(a)(4) of the proposal adds a new basis for the issuance of a temporary cease and desist order by the banking agencies. If examiners discover during the course of a bank examination or bank holding company inspection that the institution's records are so incomplete or inaccurate that they cannot determine the condition of the institution or the nature of one of its transactions that may have a substantial effect on the institution's condition, the agencies would be authorized to issue a temporary order. This proposal is made in light of recent experiences by the OCC in the Golden Pacific National Bank matter and the FHLBB in the Empire Savings and Loan Association matter.

The current law relating to the issuance of temporary orders does not appear to cover the situation described above. Now, the agencies have to be able to prove that the law violation or unsafe or unsound practice committed by a bank, for example, is likely to cause its insolvency, cause the substantial dissipation of the bank's earnings or assets, seriously weaken the bank's condition or seriously prejudice the interests of the bank's depositors. In order to substantiate a case under the current law, examiners have to be able to uncover facts from an institution's records sufficient to fit these statutory bases. This amendment allows the agencies to act quickly when a serious problem such as the lack of records is first uncovered, rather than wait until the damage is done.

5. Section 101(a)(5) of the proposed amendments tries to accomplish several goals relating to the agencies' authority to remove an individual from a financial institution. The proposal makes the several grounds for removing individuals consistent. Currently, there are separate (and somewhat inconsistent) bases for removal depending on whether the agenices are removing an individual because of conduct he or she engaged in at the institution where the individual is currently employed or on account of conduct at the individual's former employer. There is no logical reason for having two separate legal bases for such removal actions; however, current law provides that the agencies have to meet separate and different tests depending on the current place of employment of the targeted individual. This part of the amendments deletes that section of current law which authorizes removal actions against an individual based on conduct at his or her former employer (section 8(e)(2) of the FDI Act) and makes the legal bases the same for all removal actions—regardless of whether the improper or illegal conduct was committed at the current or former place of employment.

The last reason for the aforementioned amendments to the agencies' removal statute is clarity of language. This proposal seeks to rewrite the current law into easily readable form.

6. Section 101(a)(6) of the proposal makes a substantive as well as a technical change to the statute granting the banking agencies the power to suspend temporarily as individual from an institution. Current law describes in section 8(e)(4) of the FDI Act the bases for the temporary suspension of an officer or director of a bank, and it speaks in terms of a suspension "notice" rather than a suspension "order". The proposal expands the coverage of the agencies' suspension powers by deleting the term "officers and directors" from the current law and substituting the term "institution-related party". With this change, the agencies will be able to remove, as well as temporarily suspend, all institution-related parties who engage in the types of practices, breaches or violations proscribed in the law. Also, since there is no such legal document titled a suspension "notice", this part of the amendment corrects the statute by making reference to a suspension "order".

7. Section 101(a)(7) of the proposed amendments clarifies a very important aspect of the agencies' powers relating to removals, suspension and permanent prohibitions. Under current law, an individual is suspended, removed or permanently prohibited from participating in the conduct of the affairs of a financial institution by the provisions of sections 8(e) (1) through (5) of the FDI Act. Once an individual is so removed, suspended or prohibited, the criminal sanction provisions of section 8(j) of the FDI Act come into play, and the individual cannot be, for example, an office or director of another insured bank or vote for an officer or director at another insured bank without the prior approval of the FDIC, FHLBB, and NCUA. The language of section 8(j) of the FDI Act is not a model of clarity; and, moreover, it does not relate to savings and loan associations and other financial institutions regulated by other supervisory agencies. Notwithstanding the problems associated with section 8(j) of the FDI Act, the agencies have consistently argued that an individual removed from one insured bank cannot serve at another without prior approval.

This amendment clarifies the current positions of the agencies. It is a cross removal provision. It states simply that in the event an individual is removed, suspended or prohibited from one bank or holding company, he or she is removed, suspended or prohibited from all insured banks, bank holding companies, savings and loan associations, savings and loan associations' holding companies, Edge Act corporations, insured credit unions and Farm Credit Administration regulated institutions.

8. Section 101(a)(8) of the proposal is merely a technical renumbering provision.

9. Section 101(a)(9) of the proposed amendments adds a new part to subsection 8(i) of the FDI Act. This amendment clarifies the positions of the banking agencies regarding their authority to take enforcement actions against individuals who resign or otherwise leave a financial institution prior to the initiation of an action. This new statutory provision declares that the termination of employment does not bar an enforcement action, such as a prohibition or cease and desist action.

10. Section 101(a)(10) of the amendments adds a new basis for the assessment of civil money penalties by amending section 8(i) of the FDI Act. Under current law, civil money penalties can be assessed pursuant to this section for violations of final cease and desist orders. The amendment proposes to expand the agencies' authority for such assessments to include violations of conditions imposed in writing by the agency in connection with the granting of any application. This is currently a ground for the issuance of a cease and desist order under section 8(b) of the FDI Act.

11. Section 101(a)(11) of the amendments modifies section 8(j) of the FDI Act. This section of the agencies' enforcement statute provides the criminal penalties for violations of removal, suspension and prohibition orders. The amendment attempts to clarify the language of the current law to make it internally consistent and to provide that, with the prior approval of the appropriate agency, an individual who is the subject of a suspension, removal or prohibition order can be an officer or director of a bank or holding company, for example, or vote for an officer or director of an insured bank or holding company.

Under the law as currently written, there is an absolute prohibition on an individual's ability to "participate in the conduct of the affairs" of a bank after his or her removal. An agency cannot provide its approval for such participation; however, it can approve of an individual's position as an officer or director of a bank. Since it is virtually impossible to be an officer or director of a bank or bank holding company and not participate in the institution's affairs, an individual who is subjected to a removal order, for example, can arguably never reenter the banking industry. This is not the intended result. Accordingly, the language of section 8(j) of the FDI Act was modified to clarify its meaning.

12. Section 101(a)(12) of the proposal includes the definitional modifications to the agencies' enforcement statute. First, the FHLBB (and FSLIC), the NCUA and the Farm Credit Administration are not included as appropriate Federal banking agencies for purposes of the enforcement laws. Since the proposed amendments provide for cross removals and the like, the FHLBB, NCUA and FCA needed to be added as approving agencies.

Second, the definitions relating to when a cease and desist order is "final" are modified to include the new phrase "institution-related party".

Third, the term "institution-related party" is defined to include all of the positions originally set forth in the law (e.g., officer, director, etc.) and is expanded to include a person who has filed or is required to file a notice under the Change in Bank Control Act of 1978. The inclusion of the authority to take supervisory actions against individuals who filed or are supposed to file change in control notices provides the agencies with powers over those who otherwise can circumvent the banking laws merely because they have not yet finalized, in the strictest legal sense, their control over a financial institution. Also, by failing to file a change in bank control notice, an individual, who carefully does not participate in the conduct of the affairs of a bank, for example, can avoid remedial sanctions for his or her wrongdoing.

Fourth, the term "insured institution" is expanded to include a depository institution

whose accounts are insured by the FSLIC or NCUSIF in addition to FDIC.

Last, the definitional provisions of section 8(k) of the FDI Act are expanded to include the concept that the word "or" is not exclusive in the statute.

13. Section 101(a)(13) of the amendments adds a new subsection to the agencies' enforcement statutes. This part of the proposal addresses another problem resulting from the U.S. Court of Appeals' decision in the Larimore matter. In part, the court held that the OCC would not use its administrative enforcement authority (e.g., a cease and desist order issued under section 8(b) of the FDI Act) to seek from a director of a national bank because there was a civil statute that authorized the OCC to seek such relief in a U.S. district court action (12 U.S.C. 93). This amendment provides that, notwithstanding any other statutory authority, a banking agency can use its administrative supervisory powers to address problem situations in the most efficient and prompt manner—that is, it can take cease and desist action.

14. Section 101(b) of the proposed amendments modifies the statutory authority of the FDIC set forth in section 19 of the FDI Act. Under this law, the FDIC must grant its approval before a convicted felon is employed by an insured bank; and, in the event that no approval is granted and the individual still continues to work at the insured bank, the bank can be fined up to $100 a day.

This amendment does two things. First, it raises the civil fine to $1,000 in order to be consistent with other penalty provisions. Second, it permits the FDIC to fine the individual as well as the bank.

15. Section 102 of the proposal modifies the civil money penalty assessment portions of the Change in Bank Control Act of 1978. Under current law, an individual subject to assessment of a civil money penalty for a violation of this statute is entitled to a de novo trial in U.S. district court—even after the individual has completed full proceedings before an administrative law judge and the agency bringing the charges. Under the law, this is the only provision relating to civil money penalties that provides for such extraordinary review.

One part of this amendment deletes the requirement for complete de novo U.S. district court review and makes an assessment under the Change in Bank Control Act of 1978 reviewable under the provisions of the Administrative Procedure Act, which entitles an individual to a full administrative hearing and agency review.

The second part of this amendment is the deletion of the term "willfully" as a modifier of the term "violates". As presently written, this law requires the agencies to determine that an individual willfully violated the change in control law before any assessment can be made. Under current banking laws, the banking agencies do not have to demonstrate a "willful" violation for any other civil money penalty assessment. This part of the amendments corrects this anomaly.

16. Section 103(a) of the proposed amendments deletes a requirement set forth in the Bank Protection Act of 1968 relating to the submission of periodic reports by banks and savings and loans concerning the installation, maintenance and operations of security devices and procedures. The agencies are now required to have regulations mandating the submissions of these reports; however, it has been determined by the banking agencies that no useful supervisory or regulatory purposes are served by the continuation of these reports. Accordingly, the statute would be modified to delete the requirements.

17. Section 103(b) of the proposal deals with technical changes to the OCC's Call Report reporting requirements. Since Call Reports are now required to be filed at regular intervals, the portion of the National Bank Act requiring their submission within 10 days of a "call" would be deleted. In section 1(g) of the amendments, an identical change is made with respect to Call Reports required to be filed with the Federal Reserve by state member banks.

18. Sections 103 (c), (d), (e) and (f) of the amendments modify the civil money penalty assessment powers of the agencies with respect to inaccurate Call Reports and bank holding company reports required by the respective statutes of the agencies. Currently, penalties can only be assessed for late reports—there is no clear authority for assessments for reports that are filed in a timely manner but are grossly inaccurate or that contain false or misleading information—and there is no explicit authority for the assessment of penalties for late or inaccurate bank holding company reports. This situation needed clarification and expansion, and the proposed amendment addresses the problem.

The amendments modify the respective laws covering the reporting activities of the agencies. The submission or publication of false or misleading or inaccurate Call Reports or bank holding reports, such as the F.R. Form Y-6, will subject the offender to the possible assessment of a civil fine. The amendment also increases the amount of the possible fine from $100 to $1,000 a day.

19. Sections 104 (a) and (b) of the proposal relate to the Right to Financial Privacy Act (the "RFPA"). These sections clarify the RFPA's existing exemptions for supervisory agencies. A supervisory agency, such as the Board of Governors, with statutory authority to examine the records of a financial institution, is exempt from the RFPA where the agency is exercising its supervisory, regulatory or monetary functions with respect to any financial institution. These amendments make it clear that (1) the Federal Reserve has the same exemptions applicable to its bank holding company and nonbank subsidiary supervisory and regulatory functions as it has with respect to its bank supervisory and regulatory functions; and (2) the exercise of supervisory and regulatory functions includes the exercise of such functions with respect to the officers and directors of financial institutions as well as the institutions themselves.

20. Sections 104 (c) and (d) of the proposal also relate to the RFPA. In order to clarify this most complicated statute, two simple amendments are proposed. The first makes it clear that a financial institution or an individual employed by a financial institution can provide law enforcement authorities with pertinent bank records relating to criminal activities, drug control laws and money laundering statutes without having to go through the notice requirements of the RFPA.

The second part of the proposal provides that once financial records are lawfully in the hands of an agency of the United States, such as the OCC or another bank regulatory agency, that agency can lawfully provide the records to another agency so long as they are relevant to a matter within the jurisdiction of the receiving agency.

SECTION-BY-SECTION ANALYSIS

TITLE II—REGULATION OF SAVINGS AND LOAN ASSOCIATIONS

Section 201. Section 201 provides that this title may be cited as the "Savings Institutions Supervisory Amendments of 1987."

Section 202(a). This section amends all references in the FSLIC's enforcement authority that presently relate to officers, director, employees and agents, to replace them with the phrase "institution-related party", which covers a wider range of individuals including a person who has filed or is required to file a notice under the Change in Savings and Loan Control Act. This new term is defined in Section 209(a).

Section 202(b). This section makes parallel amendments regarding the Bank Board's authority over federally chartered institutions contained in the Home Owners' Loan Act and substitutes the new phrase "association-related party", as defined in Section 209(b).

Section 203(a). This section amends the National Housing Act to address a problem caused by a court decision against the Office of the Comptroller of the Currency in *Larimore* v. *Conover*, 789 F.2d 1244 (7th Cir. 1986). It allows the FSLIC to order restitution or reimbursement from their institution-related parties to recover losses resulting from violations of law or other improper conduct. The *Larimore* decision determined that reimbursement was not a remedy available to the Office of the Comptroller of the Currency in an administrative cease-and-desist proceeding under its parallel statute.

This section also allows the FSLIC to use a cease-and-desist order to limit the activities or functions of an institution-related individual or insured institution, thus enabling the FSLIC to prevent specific practices or conduct by thrift officials where the circumstances may not be serious enough to warrant issuance of an order of removal or prohibition under Section 407(g).

Section 203(b). This section makes amendments regarding the Bank Board's authority in the Home Owners' Loan Act that are parallel to those in Section 203(a).

Section 204. This section clarifies that the agency's enforcement authority under the National Housing Act and the Home Onwers' Loan Act reaches all service corporations, including second-tier and partly owned service corporations of federal associations and insured institutions.

Section 205(a). This section clarifies that a temporary cease-and-desist order may place limits on the activities or functions of an institution-related party or insured institution, similar to those set out in section 203 above. It also expands the FSLIC's authority to issue a temporary cease-and-desist order to halt an institution's business activities when the FSLIC is unable to determine the financial condition of such institution or the nature of any transaction because of the disarray or lack of adequate books and records at the institution.

Section 205(b). This section makes the same amendments to the Board's authority to issue temporary cease-and-desist orders against federal associations and association-related parties.

Section 206(a). This section provides that if an institution-related party is removed, suspended, or prohibited from an insured institution, service corporation or subsidiary, or a savings and loan holding company or subsidiary, he is also removed, suspended, or prohibited from all federally insured deposi-

tory institutions, all bank holding companies, and institutions chartered under the Farm Credit Act of 1971 (unless he is allowed to return by the appropriate Federal regulatory agency, as defined in the Federal Deposit Insurance Act). No longer is it necessary for the Corporation to initiate a separate enforcement proceeding in order to remove from an FSLIC-insured institution or savings and loan holding company a person whom the OCC, FDIC, Federal Reserve Board, NCUA, or Farm Credit Administration has already removed from a national or state bank, a bank holding company, a credit union, or an institution chartered under the Farm Credit Act of 1971.

The section also provides that an institution-related individual may be removed or prohibited based on unsafe or unsound conduct causing financial loss or other damage to an insured institution or another business institution. In addition, paragraph (1) of amended section 407(g), which sets out the three grounds required for initiation of a removal action, is broken into subparagraphs to make it easier to understand. Furthermore, former paragraph (1), which applied to any director or officer of an insured institution with respect to his conduct regarding that institution, and former paragraph (2), which applied to such individual's conduct with respect to another insured institution or business entity, have been combined so that paragraph (1) now applies with respect to the individual's conduct regarding any insured institution or other business institution, as defined in the National Housing Act. Former paragraph (5) of section 407(g) is revised to use the terms "notice" and "order" consistently throughout the section.

Section 206(b). This section makes parallel amendments to the Bank Board's authority under the Home Owners' Loan Act to remove or prohibit individuals from financial institutions.

Section 207(a). This section clarifies the FSLIC's authority to pursue sanctions, including removal, against an institution-related individual despite his resignation or other separation from an institution. This will prevent such an individual from trying to thwart a removal action by resigning. It also redesignates the paragraph numbers in paragraph (k) of Section 407 in order to conform with other changes made in the bill.

This section also amends the provisions of the National Housing Act to provide the FSLIC with the same authority to impose monetary penalties for violations of law or regulation that the Comptroller of the Currency has long held.

Section 207(b). This section makes amendments with respect to the Board's removal and prohibition powers under the Home Owner's Loan Act that are parallel to those made in section 207(a) for the National Housing Act.

Section 208(a). The first sentence of paragraph 1 of section 407(p) makes technical amendments in accordance with changes made in section 206. It also clarifies that only with the prior written approval of the appropriate federal banking agency may an individual who is the subject of a removal, prohibition, or a suspension order under Section 407 of the National Housing Act, become an officer or participate in the affairs of another depository institution or holding company. The second sentence of this section would make it clear that the FSLIC, when issuing a suspension, removal or prohibition order, has authority to prohibit any of the acts that would be illegal under subsection (g) of section 407.

The second paragraph of this section changes the existing standard of proof for proceedings against individuals (who have been convicted of criminal offenses involving dishonesty or breach of trust and who violate the prohibition against participation in the conduct of the affairs of insured institutions) from a "willful" to a "knowing" violation. It prohibits such individuals from participating in the conduct of the affairs of an insured institution and would increase the penalty from $100 per day to $1,000 per day for any violation, which penalty could be imposed against individuals or insured institutions.

Section 208(b). This section makes parallel amendments with respect to the Home Owners' Loan Act.

Section 209. This section conforms the FSLIC's civil money penalty authority under the Change in Savings and Loan Control Act (12 U.S.C. § 1730(q)), to the same procedure applicable to other civil money penalty authority of the FSLIC. This means that such penalties may be assessed following a hearing before the agency conducted pursuant to the Administrative Procedure Act instead of the prior requirement for an abbreviated agency procedure, followed by de novo review in a U.S. district court.

This section also eliminates the requirement that the FSLIC demonstrate that a violation of the Change in Savings and Loan Control Act is "willful" in order to assess a civil money penalty, thus conforming this Act to other banking law provisions which provide for civil money penalties.

Section 210(a). This section revises the definitional subsection (r) as follows:

Paragraph (A) clarifies the definition of "cease-and-desist order that has become final" and "order which has become final." Paragraph (B) adds a definition of "institution-related party", as discussed in the comment on proposed section 102 above, while incorporating pertinent language from a former definition in Section 407(r)(4). Paragraph (C) eliminates any implication that "or" means "one or the other but not both", making it unnecessary to substitute "and/or" for "or." Paragraph (4) defines the term "insured institution" for enforcement purposes to include institutions whose insured status is terminated and Federal savings banks the deposits of which are insured by the Federal Deposit Insurance Corporation.

Section 210(b). This section makes amendments with respect to the Home Owners' Loan Act that are parallel to those in Section 210(a), except that language defining the terms officer, director, employee and agent has been transferred from Section 5(d)(14) of the HOLA to the definition of "association-related party" in Section 5(d)(13). This section also makes amendments to the definitions contained in the Home Owners' Loan Act that parallels those made in paragraph (4) of Section 210(a).

Section 211. This section creates a new paragraph (u) of Section 407 of the National Housing Act that requires insured institutions and Federal savings banks to make reports of condition to the FSLIC, and subjects those that either fail to furnish such information or furnish false or misleading information to the assessment of civil penalties. These powers, except for assessment of penalties for submission of a false or misleading information for which statutory authority is now being sought, are the same as those already held by the OCC, the FDIC, and the Federal Reserve Board.

Section 212. This section is a technical amendment to conform to the renumbering of certain paragraphs in Section 206.

Section 213. This section amends the provisions applicable to savings and loan holding companies to make the requirements for reports of condition parallel to those provided by Section 211.

Section 214. This section deletes paragraph (15) of Section 5(d), which is incorporated in Section 5(d)(13) by Section 118 of this Act, and redesignates paragraph (16) as paragraph (15).

TITLE III—CREDIT UNIONS

Section 301(a)(1). A new phrase—"institution-related party"—will replace the terms officer, director, committee member, employee, agent, or other person. This is a simple reference and will assure consistency throughout Section 206.

Section 301(a)(2), (3). This change will specifically set forth various types of relief NCUA can require as part of a cease-and-desist order, in addition to its present authority to order affirmative action. This change will also explicitly state that NCUA may place limitations on the activities of individuals or institutions. These modifications would apply to both temporary and final C&D orders.

Section 301(a)(4). An additional basis for a cease-and-desist order is added for cases in which the credit unions' records are so incomplete or inaccurate that NCUA cannot determine the institutions' condition.

Section 301(a)(5). This change makes the legal standard for removal of individuals the same regardless of whether the objectionable conduct occurred at the current employer or a previous credit union. Presently, the standard differs based on where the conduct occurred. This amendment differs somewhat from that of the other bank regulatory agencies because the statutory elements for removal/prohibition under NCUA's statute are different from those of the other agencies. Specifically, NCUA's statute does not require a showing of personal dishonesty or willful or continuing disregard for the safety or soundness of the credit union. This change maintains that distinction.

Section 301(a)(6). This section clarifies that temporary suspension power reaches any institution-related party.

Section 301(a)(7). This section gives other financial regulatory agencies the industry-wide removal authority which NCUA received last summer. It also clarifies our statutory language and makes the language consistent for all of the agencies.

Section 301(a)(8). This is a technical renumbering provision.

Section 301(a)(9). This provision declares that termination of employment does not bar an enforcement action such as a prohibition.

Section 301(a)(10). This adds violation of certain written agreements as an additional basis for assessment of civil money penalties.

Section 301(a)(11). This clarifies NCUA's ability to allow an individual who has been administratively removed to re-enter the industry.

Section 301(a)(12). This is a technical relettering provision.

Section 301(a)(13). This section provides definitions for various terms used in the amendments. This section also explicitly states that NCUA can use its administrative enforcement power to address a problem regardless of whether it has other statutory authority as well.

Section 302. This change is to Section 205 of the Act and provides that if a person con-

victed of a crime involving dishonesty or breach of trust is employed at an insured institution, and NCUA has not given its written approval to allow the person to continue, a civil fine of up to $1,000 a day may be imposed on both the individual and the credit union. Presently the fine is only $100 and it may only be assessed against the credit union. This section also deletes the requirement that credit unions submit periodic reports concerning security devices and procedures.

Mr. GARN. Mr. President, Senator PROXMIRE and I, at the request of the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration, are introducing the Enhanced Enforcement Powers Act of 1987. This bill represents the collective effort of the staffs of all of the Federal agencies involved with supervising depository institutions, and thus deserves our careful consideration.

It is particularly important that we consider this bill during the 100th Congress. The Senate Banking Committee recently completed an extensive series of hearings on banking reform legislation, and in particular on proposals which would permit banks to enter and compete in new fields. At these hearings, both Comptroller of the Currency Robert Clark and FDIC Chairman William Seidman specifically requested that Congress give serious consideration to this proposal, either independently or as an adjunct to the expanded powers measure. In light of these requests, and the obvious need to modernize our enforcement laws, I believe that this bill should be given careful attention.

By Mr. DECONCINI (for himself, Mr. DOMENICI, Mr. D'AMATO, and Mr. MOYNIHAN):

S. 1975. A bill to better enable Federal law enforcement officers to accomplish their missions, to assist Federal law enforcement agencies in attracting and retaining the most qualified personnel, and for other purposes; to the Committee on Governmental Affairs.

COMPREHENSIVE FEDERAL LAW ENFORCEMENT IMPROVEMENTS ACT

Mr. DECONCINI. Mr. President, today, I am introducing, along with my colleagues Senators DOMENICI, D'AMATO, and MOYNIHAN, the Comprehensive Federal Law Enforcement Improvements Act of 1987—legislation which will better enable the Nation's Federal law enforcement officers to accomplish their critically important missions.

All of us in the Congress share a strong commitment to fighting crime, as evidenced by the broad bipartisan support which has produced important legislative initiatives in recent years, including the Comprehensive Crime Control Act of 1984 and the Anti-Drug Abuse Act of 1986. Such legislation has been indispensable in galvanizing our society for the assault on illegal drug trafficking, organized crime, terrorism, and other serious criminal activity. It has also greatly intensified the demands made on over 83,000 Federal law enforcement officers.

Unfortunately, such legislation has largely overlooked the needs of those officers—the men and women on the front lines—those people charged with carrying out the "war on crime." In fact, their needs are rarely addressed at all in the legislative process, which accounts for the woefully inadequate state of Federal law with respect to issues that directly affect our law enforcement personnel. Historically, such issues have been addressed only piecemeal, with the resulting fragmentation that is all too well documented in the U.S. Code: A change is made in one area of the criminal justice system without considering its impact on other parts of the system, creating uncontrollable workloads for some agencies; a much-needed benefit is provided to officers in one agency, while ignoring others having the same—or greater—need; a statute is enacted which purports to benefit the entire civil service, but operates to the unique detriment of law enforcement officers.

As a result, serious inconsistencies exist among Federal law enforcement agencies ranging from inequities in pay and other benefits to basic law enforcement authority. This inevitably causes friction among agencies which impedes their cooperation in important crime-fighting efforts. It has also made it increasingly difficult for Federal law enforcement agencies to recruit and retain qualified personnel—especially in parts of the country where Federal officers' salaries are less than half that of their State and local counterparts.

I would imagine that most of my colleagues would be as shocked and amazed as I was to learn that the vast majority of our Federal law enforcement officers—men and women who are called upon each day to risk injury or death in agencies such as the Border Patrol, the U.S. Marshals Service, the Bureau of Alcohol and Firearms, and the Customs Service, to mention only a few—are paid a starting salary of only $14,822 a year! I ask my colleagues to consider how these young officers must struggle just to subsist on such wages, particularly in high cost-of-living areas. Adding insult to injury, these same new recruits are required to pay their own travel expenses to their first duty stations—which may be across the country from where they are living at the time of appointment. Such factors can take an incalculable toll on the morale of these Federal officers, and often results in their leaving Federal service for more profitable employment by State and local law enforcement agencies and the private sector.

I believe that the need for the legislation I am introducing today is critical and very well documented. The bill includes the following provisions.

Title I of the Comprehensive Federal Law Enforcement Improvements Act of 1987 would provide specific relief on several issues which are in need of immediate attention. First, it would amend an existing provision in the Federal Employees Retirement System [FERS] which disqualifies law enforcement officers from retiring at age 50 after 20 years' service—the longstanding "hazardous duty" early retirement option—if they are promoted to a management or supervisory position after less than 10 years of primary service. This provision penalizes the most talented young officers and acts as a disincentive to seeking advancement, ultimately impairing the ability of Federal law enforcement agencies to recruit and retain the most capable personnel. Under section 101 of the bill, the 10-year primary service requirement would be reduced to a more reasonable 3-year requirement.

Section 102 of the bill authorizes payment of the moving expenses of newly appointed law enforcement officers to their first duty station. As I mentioned previously, the vast majority of these young officers begin their service at the GS-5 level, which is presently $14,822 a year. It can be an overwhelming hardship when a new recruit must move across the country for his first assignment and it takes a good portion of his first year's salary just to move.

Section 103 of the bill would provide much-needed law enforcement authority to criminal investigators of the Offices of Inspector General in various executive branch agencies. These investigators routinely perform a wide variety of law enforcement functions—investigating serious Federal crimes and confronting dangerous criminals. Yet, they must do so without the most basic authority to carry firearms, make arrests, and serve warrants. When they develop a case to the point that an arrest or execution of a warrant is appropriate, they must call in another Federal law enforcement agency to make the arrest or serve the warrant, even though the IG criminal investigators have the necessary qualifications and training to perform those functions. The involvement of personnel from a second agency is unnecessarily costly and may involve delay and other factors which reduce the effectiveness of a criminal investigation.

Moreover, in the course of their work, fully trained IG criminal investigators must regularly expose themselves to extreme danger without the authority to protect themselves and

others by carrying firearms. This section would provide IG criminal investigators with the necessary authority, under guidelines issued by the Attorney General, to carry firearms, make arrests, and obtain and serve warrants, subpoenas, and summonses. The bill would also include limited law enforcement authority for the special investigators who work in the special investigations unit at the General Accounting Office.

Section 104 of the bill amends the Omnibus Crime Control and Safe Streets Act of 1968 to increase from $50,000 to $100,000 the benefits paid to survivors of public safety officers who died as a result of injury sustained in the line of duty. The section also eliminates the requirement that a parent, or parents, be a dependent, or dependents, of such officer in order to be an alternate beneficiary.

Title II of the bill would establish a National Advisory Commission on Law Enforcement to systematically address the issues which probably have the greatest impact on the ability of Federal agencies to attract and retain the most capable law enforcement officers: Inequities in compensation and other benefits among officers having similar qualifications, training, and responsibilities. The fact that such inequities exist is a testimony to the piecemeal and fragmented manner in which legislation related to law enforcement has been enacted over the years. The establishment of the National Advisory Commission on Law Enforcement would be an important first step toward filling that void.

With a membership drawn from the Congress, Federal law enforcement agencies, and other executive branch agencies, the Commission will be required to study the methods and rates of compensation of law enforcement officers in every Federal agency. The Commission would also examine how Federal law enforcement salaries compare to those of State and local officers in the same geographical areas. It would be authorized to use the existing staff and resources of Federal agencies, so that no appropriations would be required for the Commission to conduct its business.

The Commission would study the feasibility of a uniform system of overtime compensation for Federal law enforcement officers. The multiple systems currently in use by the various agencies breed their own inequities and reduce the overall cost effectiveness of providing overtime compensation.

Within 6 months after the act becomes law, the Commission would be required to submit its findings to the President and the Congress. These findings must include specific recommendations for legislation to rectify inequities in compensation and to otherwise address the issues within the Commission's mandate. While providing us with concrete legislative solutions on compensation issues, the Commission would also provide a model for addressing law enforcement issues in a comprehensive manner in the future.

Mr. President, I believe that the Comprehensive Federal Law Enforcement Improvements Act of 1987 would represent a significant advance toward dealing more effectively with the needs of our Federal law enforcement officers—the men and women from whom we expect to much. I urge my colleagues to join me in supporting prompt passage of this legislation, recognizing that the ultimate effectiveness of our criminal laws depends largely on the capability and morale of our Nation's law enforcement officers.

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. 1975

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 "Comprehensive Federal Law Enforcement Improvements Act of 1987".

TITLE I—SPECIAL IMPROVEMENTS

SEC. 101. RESTORATION OF HAZARDOUS DUTY EARLY RETIREMENT OPTION UNDER FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

Section 8401(17)(B) of title 5, United States Code, is amended by striking out "for at least 10 years" and inserting in lieu thereof "for at least three years.".

SEC. 102. TRAVEL AND TRANSPORTATION EXPENSES TO FIRST DUTY STATIONS.

(a) The head of an agency may provide travel and transportation expenses to a newly appointed law enforcement officer, including the transportation expenses of his or her immediate family, household goods, and personal effects, from place of residence at the time of appointment to the first duty station, to the extent that payment of such expenses is authorized by section 5723 of title 5, United States Code, for a new appointee who may receive payments under that section.

(b) For purposes of this section—

(1) The term "agency" shall have the same meaning as provided in section 5721(1) of title 5, United States Code.

(2) The term "law enforcement officer" shall have the same meaning as provided in section 8401(17) of title 5, United States Code.

SEC. 103. LAW ENFORCEMENT AUTHORITY FOR CRIMINAL INVESTIGATORS OF OFFICERS OF INSPECTOR GENERAL.

Section 6 of the Inspector General Act of 1978 (5 U.S.C. App. 3) is amended by inserting immediately after subsection (c) the following new subsection:

"(d) Subject to guidelines promulgated by the Attorney General of the United States, and under such regulations as the Inspector General may prescribe, investigators of the Office of Inspector General may—

"(1) conduct investigations concerning any violations of United States law related to the programs, personnel, or operations of the establishments;

"(2) for the purpose of conducting such investigations—

"(A) obtain and serve subpoenas and summonses issued under the authority of the United States; and

"(B) obtain and execute search and arrest warrants;

"(3) if designated by the Inspector General, and qualified under approved regulations governing the use of firearms, carry firearms for the purpose of performing the duties authorized by this Act; and

"(4) arrest without warrant any person for any violation of United States law related to the programs, personnel, or operations of the establishments—

"(A) in the case of a felony violation; and

"(B) in the case of a felony or misdemeanor violation, if the violation is committed in the presence of the investigator.".

SEC. 104. AMENDMENTS TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) BASIC LEVEL OF DEATH BENEFIT PAYABLE.—Section 1201(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(a)) is amended by striking out "$50,000" and inserting in lieu thereof "$100,000, adjusted in accordance with subsection (g),".

(b) PARENTS AS BENEFICIARIES.—Section 1201(a)(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(a)(4)) is amended by striking out "dependent".

SEC. 105. INVESTIGATIVE AUTHORITY OF THE COMPTROLLER GENERAL.

Section 712 of title 31, United States Code, is amended by—

(1) inserting "(a)" before "The Comptroller General"; and

(2) adding at the end thereof the following:

"(b)(1) The Comptroller General may assign employees of the General Accounting Office to carry out special investigations related to Federal programs or activities carried out under the laws of the United States, and potential criminal violations thereof.

"(2) In connection with any investigation conducted by employees referred to in paragraph (1), the Comptroller General may require by subpoena the attendance and testimony of any person and the production of any records or other evidence, except that the Comptroller General may only demand production of agency records pursuant to the provisions of section 716. The Comptroller General may subpoena the attendance and testimony of an agency officer or employee, except that the Comptroller General may not compel the testimony of an agency officer or employee concerning the contents of an agency record to which the Comptroller General does not have access pursuant to the provisions of section 716.

"(3) The attendance of any person to give testimony and the production of any records or other evidence may be required from any place in the United States or its territories at such reasonable places as may be designated. In case of disobedience to a subpoena for the testimony of an agency officer or employee, the Comptroller General may bring a civil action in the United States District Court for the District of Columbia to compel the testimony. In case of disobedience to a subpoena for the records or testimony of a person not in the United States Government, the Comptroller General may

bring a civil action in the United States district court for the judicial district or territory where the person resides, is found, or carries on business, or where the records or other evidence are located, to require the attendance and testimony of any person and the production of any records or other evidence. Failure to obey an order requiring the production of testimony, records, or other evidence, may be punished as a contempt of court.

"(4) Except with respect to an employee as defined in section 2105 of title 5, United States Code, any person subpoenaed or deposed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

"(5) The Comptroller General may authorize employees of the General Accounting Office referred to in paragraph (1), qualified for the use of firearms, to carry firearms.

"(6) Any department or agency of the United States, including any law enforcement agency of the United States, may cooperate with, and provide assistance, on a reimbursable or nonreimbursable basis, in connection with any investigation, audit, or evaluation.".

SEC. 106. ASSAULTS ON PERSONNEL OF THE GENERAL ACCOUNTING OFFICE.

Section 1114 of title 18, United States Code, is amended by inserting after "National Credit Union Administration," the following: "or any officer or employee of the General Accounting Office assigned to perform audits, investigations, or evaluations,".

SEC. 107. OBSTRUCTION OF AUDITS AND INVESTIGATIONS OF THE GENERAL ACCOUNTING OFFICE.

Section 1505 of title 18, United States Code, is amended by striking "Congress" and the dash and inserting "Congress or any officer or employee of the General Accounting Office assigned to perform audits, investigations or evaluations—".

SEC. 108. INCLUSION OF INVESTIGATORS OF THE GENERAL ACCOUNTING OFFICE UNDER THE FEDERAL TORTS CLAIM ACT.

The last sentence of section 2680(h), of title 28, United States Code, is amended by—

(1) striking out "or" after "seize evidence,"; and

(2) striking the period at the end thereof and inserting ", or to conduct investigations pursuant to section 712(b)(1) of title 31.".

SEC. 109. OATHS AND AFFIRMATION.

Section 711(4) of title 31, United States Code, is amended to read as follows:

"(4) administer oaths and affirmations when conducting an investigation, audit, or evaluation.".

TITLE II—NATIONAL ADVISORY COMMISSION ON LAW ENFORCEMENT

SEC. 201. DEFINITIONS.

As used in this title—

(1) the term "Commission" means the National Advisory Commission on Law Enforcement;

(2) the term "Commissioner" means a member of the National Advisory Commission on Law Enforcement; and

(3) the term "law enforcement officer" has the same meaning as provided in section 8401(17) of title 5, United States Code.

SEC. 202. ESTABLISHMENT AND PURPOSES OF THE NATIONAL ADVISORY COMMISSION ON LAW ENFORCEMENT.

(a) ESTABLISHMENT.—There is established as an independent commission in the legislative branch of the United States a National Advisory Commission on Law Enforcement, which shall consist of the following members:

(1) four members of the United States Senate, two of whom shall be selected by the Majority Leader and two of whom shall be selected by the Minority Leader;

(2) four members of the United States House of Representatives, two of whom shall be selected by the Majority Leader and two of whom shall be selected by the Minority Leader;

(3) the Comptroller General of the United States, who shall also serve as Chairman of the Commission;

(4) the Director of the Office of Personnel Management;

(5) the Attorney General of the United States and three other officials of the Department of Justice who shall be designated by the Attorney General;

(6) the Secretary of the Treasury and two other officials of the Department of the Treasury who shall be designated by the Secretary of the Treasury;

(7) the Inspector Generals of three departments or agencies of the executive branch of the United States who shall be designated by the President of the United States; and

(8) three representatives from Federal employee groups.

(b) PURPOSES OF THE COMMISSION.—The Commission shall study the methods and rates of compensation including salary, overtime pay, and other benefits of law enforcement officers in all Federal agencies, as well as the methods and rates of compensation of State and local law enforcement officers in a representative number of areas where Federal law enforcement officers are assigned, in order to determine—

(1) the differences which exist among Federal agencies with regard to the methods and rates of compensation for law enforcement officers;

(2) the rational basis, if any, for such differences, considering the nature of the responsibilities of the law enforcement officers in each agency; the qualifications and training required to perform such responsibilities; the degree of personal risk to which the law enforcement officers in each agency are normally exposed in the performance of their duties; and such other factors as the Commission deems relevant in evaluating the differences in compensation among the various agencies;

(3) the extent to which inequities appear to exist among Federal agencies with regard to the methods and rates of compensation of law enforcement officers, based on consideration of the factors mentioned in paragraph (2) of this subsection;

(4) the feasibility of devising a uniform system of overtime compensation for law enforcement officers in all or most Federal agencies, with due regard for both the special needs of law enforcement officers and the relative cost effectiveness to the Government of such a system compared to those currently in use;

(5) how the salaries paid to Federal law enforcement officers compare to those of State and local officers in the same geographical area, especially those in "high cost-of-living" areas;

(6) the impact of the rates of compensation paid by various Federal agencies on the lifestyle, morale, and general well-being of law enforcement officers, including their ability to subsist;

(7) the recruiting and retention problems experienced by Federal agencies due to: inequities in compensation among such agencies; the differences between rates of compensation paid to Federal law enforcement officers and State and local officers in the same geographical areas; and other factors related to compensation; and

(8) the extent to which Federal legislation and administrative regulations may be necessary or appropriate to rectify inequities among Federal agencies in the methods and rates of compensation for law enforcement officers; to address the lack of uniformity among agencies with regard to overtime pay; to provide premiums or special rates of pay for Federal law enforcement officers in high cost-of-living areas; to ensure that the levels of compensation paid to Federal law enforcement officers will be competitive with those paid to State and local officers in the same geographical areas; and to address such other matters related to the determinations made under this subsection as the Commission deems appropriate in the interests of enhancing the ability of Federal agencies to recruit and retain the most qualified and capable law enforcement officers.

SEC. 203. POWERS OF THE COMMISSION.

(a) SPECIFIC POWERS.—The Commission shall have the power to—

(1) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

(2) enter into and perform, without regard to 31 United States Code, section 3324, such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

(3) request such information, data, and reports from any Federal agency or instrumentality as the Commission may from time to time require and as may be produced consistent with other law; and

(4) hold hearings and call witnesses that might assist the Commission in the exercise of its powers or duties.

(b) OTHER NECESSARY POWERS.—The Commission shall have such other powers as may be necessary to carry out its functions under this Act and may delegate to any member or designated person such powers as may be appropriate in the conduct of its functions.

(c) RESOURCES FROM OTHER FEDERAL AGENCIES.—Upon the request of the Commission, each Federal agency is authorized and directed to make its resources, services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Commission in the execution of its functions.

(d) RESOURCES OF INDIVIDUAL COMMISSIONERS.—Each Commissioner may utilize the resources, services, equipment, personnel, information, and facilities of his or her Federal agency or, in the case of the Commissioners who are members of Congress, his or her congressional office, as may be necessary in the conduct of the Commissioner's respective functions as a member of the Commission.

(e) QUORUM AND VOTING.—A simple majority of the Commissioners then serving shall constitute a quorum for the conduct of business by the Commission, and the Commission may exercise its powers and fulfill its

duties by the vote of a simple majority of the Commissioners present.

(f) DUTIES OF CHAIRMAN.—The Chairman of the Commission shall call and preside at meetings of the Commission; provided, however, that the Chairman may delegate to any other Commissioner the authority to preside at meetings of the Commission.

SEC. 204. REPORT AND DISSOLUTION OF COMMISSION.

(a) REPORT.—Within six months following the date of enactment of this Act, the Commission shall prepare and deliver to the President of the United States, the President of the Senate, and the Speaker of the House of Representatives, a written report setting forth—

(1) the findings and determinations made by the Commission pursuant to section 201(b); and

(2) specific proposals for such legislation and administrative regulations as the Commission has determined to be necessary or appropriate pursuant to section 201(b)(8).

(b) TERMINATION OF COMMISSION.—The Commission shall be terminated upon the adjournment, sine die, of the 100th Congress.

● Mr. D'AMATO. Mr. President, I am proud to be an original cosponsor of this legislation providing a "fair deal" for our brave Federal law enforcement officers. I commend Senator DECONCINI for introducing this bill, and for calling attention to the increasingly serious plight of these brave men and women who risk their lives, and their families' security, on our behalf every day.

Over the years, many inequities have crept into the system governing pay, benefits, and promotion for Federal law enforcement officers. In his statement, Senator DECONCINI has reviewed these at length. I shall restrict most of my remarks to one area, that of salaries.

According to information compiled by the FBI Agents Association, and printed in the fall 1987 issue of FBI Agent, annual starting salaries for patrolmen in Nassau County, NY, and in New York City exceed those of FBI agents by approximately $1,000. FBI agents start at $24,732; New York City policemen at $25,977; and Nassau County Police at $25,677. After a year, this pay gap widens dramatically, with FBI agents earning an average of $25,556; New York City Policemen $30,298; and Nassau County Police $28,421.

The pay gap is even wider for new DEA agents, who start at $18,358, and for those starting with the Border Patrol, Marshals Service, BATF, and Customs Service, where the starting salary can be as low as $14,822.

The problems these low pay scales and many other inequities create for the recruiting and retaining of qualified personnel are truly enormous. It is time we address them.

Title I of this bill solves three problems for Federal officers immediately by:

First. Eliminating a major disincentive to talented young officers by reducing the so-called primary service requirement from 10 to 3 years. Under this provision, promotion to a management or supervisory position after less than 10 years of primary service would no longer disqualify an officer from retiring after 20 years of service at age 50;

Second. Authorizing payment of moving expenses for newly appointed law enforcement officers to their first duty stations; and

Third. Providing law enforcement authority to criminal investigators in the offices of executive branch agency inspectors general. This gives them the authority they need to do their job: Carry firearms, make arrests, and serve warrants.

To address the more complex issues of differences in pay and benefits among Federal agencies, title II of this bill creates a Commission to study those differences, the extent to which they are justified by differences in the respective duties of the various agencies, and the feasibility of a uniform system of overtime compensation for Federal law enforcement officers. The Commission would also compare Federal law enforcement salaries to those of State and local law enforcement agencies.

Six months after this bill becomes law, the Commission must submit its findings, and recommendations for corrective legislation, to the President and the Congress.

I urge my colleagues to give this bill their full support, so that we may begin to give our Federal law enforcement officers more of the careful attention they deserve.●

● Mr. MOYNIHAN. Mr. President, I rise today to join Senator DECONCINI in introducing the Comprehensive Federal Law Enforcement Improvements Act of 1987. This bill is a vitally important step in examining and improving our Nation's law enforcement operations.

Adequate compensation for law enforcement personnel at the Federal, State, and local level is essential to improving our law enforcement system Nowhere is the need more evident than in my own city of New York, where the high cost of living has made it difficult for the FBI to attract new agents and retain experienced professionals. In New York City, the Citizens' Crime Commission, headed by Mr. Thomas A. Reppetto, is studying this issue and plans to release its findings early next year.

This bill establishes a National Advisory Commission on Law Enforcement to study the compensation of law enforcement officers in all Federal agencies, as well as State and local law enforcement officers in areas where Federal law enforcement officers are assigned.

This Commission would be comprised of members of the Senate, the House of Representatives, the Office of the Comptroller General, the Office of the Attorney General, the Department of Treasury and other Federal employee organizations.

Specifically, this Commission would address the differences among Federal agencies in compensation and whether those differences are based on the personnel risk and responsibilities associated with the position. In addition, the Commission will address the salary differences between Federal officers and State and local officers assigned to the same area. Oftentimes, as in the case of the FBI in New York City, the responsibilities of the Federal officers parallel those of the local officers but the compensation does not.

Within 6 months after enactment of this bill, the Commission will have to report back to Congress and the President on its findings and recommend specific remedies for any unacceptable discrepancies in salary.

This Commission is a start. With it we may finally compensate our Federal law enforcement officers in a fair and reasonable manner.

This bill also makes some substantive changes in our current Criminal Code. It will raise the level of death benefits provided for in current law from $50,000 to $100,000. It will also allow criminal investigators in the Office of the Inspector General to serve subpoenas, obtain search warrants and carry firearms if necessary. This provision will enable these officers to proceed in a criminal investigation without having to wait for other law enforcement officials to intercede.

I would urge all my colleagues to support this bill.●

● Mr. DOMENICI. Mr. President, I am pleased to join my good friend from Arizona [Mr. DECONCINI] in introducing this important bill.

The American people often identify crime as the most important problem facing our Nation. Few of us can say we are "safe" from crime. The sad fact is that crime seems to be everywhere.

While the front line of fighting crime is at the State and local level of government, Congress has passed a variety of major crime-fighting bills. Behind solid Presidential leadership, Congress has passed the Comprehensive Crime Control Act of 1984 and the Anti-Drug Abuse Act of 1986.

These two acts focused attention on the war against crime, providing law enforcement agencies and the courts with many of the tools they need to get the criminals off the streets. Yet the demands on law enforcement agencies continue to mount.

This holds particularly true for Federal law enforcement agencies and officers. Frankly, Congress has not done a very good job providing for these men and women. This is not because of a lack of concern. It is simply that

there is no single congressional forum to address these needs. Thus, the issues failed to receive the attention they deserve.

This bill addresses the problems facing Federal law enforcement agencies. These difficulties fall into two broad categories: Recruiting and retention efforts, plus the issue of basic law enforcement authorities.

A key issue involves benefits provided to Federal law enforcement personnel. It may surprise many of my colleagues to learn that most of the men and women who enter the various Federal law agencies enter at the GS-5 level at a starting salary below $15,000 annually.

That salary level makes it difficult to attract top quality personnel, particularly when State, local, and private law enforcement agencies can offer higher pay.

Making Federal recruiting more difficult is the fact that most of the recruits must pay their moving expenses when reporting for their first duty station. While this bill does not address the pay situation directly, it does provide some help by authorizing the Federal Government to pay those moving expenses.

Another provision complicating our efforts to retain good people involves the Federal Employees Retirement System [FERS]. The retirement system disqualifies certain law enforcement officers from the early retirement option available to most Federal law enforcement personnel.

These officers are prohibited from the hazardous duty early retirement if they have been promoted to a management or supervisory position after fewer than 10 years of service. Thus, young officers are encouraged from seeking advancement.

This bill reduces the 10-year requirement to a 3-year requirement.

The bill also increases the death benefits paid to the survivors of a slain officer from $50,000 to $100,000. This amount has not been increased since the Public Safety Officers' Death Benefits Act became law 11 years ago.

In the pursuit of criminals, Federal agents often face great personal danger. Yet, many of these agents also lack authority to carry firearms, make arrests, and execute warrants.

Section 103 of this bill grants to Federal inspectors general and certain General Accounting Officer personnel full law enforcement authority. This authority would be carried out under guidelines issued by the Attorney General.

Mr. President, I am confident that my colleagues agree with me that we should do everything possible to make the job of our Federal enforcement officers a little bit easier. We have passed major crime-fighting laws in recent years, but we have failed to give those who administer these laws the resources they need to implement these laws.

This new bill starts in the right direction. It will not solve all the problems I have mentioned. But it will start to correct some of the inequities facing today's law enforcement officials.

Preliminary estimates provided by the Congressional Budget Office calculate that this bill will increase Federal outlays by $20 to $30 million annually.

I think my colleagues will agree that this is a relatively modest cost for improvements to our Federal law enforcement efforts. I urge my colleagues to study this bill and to support it.●

By Mr. EVANS (for himself, Mr. INOUYE, Mr. MCCAIN, Mr. HARKIN, Mr. DECONCINI, Mr. DASCHLE, Mr. BINGAMAN, Mr. PRESSLER, Mr. BURDICK, and Mr. WIRTH):

S. 1976. A bill to amend the Indian Child Welfare Act which establishes standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes; to the Select Committee on Indian Affairs.

INDIAN CHILD WELFARE ACT AMENDMENTS

Mr. EVANS. Mr. President, I rise today to introduce the Indian Child Welfare Act Amendments of 1987. The Indian Child Welfare Act was signed into law on November 8, 1978, and serves to protect one of the most vital resources in Indian country: the children.

Congress passed this law in response to the alarmingly high percentage of Indian children who were separated from their families and tribal heritage by the interference, often unwarranted, of nontribal public and private agencies. With regularity these children were placed in non-Indian foster and adoptive homes and institutions. Furthermore, many States, exercising jurisdiction over Indian child custody proceedings often have failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.

Mr. President, it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families. The Indian Child Welfare Act was to further this policy through the establishment of minimum Federal standards for the removal of Indian children from their families and by requiring the placement of such children in foster or adoptive homes which are reflective of the unique values of Indian culture. In addition, the act provides for assistance to Indian tribes in the operation of child and family service programs.

This policy to protect the best interest of the child has served as the operating philosophy of the tribes, child welfare programs, and courts. The Indian Child Welfare Act is recognized as being consistent with the modern trend in child custody and child welfare. Unfortunately, the implementation of this act has been resisted by some who believe it places too much emphasis on the interests of Indian tribes. The recent Halloway decision in the Utah Supreme Court and the Navajo tribal court system is indicative of this controversy surrounding the act.

The Halloway case was a powerful test of application of the Indian Child Welfare Act. The case was settled in the Navajo Nation courtroom of Window Rock, AZ. In spite of considerable public outcry over the operation of the Indian Child Welfare Act, the Utah Supreme Court overturned an adoption of a Navajo child by a non-Indian couple after the child had been in their home for 6 years while custody was being contested in the court system.

Mr. President, during a recent hearing before the Senate Select Committee on Indian Affairs, legal counsel in the Halloway case, Mr. Craig Dorsay, stated that:

> While the outcry was based on the injustice that would befall the child if he were removed from the home he had known for such a long time, the debate ignored whether the Navajo Tribal Court could operate to protect the child's best interest to the same extent as a state court. The recent settlement of the *Halloway* case in a manner which protected the Navajo child's emotional ties to his non-Indian parents and at the same time protected his cultural and tribal ties with his natural family and the Navajo Nation shows that the initial outcry from Utah Supreme Court reversal was unwarranted and that the Indian Child Welfare Act indeed can operate to reach a result that was most consistent with protecting all facets of the child's emotional and physical well being.

Mr. President, I agree with Mr. Dorsay and believe this decision was the best that could be considered and ultimately one which will uphold tribal sovereignty.

It is extremely unfortunate that this young Indian boy and his family were subjected to such a long and trying court battle. This unreasonable delay stems from conflicting views over interpretation of the Indian Child Welfare Act. Lack of clarity in the act has resulted in many court disputes over jurisdiction and agency responsibility. Furthermore, ambiguities inherent in the language of the act have helped to sustain these problems.

Mr. President, for nearly a decade, the Indian Child Welfare Act has served admirably to prevent Indian children from being placed in adoptive and foster-care settings with non-Indian families. This act has served to

raise the consciousness of non-Indian courts and State agencies about the existence of Indian tribes and the legitimate interests that Indian tribes have in their children. Unfortunately, however, lack of adequate funding and Federal commitment to implementation of the act have made it necessary for us to seek amendments.

The Senate Select Committee on Indian Affairs has conducted extensive hearings on the implementation of the Indian Child Welfare Act and we have heard many excellent recommendations for improvement of the act. This bill is a synthesis of those recommendations and is designed to respond to the concerns expressed by Indian tribes, child welfare programs, and court systems. These amendments, however, are only a first step toward rectifying the problems experienced by the limitations of the current act. I look forward to working with my colleagues to develop further improvements to the Indian Child Welfare Act and making the resources available to truly help the Indian tribes' and State child welfare and court sytems fulfill the true intent of this act: That of protecting the best interest of the Indian child.

Mr. President, I ask unanimous consent that the Indian Child Welfare Act of 1987 and a summary of the goals of the bill, be printed in the RECORD.

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

S. 1976

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

SECTION. 1. SHORT TITLE.

That this Act may be cited as the "Indian Child Welfare Act Amendments of 1987".

SEC. 2. REVISION OF INDIAN CHILD WELFARE ACT.

The Indian Child Welfare Act of 1978 (25 U.S.C. 1901, *et seq.*) is amended to read as follows:

"SHORT TITLE AND TABLE OF CONTENTS

"SECTION. 1. This Act may be cited as the 'Indian Child Welfare Act of 1978'.

"TABLE OF CONTENTS

"CONGRESSIONAL FINDINGS

"SEC. 2. Recognizing the special relationship between the United States and the Indian tribes and their members and the Federal responsibility to Indian people, the Congress finds—

"(1) that clause 3, section 8, article I of the United States Constitution provides that 'The Congress shall have Power * * * To regulate Commerce * * * with Indian tribes' and, through this and other constitutional authority, Congress has plenary power over Indian Affairs;

"(2) that Congress, through statutes, treaties, and the general course of dealing with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources;

"(3) that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe;

"(4) that an alarmingly high percentage of Indian children are separated from their families and tribal heritage by the interference, often unwarranted, of their children from them by non-tribal public and private agencies, and individuals, and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and

"(5) that the States, exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families;

"(6) that the Bureau of Indian Affairs, exercising federal authority over Indian affairs, has often failed to fulfill its trust responsibility to Indian tribes by failing to advocate rigorously the position of tribes with States and non-tribal public and private agencies and by failing to seek funding and planning necessary for tribes to effectively fulfill their responsibilities to Indian children; and

"DECLARATION OF POLICY

"SEC. 3. The Congress hereby declares that it is this Nation's Policy to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards governing any interference with Indian children's relationships with their parents, family or tribe; also by providing for the placement of Indian children in foster or adoptive homes reflecting the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs. Furthermore, the Congress hereby declares its intent to protect the right of Indian children to develop a tribal identity and to maintain ties to the Indian community within a family where their Indian identity will be nurtured.

"DEFINITIONS

"SEC. 4. For the purposes of this Act, except as may be specifically provided otherwise, the term—

"(1) 'child custody proceeding' shall mean and include any proceeding referred to in this subsection involving an Indian child regardless of whether the child has previously lived in Indian Country, in an Indian cultural environment or with an Indian parent—

"(i) 'foster care placement' means any administrative, adjudicatory or dispositional action, including a voluntary proceeding under section 103 of this Act, which may result in the placement of an Indian child in a foster home or institution, group home or the home of a guardian or conservator;

"(ii) 'termination of parental rights' means any adjudicatory or dispositional action, including a voluntary proceeding under section 103 of this Act, which may result in the termination of the parent child relationship or the permanent removal of the child from the parent's custody;

"(iii) 'preadoptive placement' means the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and

"(iv) 'adoptive placement' means the permanent placement of an Indian child for adoption, including any administrative, adjudicatory or dispositional action or any voluntary proceeding under section 103 of this Act, whether the placement is made by a public or private agency or by individuals, which may result in a final decree of adoption.

"The term 'child custody proceeding' shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime. Such term shall also not include a placement based upon an award of custody to one of the parents in any proceeding involving a custody contest between the parents. All other child custody proceedings involving family members are covered by this Act.

"(2) 'domicile' shall be defined by the tribal law or custom of the Indian child's tribe, or in the absence of such law or custom by Federal common law applied in a manner which recognizes that (1) many Indian people consider their reservation to be their domicile even when absent for extended periods and (2) the intent of the Act is to defer to tribal jurisdication whenever possible;

"(3) 'family' includes extended family members and shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, includes any person who has reached the age of eighteen and who, by blood or marriage, is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent;

"(4) 'Indian' means any person who is a member of an Indian or Alaska Native tribe (including any Alaska Native village), or who is an Alaska Native and a member of a Regional Corporation as defined in Section 7 of the Alaska Native Claims Settlement Act (85 Stat. 688,689), any person of Indian or Alaska Native descent who is considered by an Indian or Alaska Native tribe to be a part of its community, or for purposes of section 107, any person who is seeking to determine eligibility for tribal membership;

"(5) 'Indian child' means any unmarried person who is under age eighteen and is—

"(a) a member of an Indian tribe, or

"(b) is eligible for membership in an Indian tribe, or

"(c) is of Indian descent and is considered by an Indian tribe to be part of its community, or, for purposes of section 107, any person who is seeking to determine eligibility for tribal membership; if a child is an infant he or she is considered to be part of a tribal community if either parent is so considered;

"(6) 'Indian child's tribe' means—

"(a) the Indian tribe in which an Indian child is a member or eligible for membership, or

"(b) in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts. For any of the purposes of this Act, the tribe with the more significant contacts may designate as the Indian child's tribe another tribe in which the child is a member or eligible for membership with the consent of that tribe;

"(7) 'Indian custodian' means any Indian person who has custody of an Indian child under tribal law or custom or legal custody under State law or to whom physical care, custody, and control has been voluntarily transferred by the parent of such child;

"(8) 'Indian organization' means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians, or a majority of whose members are Indians;

"(9) 'Indian Tribe' means any Indian or Alaska Native tribe, band, nation, village or other organized group or community of Indians recognized as eligible for the services provided to Indians or Alaska Natives by the Secretary because of their status as Indians or Alaska Natives, including any Alaska Native village as defined in section 3(c) of the Alaska Native Claims Settlement Act (85 Stat. 688,689), as amended, those tribes, bands, nations, or groups terminated since 1940 who maintain a representative organization, and for the purposes of sections 101(c), 102, 103, 104, 105, 106, 107, 110, 111 and 112 of this Act, those tribes, bands, nations or other organized groups that are recognized by the Government of Canada or any province or territory thereof;

"(10) 'parent' means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. Except for the purposes of sections 103 (c) and (d), 104, 105(f), 106 (a) and (b), 107, 301, the term parent shall not include any person whose parental rights have been terminated. It includes the unwed father where paternity has been established under tribal or state law, or recognized in accordance with tribal custom, or openly proclaimed to the court, the child's family, or a child placement or adoption agency. For the purpose of section 102(a), it also includes an unwed father whose paternity has not been so established, recognized or proclaimed.

"(11) 'qualified expert witness' means—

"(a) a member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and childrearing practices; or

"(b) a person having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and childrearing practices within the Indian child's tribe; or

"(c) a professional person having substantial education and experience in the area of his or her specialty and who has general knowledge of prevailing Indian social and cultural standards and childrearing practices;

"(12) 'reservation' means Indian country as defined in section 1151 or title 18, United States Code and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation;

"(13) 'residence' shall be defined by the tribal law or custom of the Indian child's tribe, or in the absence of such law or custom, shall be defined as a place of general abode or a principal, actual dwelling place of a continuing or lasting nature;

"(14) 'Secretary' means the Secretary of the Interior; and

"(15) 'tribal court' means a court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

"TITLE I—CHILD CUSTODY PROCEEDINGS

"JURISDICTION OVER INDIAN CHILD CUSTODY PROCEEDINGS

"SEC. 101. (a) Notwithstanding any other Federal law to the contrary, an Indian tribe shall have exclusive jurisdiction over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except where concurrent jurisdiction over voluntary child custody proceedings may be otherwise vested in the State by existing Federal law. Where an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

"(b) In any State court child custody proceeding involving an Indian child not subject to the exclusive jurisdiction of a tribe, the court, shall transfer such proceeding to the jurisdiction of the Indian child's tribe absent an unrevoked objection by either parent determined to be consistent with the best interests of the child as an Indian, upon the oral or written request of either parent or the Indian custodian or the Indian child's tribe: Provided, That the court may deny such transfer of jurisdiction where the request to transfer was not made within a reasonable time after receiving notice of the hearing and the proceeding is at an advanced adjudicatory stage: Provided further, That such transfer shall be subject to declination by the tribal court of such tribe and that an oral or written request to transfer must be expressly revoked for such request to be deemed abandoned: Provided further, That a parent whose rights have been terminated or who has consented to an adoption may not object to transfer.

"(c) In any State child custody proceeding involving an Indian child, and any State administrative or judicial proceeding to review the foster care, preadoptive or adoptive placement of the child, the Indian custodian of the child, the parent of the child, and the Indian child's tribe shall have a right to intervene at any point in the proceeding. The Indian custodian, the parent, except as provided above, an the Indian child's tribe shall also have a right to intervene in any administrative or judicial proceeding under State law to review the foster care, preadoptive or adoptive placement of an Indian child. The Indian child's tribe may authorize an Indian organization or other Indian tribe to intervene on its behalf.

"(d) Whenever a non-tribal social services agency determines that an Indian child is in any situation that could lead to a foster care placement, preadoptive placement or adoptive placement and which requires the continued involvement of the agency with the child for a period in excess of 30 days, the agency shall send written notice of the condition and of the initial steps taken to remedy it to the Indian child's tribe within seven days of the determination. The tribe shall have the right to examine and copy all reports or other documents involving the child. The State agency shall not be liable for any harm resulting from its release of information to the tribe.

"(e) The United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity. Differences in tribal practice and procedure that do not affect the fundamental fairness of the proceeding shall not be cause to deny full faith and credit to a tribal judicial proceeding. Full faith and credit may not be denied to a tribal proceeding without first providing an opportunity for the tribe to cure any alleged defect in practice or procedure.

"(f) Nothing in this section shall be construed to authorize a State to refuse to offer social services to Indians whether resident or domiciled on or off the reservation to the same extent that such State makes services available to all of its citizens.

"STATE COURT STANDARDS AND PROCEDURES

"SEC. 102. (a) In any involuntary child custody proceedings in a State court, where the court or the petitioner knows or has reason to know that an Indian child is involved, the party seeking the foster care, preadoptive or adoptive placement of, or termination of parental rights to, an Indian child, or who otherwise has initiated a child custody proceeding, shall notify the parent, Indian custodian, if any, and the Indian child's tribe, by registered mail with return receipt requested, of the pending proceedings, of their right of intervention, and of their right to petition or request the court to transfer the case to tribal court. Whenever an Indian child is eligible for membership in more than one tribe, each such tribe shall receive notice of the pending proceeding. If the identity or location of the parent or Indian custodian and the tribe cannot be determined after reasonable inquiry of the parent, custodian and child, such notice shall be given to the Secretary in like

manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No involuntary child custody proceeding shall be held until at least fifteen days after receipt of notice by the parent or Indian custodian and the tribe or until at least thirty days after receipt of notice by the Secretary: Provided, That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding, and adequate time to obtain counsel.

"(b) In any case in which the court or, in the case of an administrative proceeding, the administrator of the State agency determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any involuntary child custody proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interest of the child. Where State law makes no provision for appointment of counsel in such proceedings, the court or State agency shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge or, where applicable, the administrator of the State agency, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13). The Secretary shall also pay the reasonable fees and expenses of qualified expert witnesses retained on behalf of an indigent parent or Indian custodian.

"(c) Each party in any child custody proceeding under State law involving an Indian child shall have the right to examine and copy all reports or other documents involving the child who is the subject of the proceeding. The State agency shall not be liable to a party for any harm resulting from its release of information to the tribe.

"(d) Any party seeking to effect a foster care, preadoptive or adoptive placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that active, culturally appropriate efforts, including efforts to involve the Indian child's tribe, extended family and off-reservation Indian organizations, where applicable, have been made to provide remedial services and rehabilitative programs designed to prevent such placement or termination of parental rights and that these efforts have proved unsuccessful. Except for emergency placements pursuant to section 112 of this Act, in any case involving a non-tribal social services agency, no foster care, preadoptive or adoptive placement proceeding shall be commenced until the requirements of section 101(d) of this Act have been satisfied.

"(e) No foster care placement may be ordered in such proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. The clear and convincing evidence and qualified expert witnesses requirements shall apply to any and all findings which the court makes which are relevant to its determination as to the need for foster care, including the finding required by subsection (d) of this section.

"(f) No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. The beyond a reasonable doubt and qualified expert witnesses requirements shall apply to any and all findings which the court makes which are relevant to its determination as to the need to terminate parental rights, including the finding required by subsection (d) of this section.

"(g) Evidence that only shows the existence of community or family poverty, crowded or inadequate housing, alcohol abuse, or non-conforming social behavior does not constitute clear and convincing evidence or evidence beyond a reasonable doubt that custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. To meet the burden of proof, the evidence must show the direct causal relationship between particular conditions and the serious emotional or physical damage to the child that is likely to result from the conduct of the parent or Indian custodian.

"(h) Any order for the foster care placement, termination of parental rights, preadoptive placement or adoptive placement shall protect the children's future opportunity to learn their tribal identity and heritage, and to take advantage of their tribe's cultural resources, including, to the extent possible and appropriate, provision for continued contacts between the children and their parents, family, and tribe.

"VOLUNTARY PROCEEDINGS

"SEC. 103. (a)(1) Where any parent or Indian custodian voluntarily consents to a foster care placement, termination of parental rights, or adoption under state law, such consent shall not be valid unless executed in writing and recorded before a judge of a court with jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent and the relevant provisions of this Act were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that the parent and Indian custodian, if any, fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after birth of the Indian child shall not be valid.

"(2) At least ten days prior to any State court proceeding to validate a voluntary consent where the state has jurisdiction to validate the consent, the court shall notify the Indian child's tribe, and the non-consenting parent, if any, by registered mail, return receipt requested, of the pending-consent validation proceeding, of their right to intervention in the validation and any subsequent child custody proceeding, and of their right to petition or request the court to transfer the case to tribal court. A request for confidentiality shall not be reason to withhold notice from the tribe. The court shall also certify that active, culturally appropriate efforts, including efforts to involve the Indian child's tribe, extended family and off-reservation Indian organizations, where applicable have been offered remedial services and rehabilitation programs designed to prevent the break-up of the Indian family and that these efforts have proved unsuccessful.

"(3) Consent to a foster care placement, termination of parental rights, preadoptive placement or adoptive placement shall not be deemed abandonment of the child by the parent or Indian custodian. Such consent by a parent or Indian custodian shall not affect the rights of other Indian relatives to custody under tribal law or custom or this Act. Any voluntary consent pursuant to this section shall not be admissible as evidence in any proceeding under section 102 of this Act.

"(4) The Secretary of Health and Human Services shall take appropriate action to ensure that all Indian Health Service personnel are informed of and comply with the provisions of this section.

"(b) Any parent or Indian custodian may withdraw consent to a foster care placement under State law at any time and, upon such withdrawal, the child shall be returned immediately to the parent or Indian custodian unless returning the child to his or her parent or custodian would subject the child to a substantial and immediate danger of serious physical harm or threat of such harm by such parent or Indian custodian. The pendency of an involuntary child custody proceeding shall not be grounds to refuse to return the child to the parent or Indian custodian.

"(c) In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent or Indian custodian may be withdrawn for any reason at any time prior to the entry of a final decree of adoption, and the child shall be immediately returned to the parent or Indian custodian would subject the child to a substantial and immediate danger of serious physical harm or threat of such harm by such parent or Indian custodian. The pendency of an involuntary child custody proceeding shall not be grounds to refuse to return the child to the parent or Indian custodian.

"(d) After the entry of a final decree of adoption of an Indian child in any State court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding based upon a preponderance of the evidence that such consent was obtained through fraud or duress, the court shall vacate such decree of adoption and return the child to the parent. Unless otherwise permitted under State law, no adoption may be invalidated under the provisions of this subsection unless the parent or Indian custodian has petitioned the court within two years of the entry of the final decree of adoption.

"CHALLENGES BASED ON VIOLATIONS OF ACT

"SEC. 104. (a) In any child custody proceeding under State law, the Indian child, any parent, any Indian custodian from whose custody the child was removed, or the Indian child's tribe may (i) move to vacate or set aside any aspect of the proceeding which may have violated this Act, or (ii) bring an independent action to invalidate the proceeding in any court which has jurisdiction over the parties. Any member of the Indian child's family shall have the right to intervene in a proceeding pursuant to this section. In case of an alleged violation of section 105 of this Act, any member of the child's family shall have standing under this section to bring an independent action to challenge the placement.

"(b) Notwithstanding any law to the contrary, federal courts shall have jurisdiction to review any final decree of a State court which is alleged to be in violation of this Act, upon a petition for writ of habeas corpus brought under 28 U.S.C. 2254 or an

independent action brought by any party withstanding to pursue such an action pursuant to section (a).

"(c) The court shall, upon request, hear any motion or action brought under this section or any appeal from a decision in a child custody proceeding on an expedited basis.

"PLACEMENT GOALS IN STATE COURT PROCEEDINGS

"SEC. 105. (a) All placements of Indian children shall seek to protect the rights of Indian children as Indians and the rights of the Indian community and tribe in having its children in its society.

"(b) Any adoptive placement of an Indian child under State law shall be made in accordance with the order of placement established by the child's tribe by resolution, or in the absence of such resolution, with the following order of placement: (1) a member of the child's family; (2) other members of the Indian child's tribe; or (3) other Indian families, except as provided in subsections (d) and (e).

"(c) Any child accepted for foster care or preadoptive placement shall be placed (1) in the least restrictive setting which most approximates a family and (2) within reasonable proximity to his or her home. Except as provided in subsections (d) and (e) below, any foster care or preadoptive placement shall be made in accordance with the following order of placement unless the child's tribe has established a different order of placement by resolution:

"(i) a member of the Indian child's family;

"(ii) a foster home licensed, approved, or specified by the Indian child's tribe;

"(iii) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or

"(iv) an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

"(d) Any placement established under subsection (b) or (c) of this section may be varied, so long as it remains consistent with subsection (a) of this section, where (1) the child is at least age 12 and of sufficient maturity and requests a different placement; or (2) the child has extraordinary physical or emotional needs, as established by the testimony of expert witnesses, that cannot be met through a placement within the order of placement, or (3) families within such order of placement are unavailable after diligent search has been completed, as provided for in subsections (f) and (g), for a family within the order of placement.

"(e) A placement preference expressed by the Indian child's parent or Indian custodian, or a request that the consenting parent's identity remain confidential, shall be considered so long as the placement is made with one of the persons or institutions listed in subsections (b) or (c), or one of the exceptions contained in subsection (d) applies. A request for confidentiality shall not be grounds for withholding notice from the Indian child's tribe, provided that notice of the proceeding shall include a reference to the request.

"(f) Notwithstanding any State law to the contrary, the standards to be applied in meeting the placement requirements of this section shall be the prevailing social and cultural standards of the Indian community in which the parent or family resides or with which the parent or family members maintain social and cultural ties. If necessary to comply with this section, a State shall promulgate, in consultation with the affected tribes, separate state licensing standards for foster homes servicing Indian children and shall place Indian children in homes licensed or approved by the Indian child's tribe or an Indian organization.

"(g) A record of each such placement, under State law, of an Indian child shall be maintained by the State in which the placement was made, evidencing the efforts to comply with the order of placement specified in this section. Such efforts must include, at a minimum, contacting the tribe prior to placement to determine if it can identify placements within the order of placement, notice to all family members that can be located through reasonable inquiry of the parent, custodian, child and Indian child's tribe, a search of all county or state listings of available Indian homes and contact with local Indian organizations, the Department of Interior's Bureau of Indian Affairs and nationally known Indian programs with available placement resources. The record of the State's compliance efforts shall be made available at any time upon the request of the Secretary or the Indian child's tribe.

"SUBSEQUENT PLACEMENTS OR PROCEEDINGS

"SEC. 106. (a) Notwithstanding State law to the contrary, whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parent's parental rights to the child have been terminated, the public or private agency or individual seeking to place the child, in accordance with the provisions of section 102(a), shall notify the biological parents; prior Indian custodians and the Indian child's tribe of the pending placement proceedings, their right of intervention, and their right to petition for return of custody. The court shall grant the petition for return of custody of the parent or Indian custodian, as the case may be, unless there is a showing, in a proceeding subject to subsections (e) and (f) of Section 102 of this Act, that such return of custody is not in the best interests of the child. Whenever an Indian child who has been adopted is later placed in foster care, the Indian child's tribe shall be notified and have the right to intervene in the proceeding.

"(b) In the event that the court finds that the child should not be returned to the biological parents or prior Indian custodian, placement shall be made in accordance with the order of placement in section 105. For the purposes of this section family shall include the family of the biological parents or prior Indian custodian.

"(c) Whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, preadoptive, or adoptive placement, or when review of any such placement is scheduled, such placement shall be in accordance with the provisions of this Act, including prior notice to the child's biological parents and prior Indian custodian, and the Indian child's tribe, except in the case where an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

"TRIBAL AND FAMILY AFFILIATION; DISCLOSURE BY COURT

"SEC. 107. An adopted Indian individual who has reached the age of eighteen, the Indian child's tribe or the Indian child's adoptive parents, may apply to the court which entered the final decree of adoption for the release of information regarding the individual's biological parents and family and their tribal affiliation, if any. Based upon court records or records subject to court order, the court shall inform the individual of the names and tribal affiliation of his or her biological parents. The court shall also provide any other information as may be necessary to protect the rights flowing from the individual's tribal relationship.

"REASSUMPTION OF EXCLUSIVE TRIBAL JURISDICTION

"SEC. 108. (a) Any Indian tribe which became subject to State concurrent jurisdiction over voluntary child custody proceedings pursuant to the provisions of the Act of August 15, 1953 (67 Stat. 588), as amended by title IV of the Act of April 11, 1968 (82 Stat. 73, 78), or pursuant to any other Federal law, may reassume exclusive jurisdiction over all voluntary child custody proceedings. Before any Indian tribe may reassume jurisdiction over voluntary Indian child custody proceedings, such tribe shall present to the Secretary for approval a petition to reassume such jurisdiction which includes a suitable plan to exercise such jurisdiction.

"(b)(1) In considering the petition and feasibility of the plan of a tribe under subsection (a), the Secretary may consider, among other things:

"(i) whether or not the tribe maintains a membership roll or alternative provision for clearly identifying the persons who will be affected by the reassumption of jurisdiction by the tribe;

"(ii) the size of the reservation or former reservation area which will be affected by retrocession or reassumption of jurisdiction by the tribe;

"(iii) the population base of the tribe, or distribution of the population in homogeneous communities or geographic areas; and

"(iv) the feasibility of the plan in cases of multitribal occupation of a single reservation or geographic area.

"(2) In those cases where the Secretary determines that full jurisdiction is not feasible, he is authorized to accept partial retrocession which will enable tribes to exercise exclusive jurisdiction over voluntary placements in limited community or geographic areas without regard for the reservation status of the area affected.

"(c) If the Secretary approves any petition under subsection (a), the Secretary shall publish notice of such approval in the Federal Register and shall notify the affected State or States of such approval. If the Secretary disapproves any petition under subsection (a), the Secretary shall provide such technical assistance as may be necessary to enable the tribe to correct any deficiency which the Secretary identified as a cause for disapproval. The Indian tribe concerned shall reassume exclusive jurisdiction over all voluntary placements of all Indian children residing or domiciled on the reservation sixty days after publication in the Federal Register of notice of approval.

"(d) Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction, except as may be provided pursuant to any agreement under section 109 of this Act or as otherwise provided in the notice of the Secretary.

"AGREEMENTS BETWEEN STATES AND INDIAN TRIBES

"SEC. 109. (a) States and Indian tribes are authorized to enter into agreements with each other respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of

jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between States and Indian tribes. Nothing in this section or in section 108 of this Act shall be construed as in any way diminishing or altering the inherent powers of Indian tribes over children's proceedings.

"(b) Such agreements may be revoked by either party upon one hundred and eighty days' written notice to the other party. Such revocation shall not affect any action or proceeding over which a court has already assumed jurisdiction, unless the agreement provides otherwise.

"IMPROPER REMOVAL OF CHILD FROM CUSTODY

"SEC. 110. (a) Where any petitioner in an Indian child custody proceeding before a State court has improperly removed the child from custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over such petition and shall forthwith return the child to his parent or Indian custodian unless returning the child to his parent or custodian would subject the child to a substantial and immediate danger or threat of such danger.

"(b) In any instance where a child has been improperly removed or retained by an individual or entity, the parent or Indian custodian from whose custody the child was removed and the child's tribe may petition any court with jurisdiction for return of the child in accordance with this section.

"HIGHER STATE OR FEDERAL STANDARDS TO APPLY

"SEC. 111. (a) An Indian parent or custodian may not waive any of the provisions of this Act.

"(b) In any case where State or Federal law applicable to a child custody proceeding under State or Federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child than the rights provided under this title, the State or Federal court shall apply the State or Federal standard.

"EMERGENCY REMOVAL AND PLACEMENT OF CHILD

"SEC. 112. (a) Regardless of whether a child is subject to the exclusive jurisdiction of an Indian tribe, when a child is located off the tribe's reservation nothing in this title shall be construed to prevent the emergency removal of an Indian child from his parent or Indian custodian or the emergency placement of such child in a foster home or institution, under applicable State law, in order to prevent imminent physical damage or harm to the child. The State authority, official, or agency involved shall insure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child. Wherever possible, the child shall be placed within the order of placement provided for in section 105 of this Act.

"(b) No later than the time permitted by State law, and in no event later than three days (excluding Saturday, Sunday and legal holidays) following the emergency removal, the State authority, agency or official must obtain a court order authorizing continued emergency physical custody. If the Indian child has not been restored to its parent or Indian custodian within 10 days following the emergency removal, the State authority, agency or official, shall—

"(1) commence a State court proceeding for foster care placement if the child is not resident or domiciled on an Indian reservation and is not a ward of the tribal court, or

"(2) transfer the child to the jurisdiction of the appropriate Indian tribe if the child is resident or domiciled on an Indian reservation or ward of the tribal court.

"Notwithstanding the filing of a petition for a foster care placement of the child, the State agency, authority or official shall continue active efforts to prevent the continued out-of-home placement of the child. No emergency custody order shall remain in force or in effect for more than thirty (30) days without determination by the appropriate court, in accordance with section 102(e) of this Act in the case of a State court, that foster care placement of the child is appropriate: Provided, That in any case where the time requirements in section 102(a) do not permit a child custody proceeding to be held within 30 days, the emergency custody order may remain in force for a period not to exceed three days after the first possible date on which the proceeding may be held pursuant to section 102(a).

"(c) Emergency removal under this section shall not impair the exclusive jurisdiction of the tribe.

"EFFECTIVE DATE

"SEC. 113. None of the provisions of this title, except section 101(a), 108, and 109 shall affect a proceeding under State law for foster care placement, termination of parental rights, preadoptive placement, or adoptive placement which was initiated or completed prior to one hundred and eighty days after the enactment of this Act, but shall apply to any subsequent proceeding in the same matter or subsequent proceedings affecting the custody or placement of the same child.

"INDIAN CHILD WELFARE COMMITTEES

"SEC. 114. The Secretary shall establish Indian Child Welfare committees consisting of not less than three persons for each area office. The committees shall monitor compliance with this Act on an on-going basis. Appointments to the committees shall be made for a period of three years and shall be chosen from a list of nominees furnished, from time to time, by Indian tribes and organizations. Each committee shall be broadly representative of the diverse tribes located in its area.

"COMPLIANCE BY PRIVATE CHILD PLACEMENT AGENCIES

"SEC. 115. In licensing any private child placement agency, any state in which either (1) a Federally-recognized Indian tribe is located or (2) there is an Indian population of more than 10,000, shall include compliance with this Act by the private agency as a condition of continued licensure and shall annually audit such agencies to ensure that they are in compliance. The audit report shall be made available upon the request of the Secretary or any tribe.

"ABORIGINAL PEOPLES OF CANADA

"SEC. 116. (a) Except as provided by this section, the provisions of sections 101(c), 102, 103, 104, 105, 106, 107, 110, 111 and 112 of this Act shall also apply to the aboriginal peoples of Canada and their children.

"(b) The 'Indian child's tribe,' in the case of aboriginal peoples of Canada, shall be the child's Indian Act band or, if neither the child nor its parents are members of any band, the aboriginal government or most appropriate regional aboriginal organization with which the child's parents are connected by their origins or residence.

"(c) Indian Act bands, other aboriginal governments, and regional aboriginal organizations may by resolution designate aboriginal organizations in Canada, or Indian tribes or Indian organizations in the United States, as agents for the purposes of this Act. Resolutions to this effect shall be delivered to, and promptly acknowledged by the Secretary, who shall publish a list of such designations annually in the Federal Register.

"(d) For the purposes of section 102(a) of this Act, notice shall also be given to the Minister of the Government of Canada who is responsible for Indians and lands reserved for Indians.

"(e) In any State court child custody proceeding involving an aboriginal Canadian child, the court shall permit the removal of such case to the aboriginal, provincial, or territorial court in Canada which exercises primary jurisdiction over the territory of the child's tribe, upon a petition, and absent unrevoked parental objections, as is provided for in other cases by section 101(b) of this Act.

"TITLE II—INDIAN CHILD AND FAMILY PROGRAMS

"GRANTS FOR PREVENTIVE PROGRAMS ON OR NEAR RESERVATIONS

"SEC. 201. (a) The Secretary shall make grants to Indian tribes and organizations in the establishment and operation of Indian child and family service programs on or near reservations and in the preparation and implementation of child welfare codes. The objective of every Indian child and family service program shall be to prevent the breakup of Indian families and, in particular, to insure that the permanent removal of an Indian child from the custody of his parent or Indian custodian shall be a last resort. Such child and family service programs, in accordance with priorities established by the tribe, may include, but are not limited to—

"(1) a system for licensing or otherwise regulating Indian foster and adoptive homes;

"(2) the operation and maintenance of facilities for the counseling and treatment of Indian families and for the temporary custody of Indian children;

"(3) family assistance, including homemaker and home counselors, day care, after-school care, and employment, recreational activities, cultural and family-enriching activities and respite care;

"(4) home improvement programs;

"(5) the employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters;

"(6) education and training of Indians, including tribal court judges and staff, in skills relating to child and family assistance and service programs;

"(7) a subsidy program under which Indian adoptive child may be provided support comparable to that for which they would be eligible as foster children, taking into account the appropriate State standards of support for maintenance and medical needs; and

"(8) guidance, legal representation, and advice to Indian families and tribes involved in tribal, State, or Federal child custody proceedings.

"(b) Funds appropriated for use by the Secretary in accordance with this section may be utilized as non-Federal matching share in connection with funds provided under titles IV-B and XX of the Social Se-

curity Act or under any other Federal financial assistance programs which contribute to the purpose for which such funds are authorized to be appropriated for use under this Act. The provision or possibility of assistance under this Act shall not be a basis for the denial or reduction of any assistance otherwise authorized under titles IV-B and XX of the Social Security Act of any other federally assisted program. Placement in foster or adoptive homes or institutions licensed or approved by an Indian tribe, whether the homes are located on or off the reservation, shall qualify for assistance under federally assisted programs, including the foster care and adoption assistance program provided in title IV-E of the Social Security Act (42 U.S.C. 670 et seq.).

"(c) In lieu of the requirements of subsections 10, 14 and 16 of section 471 of the Social Security Act (42 U.S.C. 671 (10), (14) and (16)), Indian tribes may develop their own systems for foster care licensing, development of case plans and case plan reviews consistent with tribal standards.

"GRANTS FOR OFF-RESERVATION PROGRAMS

"SEC. 202. The Secretary shall also make grants to Indian organizations to establish and operate off-reservation Indian child and family service programs which, in accordance with priorities set by the Indian organizations may include, but are not limited to—

"(1) a system for regulating, maintaining, and supporting Indian foster and adoptive homes, including a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as Indian foster children, taking into account the appropriate State standards of support for maintenance and medical needs;

"(2) the operation and maintenance of facilities and services for counseling and treatment of Indian families and Indian foster and adoptive children;

"(3) family assistance, including homemaker and home counselors, day care, after-school care, and employment, recreational activities, and respite care; and

"(4) guidance, legal representation, and advice to Indian families involved in child custody proceedings.

"FUNDS FOR IMPLEMENTATION OF ACT

"SEC. 203. (a) In the establishment, operation, and funding of Indian child and family service programs, both on and off reservation, the Secretary shall enter into agreements with the Secretary of Health and Human Services, and the latter Secretary is hereby authorized and directed to use funds appropriated for similar programs of the Department of Health and Human Services for such purpose.

"(b) Funds for the purposes of this Act may be appropriated pursuant to the provisions of the Act of November 2, 1921 (42 Stat. 208), as amended. In addition, Congress may appropriate such sums as may be necessary to provide Indian child welfare training to Federal, State and Tribal judges, court personnel, social workers and child welfare workers, including those employed by agencies licensed by a State.

"(c) Indirect and administrative costs relating to a grant awarded pursuant to this Title shall be paid out of Indian Contract Support funds. One hundred per centum (100%) of the sums appropriated by Congress to carry out the provisions and purposes of this Act shall be awarded to tribes or Indian organizations.

"'INDIAN' DEFINED FOR CERTAIN PURPOSES

"SEC. 204. For the purposes of sections 202 and 203 of this title, the term 'Indian' shall include persons defined in section 4(c) of this Indian Health Care Improvement Act of 1976 (90 Stat. 1400, 1402).

"TITLE III—RECORDKEEPING, INFORMATION AVAILABILITY, AND TIMETABLES

"STATE REPORTS

"SEC. 301. (a) Any State court entering a final decree or order in any Indian child adoptive placement after the date of enactment of this Act shall provide the Secretary and the Indian child's tribe with a copy of such decree or order together with such other information as may be necessary to show—

"(1) the name and tribal affiliation of the child;

"(2) the names and addresses of the biological parents;

"(3) the names and addresses of the adoptive parents; and

"(4) the identity of any agency having files or information relating to such adoptive placement.

"No later than 120 days after enactment of this bill, the administrative body for each State court system shall designate an individual or individuals who will be responsible for ensuring State court compliance with this Act. All information required by this subsection relating to decrees of adoption entered after May 8, 1979, shall be complied and forwarded to the Secretary and Indian child's tribe no later than January 1, 1989. Where the court records contain an affidavit of the biological parent or parents that their identity remain confidential, the court shall include such affidavit with the other information. The Secretary shall insure that the confidentiality of such information is maintained and such information shall be not subject to the Freedom of Information Act (5 U.S.C. 552), as amended.

"(b) Upon the request of the adopted Indian child over the age of eighteen, the adoptive or foster parents of an Indian child, or any Indian tribe, the Secretary shall disclose such information as may be held by the Secretary pursuant to subsection (a) of this section. Where the documents relating to such child contain an affidavit from the biological parent or parents requesting that their identity remain confidential and the affidavit has not been revoked, the Secretary shall provide to the Indian child's tribe, where such information about the child's parentage and other circumstances of birth as required by such tribe to determine the child's eligibility for membership under the criteria established by such tribe.

"(c) No later than February 15 of each year, the Secretary shall obtain from each State a list of all Indian children in foster care, preadoptive or adoptive placement as of December 31 of the previous year. The list shall include the name of the Indian child's tribe, the name and address, if known, of the child's biological parents and prior Indian custodian, if any, the names and addresses of the parties having legal and/or physical custody of the child and the current legal status of the child, biological parents and prior Indian custodian. Within 10 days of the submission of the list to the Secretary, the state shall provide to each tribe all information on the list pertaining to the children of such tribe.

"RULES AND REGULATIONS

"SEC. 302. Within one hundred and eighty days after the enactment of this Act, the Secretary shall promulgate such rules and regulations as may be necessary to carry out the provisions of this Act. In promulgating such rules and regulations, the Secretary shall consult with national and regional Indian organizations and with Indian tribes.".

SEC. 3. CONFORMING AMENDMENTS TO RELATED ACTS.

(a) Section 408(a) of Title IV of the Social Security Act (42 U.S.C. 608(a)) is amended—

(1) by striking out at the end of subsection (2)(A) the word "or"

(2) by adding after subsection (2)(B) the following clause "or (C) in the case of an Indian child, as defined by subsection (4) of the Indian Child Welfare Act (25 U.S.C. 1903(4)), the Indian child's tribe as defined in subsections 4(5) and (8) of that Act (25 U.S.C. 1903(5) and (8)),".

(b) Section 422 of Title IV of the Social Security Act (42 U.S.C. 622) is amended by adding after and below clause (8) the following new clause:

"(9) include a comprehensive plan, developed in consultation with all tribes within the State and in-state Indian organizations (with social services programs), as defined by section 4(7) of the Indian Child Welfare Act (25 U.S.C. 1903(7)), to ensure that the State fully complies with the provisions of the Indian Child Welfare Act."

(c) Section 471 of Title IV of the Social Security Act (42 U.S.C. 671) is amended by adding after and below clause (17) the following new clause:

"(18) provides for a comprehensive plan, developed in consultation with all tribes within the State and in-state Indian organizations (with social services programs), as defined by section 4(7) of the Indian Child Welfare Act (25 U.S.C. 1903(7)), to ensure full compliance with the provisions of the Indian Child Welfare Act. As part of the plan, the State shall make active efforts to recruit and license Indian foster homes and, in accordance with section 201 of the Indian Child Welfare Act (25 U.S.C. 1931), and provide for the placement of and reimbursement for Indian children in tribally licensed or approved facilities."

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect 90 days after enactment.

SEC. 5. NOTICE.

Within 45 days after enactment of these amendments, the Secretary shall send to the Governor, chief justice of the highest court of appeal, the attorney general, and the director of the Social Service agency of each State and tribe a copy of these amendments, together with committee reports and an explanation of the amendments.

SEC. 6. SEVERABILITY.

If any of these amendments or the applicability thereof is held invalid, the remaining provisions of this Act shall not be affected thereby.

PURPOSE OF INDIAN CHILD WELFARE ACT AMENDMENTS

1. Clarify and expand coverage of the Act. All children enrolled or eligible for enrollment are covered by the Act; previous residency in an Indian environment is not a requirement of the Act; putative fathers need not take formal legal action to acknowledge paternity; and, amendments expand the Act to provide coverage to Canadian Indian chil-

dren for the purpose of notice, burdens of proof and placements, but not for purposes of jurisdiction.

2. Increase tribal involvement and control. The amendments clarify transfer provisions by defining what constitutes good cause not to transfer; clarify that all tribes have exclusive jurisdiction over children domiciled or resident on the reservation; clarify that tribally-licensed foster care homes are eligible for Title IV-E foster care payments; and, expand requirements for involvement of tribal social services programs in any case where continued state involvement with an Indian child is expected, including a requirement that such services and other tribal resources be brought to bear before removal of a child, except in emergency circumstances.

3. Keep families intact whenever possible. Proposed changes require that tribal services be utilized; allow for appointed counsel for families in administrative proceedings; testimony from culturally sensitive expert witnesses as a prerequisite to removal of a child; pose additional safeguards to ensure that all consents to out-of-home placements are truly voluntary; and, make explicit the requirement that the natural family receives notice if an adoptive placement fails.

4. Placement of children who must be placed with the extended family, other tribal members or other Indian families whenever possible. Makes placement preferences mandatory, except for explicit instances where alternative placements would be permitted; and, extended family is provided with greater rights to intervene in proceedings and to challenge prior placements not in accordance with placement preferences.

5. More fair and expeditious proceedings. Proposes limited but increased accesss to federal courts and requirements that proceedings be expedited in a timely fashion.

6. Compliance monitoring mechanisms. By creation of area-based Indian child welfare committees; requires that private agencies be required to comply with the ICWA as a condition of continued licensure; and, inclusion of ICWA compliance in Title II audits of state programs.

7. Improvements in Title II grant process. Programs would be developed and managed in accordance with tribal priorities; and allow for fair review by non-Federal employees chosen in consultation with tribes.

● Mr. INOUYE. Mr. President, I am very pleased to join as a cosponsor of this legislation to amend the Indian Child Welfare Act. This bill would improve a very important policy which affects nearly 60,000 Indian children in the Nation.

It has been nearly 10 years since the Indian Child Welfare Act was enacted. An ample period of time has now passed to determine whether this act, and the courts and agencies that administer it, are meeting the expectations of the Congress when the act was originally passed.

The act is premised on the concept that the primary authority in matters involving the relationship of an Indian child to its parents or extended family should be the tribe, not the State or the Federal Government. This is particularly true in cases where the child resides or is domiciled within the reservation or jurisdiction of the tribe. The act is not limited to reservation-based tribes. It extends to tribes in Oklahoma occupying lands within former reservation areas, and it extends to tribes and Native villages in Alaska whose lands are not held in trust and are not within former reservation areas.

Mr. President, the Indian Child Welfare Act recognizes the importance of the tribe and its primary authority in matters affecting the welfare of the Indian children and their families residing or domiciled on their reservations. The act does not, however, operate to deny the States of jurisdiction in appropriate cases. Instead, the act recognizes the traditional role played by State agencies and courts where an Indian child or his family does not reside or is not domiciled on a reservation. Thus the act makes specific provisions for transfers of cases from State to tribal courts and it requires that States give full recognition to the public acts of an Indian tribe. With respect to cases over which the State retains jurisdiction, it authorizes tribes to intervene in the proceedings and participate in the litigation; it imposes certain evidentiary burdens in State court proceedings; and it establishes placement preferences to guide State placements.

The fundamental premise of the act is that the interests of the child will best be served by recognizing and strengthening the capacity of the tribe to be involved in any legal matters dealing with the parent-child relationship. The clear conclusion of the Congress when this act was enacted was that failure to give due regard to the cultural and social standards of the Indian people and failure to recognize essential tribal relations is detrimental to best interests of Indian children. The high rate of placement of Indian children in foster care or adoptive situations reflects that the system existing prior to enactment of this act was not serving the best interests of Indian children. The act is founded on the proposition that there is a trust responsibility on the part of the United States to provide protection and assistance to Indian children and their families, and that the most productive means of providing such protection is through the institution of the tribe itself.

The Committee on Indian Affairs held a hearing on November 10, 1987, during which it heard excellent recommendations for changes in the law from five panels of tribal officials, child welfare experts, trial lawyers, State social service administrators, and administration witnesses. The committee has worked closely with a broad spectrum of tribal and State experts who have had years of experience in child welfare services and court systems to develop the amendments we are introducing today.

These amendments would strengthen the Indian child welfare roles and responsibilities of tribal and State social service agencies, as well as, that of the Federal Government.

I believe this legislation is necessary to achieve the original intent of the Congress when it adopted the Indian Child Welfare Act in 1978.

Mr. President, I am pleased to note that several of my colleagues in the Senate leadership and members of the Committee on Indian Affairs have chosen to join us as cosponsors of this legislation. I urge Members of the Senate, and our colleagues in the House of Representatives, to join us in what should truly be seen as an important initiative.●

By Mr. MELCHER:

S. 1977. A bill to establish a demonstration project under which special magistrates with jurisdiction over Federal offenses within Indian country are to be appointed, and for other purposes; to the Select Committee on Indian Affairs.

INDIAN RESERVATION SPECIAL MAGISTRATE DEMONSTRATION PROJECT AND LAW ENFORCEMENT ACT

● Mr. MELCHER. Mr. President, today I am introducing the Indian Reservation Special Magistrate and Law Enforcement Act. This legislation will establish a demonstration project to test the use of Federal magistrates to handle major and misdemeanor crimes committed on Indian reservations.

The use of Federal magistrates will close a very serious gap in the law enforcement system on Indian reservations. It will help stem the huge number of crimes committed on Indian reservations that are not investigated or prosecuted.

This bill will direct the President to appoint special magistrates with jurisdiction over all crimes committed on Indian reservations for the tribes that choose to participate in the demonstration project. The special magistrates would be empowered with all of the normal authorities, including the authority to conduct trials, issue warrants and subpoenas, summon juries, issue indictments, administer oaths, and take affidavits. The bill would localize the administration of justice in reservations by utilizing local law enforcement personnel, including tribal police. Juries would be comprised of residents of the reservations where the crimes are committed. In addition, lay advocates would be permitted to work in the magistrates court to overcome cultural and language barriers that exist for many Indian people.

Surprisingly, none of this occurs under the present system. The law enforcement system on Indian reservations now is a checkerboarded mess.

Major crimes such as murder, rape, and assault are referred to Federal authorities—the FBI—for investigation and to Federal courts for prosecution. Unfortunately, because of the rural isolation of most Indian reservations, many crimes never are handled in the first place because Federal authorities are located too far from the reservations to be effective. Days often pass before Federal authorities arrive on reservations to investigate. FBI agents frequently have trouble finding witnesses who will testify because the low rate of indictments and prosecutions has caused Indians to doubt that the justice system will work for them.

Misdemeanors, on the other hand, fall under the jurisdiction of tribal courts, which have two major limitations. First, tribal courts only handle crimes committed by Indians. As a result of the Oliphant decision in the State of Washington a few years ago, tribal police cannot arrest non-Indians who commit crimes on Indian reservations. Consequently, most crimes committed by non-Indians on reservations go unpunished. The second limitation is that tribal courts are limited in their sentencing authority to 1 year in jail or a $1,000 fine.

Under the current system, often called no man's land by both Indian people and Federal authorities, justice frequently breaks down. For example, between June 1983 and October 1985, a total of 99 major crimes were committed on the Blackfeet Indian Reservation in Montana. But FBI statistics show that only three of these crimes resulted in convictions. And the statistics are similar on other reservations.

This system was created by Congress. And it can be changed only by Federal law. My bill addresses this situation by utilizing Federal magistrates to create a more effective localized system of justice, one of the most basic elements of any society.

The Congress has a responsibility to ensure that Indian people on reservations are protected by a solid judicial system. The process of using special Federal magistrates on reservations is one method of insuring this protection. My bill will test the concept and let us know whether Federal magistrates should be a permanent part of law-and-order systems on Indian reservations.

This bill was first introduced in 1980 and hearings were held on the bill in Billings, MT, later that year. Additionally, the Select Committee on Indian Affairs held a 3-day hearing in 1980 on Indian jurisdiction issues and the concept of an Indian magistrate system. Unfortunately, the Senate took no action on the bill during the 96th Congress.

This legislation has been reintroduced since then and, through the hearing process, been refined to the point where it is ready for action by the Congress.

I'm optimistic that we can see this bill through the 100th Congress. This bill broadens the powers of the Federal court system by establishing special jurisdiction to utilize county, State, Federal, and tribal law enforcement officers in warrants, summonses, arrests, and trial procedures on Indian reservations.

Mr. President, it should be obvious that something of this nature is necessary to establish a system of law and order on Indian reservations. This bill will help both Indians and non-Indians living on and off reservations. I hope the Select Committee on Indian Affairs will conduct hearings on this bill as soon as possible to prepare it for action by the full Senate.

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. 1977

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 "Indian Reservation Special Magistrate Demonstration Project and Law Enforcement Act of 1987".

SEC. 2. (a) Part III of title 28 of the United States Code is amended by adding immediately after chapter 43 the following new chapter:

"CHAPTER 44—INDIAN RESERVATION SPECIAL MAGISTRATES

"Sec.
"651. Appointment and tenure.
"652. Jurisdiction and powers.
"653. Remand of custody.
"654. Practice and procedure.
"655. Contempt.
"656. Training.
"657. Authorization of appropriations.

"§ 651. Appointment and tenure

"(a)(1) The President, by and with the advice and consent of the Senate, shall appoint special magistrates to serve the Indian reservations designated by the Secretary of the Interior under paragraph (2).

"(2) The Indian reservations that are to be served by special magistrates appointed under this chapter shall be designated by the Secretary of the Interior from among those Indian reservations—

"(A) over which the Federal Government exercises criminal jurisdiction under the provisions of chapter 53 of title 18, and

"(B) on which reside an Indian tribe whose governing body has requested the appointment of a special magistrate under this chapter.

"(3) No more than one of the special magistrates appointed under this chapter may serve one of the Indian reservations designated under paragraph (2).

"(b) No person may be appointed to serve as a special magistrate under this chapter unless such person is and has been for at least 5 years a member in good standing of the bar of the highest court of the State (or one of the States) in which he or she is to serve.

"(c) In any case in which the President finds that a United States magistrate who meets the qualifications of this Act is already reasonably available, the President shall give preferential consideration to such sitting magistrate for appointment as special magistrate under this section.

"(d) Upon appointment and confirmation under this chapter, the special magistrate shall reside within the exterior boundaries of the reservation to be served or at some place reasonably adjacent thereto.

"(e)(1) Except as provided in paragraph (2), persons appointed as special magistrates under this chapter shall be appointed as full-time magistrates and shall receive compensation at the rates fixed for full-time magistrates under section 634.

"(2) Whenever, in the discretion of the President, it is determined that the position to which the special magistrate is being appointed will not have a sufficient caseload to warrant appointment as a full-time magistrate, then such special magistrate shall be appointed as a part-time magistrate and shall receive compensation at the rates fixed for part-time magistrates under section 634, the level of compensation to be determined by the President.

"(f) Except as otherwise provided in this chapter, the provisions of subsections (c), (g), (h), (i), and (k) of section 631, relating to limitations on employment, oaths of office, recordation of appointment, removal from office, and leaves of absence shall apply to special magistrates appointed under this chapter.

"(g) Expenses of special magistrates appointed under this chapter shall be paid in the same manner as provided in section 635 for payment of expenses for magistrates.

"(h) The provisions of section 632 describing the character of service to be performed by full-time and part-time magistrates shall apply to any person appointed as a special magistrate under this chapter.

"§ 652. Jurisdiction and powers

"(a) Each special magistrate appointed under this chapter shall have, within the territorial jurisdiction prescribed by his appointment—

"(1) all powers and duties conferred or imposed upon United States magistrates by law or by the Rules of Criminal Procedure for the United States District Court;

"(2) the power to administer oaths and affirmations, impose conditions of release under section 3146, of title 18, and take acknowledgments, affidavits, and depositions; and

"(3) the power to conduct trials under section 3401 of title 18, in conformity with and subject to the limitations of that section except that the special designation provided for in subsection 3401(a) of title 18, shall not be required, and the provisions of section 3401(b) of title 18, extending to a defendant the right to refuse trial before a magistrate and elect to be tried before a judge of the district court for the district in which the offense was committed, shall not be applicable to trials before the special magistrate.

"(b) Each such magistrate appointed under this chapter shall have any other duty or power which may be exercised by a United States magistrate in a civil or criminal case (including any tort action), to the extent authorized by the court for the district in which he serves.

"§ 653. Remand of custody

"If the special magistrate appointed under this chapter determines there is no Federal jurisdiction over an offense brought within his court, he may direct that custody of the

defendant be remanded to the appropriate law enforcement officials.

"§ 654. Practice and procedure

"(a) Except as otherwise provided in this section, the practice and procedure for the trial of cases before magistrates appointed under this chapter, and the taking and hearing of appeals to the district courts, shall conform to that set forth in section 3401 of title 18, and in rules promulgated by the Supreme Court pursuant to section 3402 of title 18, and section 636(c) of this title.

"(b) Any defendant appearing before a special magistrate appointed under this chapter may be assisted by a lay spokesman of his or her choice, and assistance by such spokesman, whether paid or voluntary, shall not be considered the practice of law. Assistance by such counsel shall not waive the right of the defendant to appointed counsel in any case in which he or she is entitled to such appointed counsel.

"(c)(1) In any case in which the defendant requests a trial by jury before a special magistrate appointed under this chapter, only persons who actually reside within the reservation in which the offense is alleged to have been committed shall be eligible to serve on the jury panel.

"(2) A special magistrate appointed under this chapter, in consultation with tribal authorities and county and municipal officials, shall develop and maintain for purposes of jury selection a list of persons residing within the reservation over which the special magistrate has jurisdiction. Such list shall be developed or compiled from lists of persons eligible or registered to vote in State, county, municipal, or tribal elections. In developing such list, the special magistrate shall take care that such list fairly elects a cross section of the population within the reservation.

"(3) In any case in which the defendant requests a trial by jury before a special magistrate appointed under this chapter, such jury shall be composed of 6 persons whose names appear on the jury selection list prepared by the special magistrate.

"(4) Except as provided in this section, the rules of the district court pertaining to the selection of jurors and juror eligibility for trial before magistrates shall be applicable to cases before a special magistrate appointed under this chapter.

"(d) Tribal police officers, Bureau of Indian Affairs police officers, and Federal, State, and local law enforcement officers, acting within the geographic areas in which they have jurisdiction under the laws of their respective governments, are authorized to execute any warrant for arrest, or warrant for search and seizure, or any other summons, subpoena, or order which a special magistrate appointed under this chapter is authorized to issue in criminal cases arising within the Indian country, or under the general rules of Federal Criminal Procedure or the Federal Rules of Procedure for the Trial of Minor Offenses before the United States Magistrates.

"(e) The provisions of the Court Interpreters Act of 1978 (Public Law 95-539; 92 Stat. 2040) shall apply to trials before a special magistrate appointed under this chapter.

"§ 655. Contempt

"(a) In a proceeding before a special magistrate appointed under this chapter, any of the acts or conduct described in section 636(e) as constituting a contempt of the district court when committed before the magistrate shall constitute a contempt of court when committed before a special magistrate, and the procedures provided in section 636(e) for prosecution of such contempt shall govern prosecutions for contemptuous conduct when committed before the special magistrate.

"(b) All property furnished to any special magistrate appointed under this chapter shall remain the property of the United States and, upon the termination of his or her term of office, shall be transmitted to the successor in office or otherwise disposed of as the Director orders.

"(c) The Director shall furnish to each United States special magistrate appointed under this chapter an official impression seal in a form prescribed by the conference. Each such officer shall affix his seal to every jurat or certificate of his official acts without fee.

"§ 656. Training

"The periodic training programs and seminars conducted by the Federal Judicial Center for full-time and part-time magistrates as provided in section 637, shall also be made available to special magistrates appointed under this chapter. This shall include the introductory training program offered new magistrates which must be held within one year after their initial appointment. The cost of attending such programs shall be borne by the United States.

"§ 657. Authorization of appropriations

"There are hereby authorized to be appropriated for each of the 4 fiscal years beginning after the date of enactment of the Indian Reservation Special Demonstration Project and Law Enforcement Act of 1987, such sums as may be necessary to carry out the purposes of this chapter for such fiscal year.".

(b) The table of chapters for part III of title 28 of the United States Code is amended by inserting after the item for chapter 43 the following:

"44. Indian Reservation Special Magistrates ..... 651.".

SEC. 3. Section 542 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) The Attorney General shall appoint such additional assistant United States attorneys in each judicial district as may be necessary to prosecute all crimes and offenses committed within—

"(A) any Indian Reservation, or

"(B) any portion of Indian country (within the meaning of section 1151 of title 18, United States Code),

located in such district over which the United States exercises criminal jurisdiction. All assistant United States attorneys appointed under the preceding sentence shall be specifically designated as responsible for such prosecutions.

"(2) For each special magistrate appointed under section 651, the Attorney General shall appoint at least 1 assistant United States attorney under paragraph (1) whose primary responsibility shall be the prosecution of crimes and offenses before such magistrate.".

SEC. 4. By no later than the date that is 4 years after the date of enactment of this Act, the Secretary of the Interior shall submit to the Congress a report on the demonstration project carried out under the amendment made by section 2 of this Act. The report shall include recommendations regarding the continuation of the project.●

By Mr. ADAMS (for himself and Mr. EVANS):

S. 1979. A bill to establish the Grays Harbor National Wildlife Refuge; to the Committee on Environment and Public Works.

GRAYS HARBOR NATIONAL WILDLIFE REFUGE

● Mr. ADAMS. Mr. President, I rise today and join my colleague Senator EVANS in introducing legislation which will create a national wildlife refuge at Bowerman Basin in Grays Harbor, WA. In doing so, I would like to commend my colleagues, Senator EVANS and Representative BONKER, for their cooperation in reaching the agreement reflected in this bill. I am pleased that I was able to help bring the two sides together and create a compromise to protect the shorebirds and wildlife dependent on Bowerman Basin.

Bowerman Basin is a 500-acre mudflat in Grays Harbor. It is a prime feeding area for the millions of shorebirds who migrate up and down the Pacific Coast each year. This marathon migration typically begins in the Arctic, where most shorebirds breed and hatch their young. They winter in the warmth of Central or South America before flying back north in the spring. For many, this journey will be more than 15,000 miles.

To successfully complete this journey, shorebirds are dependent upon a few key staging areas, where they concentrate in enormous numbers to feed and gain strength for the remaining flight. There are four such staging areas in North America which each support more than a million shorebirds every year. Grays Harbor is one of these areas, serving as the last major estuary stop for these birds before they embark upon their final 1,500 mile leg to the Arctic breeding grounds.

This bill is similar in many respects to S. 1755, which I introduced on October 6. It authorizes creation of the refuge from lands acquired from the city of Hoquiam and the Port of Grays Harbor. It directs the Secretary of the Interior to prepare a management plan which will provide for construction of a year-round visitor center, viewpoints, boardwalks, and other necessary facilities. Establishment of the refuge will provide the basin area with necessary protection against threatened commercial development.

There are a few specific provisions in this compromise bill that I would like to bring to the Senate's attention. First, the bill authorizes an appropriation of $2.5 million to carry out its provisions. This would include the costs of acquiring Hoquiam's property, construction of facilities, and relocation expenses of businesses located on city land. The bill provides that the Port of Grays Harbor may consider the lands transferred to the refuge as meeting mitigation obligations arising under section 404 of the Federal Water Pollution Control Act. It specif-

ically requires, however, that the validity of such credits depends upon compliance with section 404(b)(1) guidelines. Alternatively, the port may opt for the cash value of its land. This bill authorizes an appropriation of such sums as are necessary to carry out this purchase.

Second, the bill authorizes the acquisition of up to 68 acres from the city of Hoquiam. It is expected that the Fish and Wildlife Service will perform an expedited appraisal of the property's fair market value. A preliminary appraisal by the Fish and Wildlife Service indicated that the rough fair market value of the 68 acres is $500,000. Further, it is recognized that the lands and waters constituting the 68 acres are necessary to the integrity of the refuge. We understand that the land would be purchased at fair market value, but final determination of the amount and cost of purchase shall await the results of the FWS expedited appraisal.

Studies by the Fish and Wildlife Service suggest that several species of shorebirds have suffered major declines in recent years. A major factor in this decline has been the alteration of staging area environments, such as that found at Bowerman Basin. The dependence of shorebirds on these vital staging areas makes them more vulnerable than their great numbers might suggest. The loss of Grays Harbor to pollution, overfishing, or development could threaten the existence of entire species. Its importance to the survival of millions of shorebirds, and to the well-being of numerous other waterfowl and wildlife, requires that we enact this legislation. I urge my colleagues to grant it a swift passage.

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

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

S. 1979

SECTION 1. FINDINGS.

The Congress finds that—

(1) Grays Harbor, a 94-square mile estuary on the coast of the State of Washington, is of critical importance to certain migratory shorebirds and waterfowl and provides important habitat for many types of fish and wildlife, including threatened and endangered species;

(2) the area known as Bowerman Basin is a tidal mudflat within the Grays Harbor estuary which attracts hundreds of thousands of migratory shorebirds during spring and fall migrations as well as peregrine falcons and other raptors;

(3) the Bowerman Basin provides extraordinary recreational, research, and educational opportunities for students, scientists, birdwatches, nature photographers, the physically handicapped, and others;

(4) the Bowerman Basin is an internationally significant environmental resource that is unprotected and may require active management to prevent vegetative encroachment and to otherwise protect and enhance its habitat values; and

(5) the Bowerman Basin has been identified in the Grays Harbor Estuary Management Plan, prepared by Grays Harbor Regional Planning Commission, as an area deserving permanent protection.

SECTION 2. PURPOSES.

The purposes for which the Grays Harbor National Wildlife Refuge is established and shall be managed for include—

(1) to conserve fish and wildlife populations and their habitats, including but not limited to those of western sandpiper, dunlin, red knot, long-billed dowitcher, short-billed dowitcher, other shorebirds, and other migratory birds, including birds of prey;

(2) to fulfill international treaty obligations of the United States with regard to fish and wildlife and their habitats;

(3) to conserve those species known to be threatened with extinction; and

(4) to provide an opportunity, consistent with the purposes set forth in paragraphs (1), (2), and (3), for wildlife-oriented recreation, education, and research.

SECTION 3. DEFINITIONS.

For purposes of this Act—

(1) The term "refuge" means the Grays Harbor National Wildlife Refuge.

(2) The term "lands and waters" includes interests in lands and waters.

(3) The term "Secretary" means the Secretary of the Interior, acting through the Director of the U.S. Fish and Wildlife Service.

SECTION 4. ESTABLISHMENT OF REFUGE.

(a)(1) The Secretary is authorized and directed to establish, as herein provided, a national wildlife refuge to be known as the Grays Harbor National Wildlife Refuge.

(2) There shall be included within the boundaries of the refuge those lands, marshes, tidal flats, submerged lands, and open waters in the State of Washington generally depicted on a map entitled "Grays Harbor National Wildlife Refuge", dated December 1987, which comprise approximately 1,800 acres.

(3) Said boundary map shall be on file and available for public inspection in the office of the Director of the Fish and Wildlife Service, Department of the Interior, and in appropriate offices of the Fish and Wildlife Service in the State of Was'.ington.

(b) BOUNDARY REVISIONS.—The Secretary may make such minor revisions in the boundaries designated ur.der subsection (a) as may be necessary to carry out the purposes of the refuge and to facilitate the acquisition of property within the refuge.

(c) ACQUISITION.—(1) The Secretary shall, not later than the 3rd anniversary of the effective date of this Act, acquire by transfer or purchase, or both, the approximately 1,711 acres of lands and waters owned by the Port of Grays Harbor within the refuge and identified as Management Unit 12, Area 1, in the Grays Harbor Estuary Management Plan.

(2) The appropriate Federal agencies may treat any lands and waters transferred to the Secretary under paragraph (c)(1) as meeting, in whole or in part, mitigation obligation of the Port of Grays Harbor arising under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344).

Provided: That the validity of such mitigation credits is predicated on compliance with the guidelines issued under section 404(b)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1344(b)(1)).

(3) The Secretary is authorized to acquire up to 68 acres of lands and waters owned by the City of Hoquiam within the boundaries of the Refuge, and to compensate the lessees on such lands and waters for improvements and relocation costs.

SECTION 5. ADMINISTRATION.

(a) GENERAL ADMINISTRATIVE AUTHORITY.—The Secretary shall administer all lands, waters, and interests therein, acquired under section 4 in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee).

(b) OTHER AUTHORITY.—Consistent with the provisions of section 5(a) of this Act, the Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of fish, wildlife, and natural resources, the development of outdoor recreation opportunities, and interpretative education as he considers appropriate to carry out the purposes of the refuge.

(c) MANAGEMENT PLAN.—Within 18 months after the effective date of this Act, the Secretary shall prepare a management plan for the development and operation of the refuge which shall include—

(1) the construction of a visitor center suitable for year-round use with special emphasis in interpretative education and research;

(2) viewpoints, boardwalks, and access;

(3) parking and other necessary facilities; and

(4) a comprehensive plan setting forth refuge management priorities and strategies.

The Secretary shall provide opportunity for public participation in developing the management plan.

SECTION 6. AUTHORIZATION OF APPROPRIATION.

There are authorized to be appropriated to the Department of the Interior—

(1) such sums as may be necessary for the acquisition of the lands and waters referred to in section 4(c)(1).

(2) not to exceed $2,500,000 to carry out other provisions of this Act.

SECTION 7. REFUGE DEVELOPMENT FUND.

The Director of the Fish and Wildlife Service shall, upon enactment of this Act, promptly consult with the Fish and Wildlife Foundation created by P.L. 98-244 to request the foundation set up a separate account for the purpose of encouraging, accepting, and administering private gifts of property for the purposes of this Act. The Director shall, in preparing the management plan required by section 5 of this Act, give special consideration to means by which he may encourage the participation and contributions of local public and private entities in the development and management of the refuge.

SECTION 8. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act, or January 1, 1988, whichever date occurs later.●

● Mr. EVANS. Mr. President, today I rise to cosponsor legislation along with my colleague from Washington State [Mr. ADAMS] to establish the Grays Harbor National Wildlife Refuge in the State of Washington. The bill that we are introducing today represents a carefully crafted compromise that the Washington delegation has negotiated for the last several months. Importantly, the entire delegation in both

Houses supports this legislation and is anxious to move it to enactment.

For many years the Bowerman basin mudflats in Grays Harbor have been recognized as internationally significant wildlife habitat for migratory shorebirds. These mudflats of Bowerman basin constitute a major feeding and stop-over for shorebirds migrating every spring and fall between points as far as South America and Alaska. As well as the shorebirds, the Grays Harbor Area supports populations of bald eagles, peregrine falcon, dunlin, geese, plovers, owls, and many other species of waterfowl. All who have experienced the biannual migration agree this is an area worthy of national recognition and protection.

For many years the destiny of Bowerman basin has been an issue of discussion during the development of the Grays Harbor estuary management plan. The development of this regional planning effort was made at the urging of Senator Henry Jackson, who was instrumental in establishing the Grays Harbor Regional Planning Commission to determine which areas of Grays Harbor should be protected and which should be left for development. The commission coordinated the development of the Grays Harbor estuary management plan. This planning effort was remarkable in combining the efforts of local, State, and Federal agencies. For the last several years, the commission, as well as the cities of Aberdeen, Hoquiam, Ocean Shores, Westport, and Cosmopolis, the Port of Grays Harbor, the Washington State Departments of Ecology, Game, Fisheries and Natural Resources, the Environmental Protection Agency, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service, have worked to develop a management plan for the estuary that will balance the ecosystem and conversation goals with the social and economic interests of the community. The estuary management plan is now in its final stages of adoption.

This legislation is an attempt to complement and enhance the goals set forth in the Grays Harbor estuary management plan. The Bowerman basin mudflats are protected under the plan in a natural conservancy designation. This legislation will formally designate the basin as a National Wildlife Refuge to be protected and managed so that it may continue as an important resting stop for the annual shorebird migrations.

Mr. President, there are a few specific points about this legislation that I would like to take a moment to discuss. Recognizing that this deficit-burdened Government has difficulty finding the funds it needs to acquire wildlife habitat, we have incorporated a mechanism to allow the Federal Government to acquire the primary parcel of land without the need to expend limited Government funds. As an acquisition option, this legislation allows the Fish and Wildlife Service to use the privately-owned basin to be acquired as mitigation for the Port's development plans, if the relevant Federal agencies deem it appropriate.

Additionally, the legislation would establish the Bowerman basin economic development fund. This fund would allow contributions, in cash, or real or personal property from any non-Federal entity for development of the refuge. Through the Fish and Wildlife Foundation, these funds would be available for matching grants by the Federal Government. This will provide a way to build on the community support for enhancing the area, as well as the support from the many outside of the Grays Harbor Area who will visit this area.

By allowing contributions in kind, the authorization for the construction of visitors facilities authorized in the legislation can be further enhanced. Potential donations of lumber could provide view points and boardwalks, or funds could be spent in an effort to attract outside interests to the Grays Harbor Area for the viewing of the shorebird migration. This combination of private and Federal interests is consistent with previous efforts to forge partnerships in educating, appreciating, and managing this estuary.

Bowerman Basin is one of the more spectacular wetlands on the Washington Coast. A Grays Harbor National Wildlife Refuge is critical to the welfare of migratory waterfowl and shorebirds as well as providing important habitat for many other types of fish and wildlife. I would encourage my colleagues to visit this site should they journey to Washington State, and hope that they will join me in the eventual passage of legislation establishing the Grays Harbor National Wildlife Refuge.●

By Mr. HECHT:

S. 1980. A bill entitled the "Nuclear Waste Policy Review Commission Act of 1987"; to the Committee on Energy and Natural Resources.

NUCLEAR WASTE POLICY REVIEW COMMISSION ACT

Mr. HECHT. Mr. President, the conferees on the budget reconciliation have caved in on the nuclear waste issue to pressure from the House conferees, and the Yucca Mountain site in Nevada is being targeted without any pretense whatsoever of a scientific basis for the decision. The House Democratic leadership decided to pull a blatant political power play, and unfortunately it worked.

The House conferees have discarded science. They have ignored safety. They have decided to waste large amounts of the American people's money, and it is clear that the House leadership has decided to discard fairness. All the House Democratic leadership is interesting in doing is turning their nuclear waste problem into Nevada's nuclear waste problem.

Mr. President, this decision is as wrong for the country as it is for Nevada. I will fight it as long as I am in the U.S. Senate. Deep geologic disposal of nuclear waste is wrong. It has never, ever, anywhere in the world been proven safe. It will cost many tens of billions of dollars. In the last few days, the House Democratic leadership has made it very clear to the entire country that they do not care about safety, or cost. But I do care about safety. I do care about cost, and I will continue to fight this shortsighted decision.

Mr. President, today I am introducing a bill that would establish a Nuclear Waste Policy Review Commission to reexamine our Nation's course on the management of high-level nuclear waste. This legislation would impose an 18-month moratorium on the current nuclear waste program, in order to give the Commission time to do its work, and time for the Congress to act on the Commission's recommendations.

I want to restate now what I have said many times before here on the floor of the Senate: Deep geologic disposal of unreprocessed spent fuel is wrong. Reprocessing and recycling of nuclear waste is the right approach. It is the proper alternative to burying hot nuclear waste thousands of feet under the Earth and hoping that nothing happens to it. In effect, we are asking our Nation to bury hot nuclear waste thousands of feet beneath the ground and then keep our fingers crossed.

The Commission to be established by my bill would study the advantages of reprocessing and recycling spent nuclear fuel, and would study the value of long-term storage of spent fuel either at a reactor, or at a monitored retrievable storage facility prior to reprocessing.

Reprocessing is not new to this country. We have always done it for our military waste and we had strated to do it for our commercial waste until 1877 when President Jimmy Carter stopped it. It is certainly not new to the nuclear power industry. We are the only major nation in the world using nuclear power that does not either already reprocess nuclear waste, or plan to reprocess it. Mr. President, no one in this distinguished body can deny that reducing the volume of high-level nuclear waste by almost 70 percent, simply by burning it up in nuclear powerplants, does not make good, sensible, management policy. It is ironic that we live in a nation that recycles bottles and cans in an effort to keep our streets clear of litter, but we are willing to bury hot nuclear

fuels rod, the world's most dangerous material, deep in the ground without recycling. This just does not make sense. It is time to call a halt to this misdirected policy, put politics aside, and create a complete nuclear fuel cycle that is safe and sensible.

Mr. President, this is actually the second moratorium bill I have introduced on the nuclear waste issue. The first bill, S. 1211, which I introduced on May 15, would have imposed a moratorium on the nuclear waste program so that the National Academy of Sciences could study the advantages and disadvantages of reprocessing nuclear waste.

My colleagues will be hearing much more from me on the nuclear waste issue in the months ahead. Unfortunately, the prevailing view in Washington, DC, on nuclear waste reminds me of a man storing a stick of dynamite in his closet because he thinks if he cannot see it, then he will not have to worry about it. We are doing the same thing on nuclear waste. It is time for my colleagues to recognize we are not going to get rid of nuclear waste by burying it. The only way we can get rid of it is to reprocess it.

By Mr. DOLE:

S. 1981. A bill to provide civil penalties for the manufacturing or entering into commerce of imitation firearms which do not have markings to make them readily identifiable; to the Committee on Commerce, Science, and Transportation.

REGULATION OF IMITATION FIREARMS

Mr. DOLE. Mr. President, today I am introducing a bill to regulate commerce of toy and other imitation firearms. The purpose of the bill is quite simple: It would impose a Federal requirement that all toy or other imitation firearms entered into commerce have a blaze orange plug permanently fixed in the barrels of these items. The requirement would make look-alike firearms easily distinguishable from real firearms, thus reducing the possibility that toy guns might be misused for criminal purposes.

This legislation is similar to a bill introduced in the House of Representatives by Congressman LEVINE of California. However, there are some important differences between the two bills.

The legislation is also similar to a number of local ordinances recently adopted in California, and proposed elsewhere.

It follows a practice already being adopted by some manufacturers voluntarily, and is consistent with national legislation in several European countries.

I have been working with interested groups in the development of this proposal. The Hobby Institute, a national trade organization of thousands of companies, has formally endorsed this language by a resolution of its board of directors.

In addition, the bill has been made available to the National Rifle Association. Although no formal position has been adopted by that group, I understand the NRA will not actively oppose this bill, but has opposed the House bill, H.R. 3433, in its present form.

Staff has also talked informally with representatives of Handgun Control, Inc. I would expect that organization to support this bill when it is formally requested to do so.

Discussions have also been held with the House Democratic leadership, specifically Congressmen DINGELL and COELHO, both of whom have indicated their support after certain technical changes were made to clarify jurisdictional concerns.

This legislation should be relatively noncontroversial and I would hope that Congress can act in short order. Although only a handful of criminal incidents involving toy guns and look-alikes have come to the attention of our police agencies so far, there is a significant potential for abuse. Under these circumstances, and if a simple solution is at hand, Congress should act as soon as it can.

I ask unanimous consent that the text of this bill be printed in the RECORD at the conclusion of my remarks, along with other supporting articles.

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

S. 1981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful for any person to manufacture, enter into commerce, or receive any toy, look-alike, or imitation firearm unless such firearm contains, or has affixed to it, a marking approved by the Secretary of Commerce, as provided in section 2.

SEC. 2. (a) Except as provided in subsection (b), each toy, look-alike, or imitation firearm shall have as an integral part, permanently affixed, a blaze orange plug inserted in the barrel of such toy, look-alike, or imitation firearm. Such plug shall be recessed no more than 6 millimeters from the muzzle end of the barrel of such firearm.

(b) The Secretary of Commerce may provide for an alternate marking or device for any toy, look-alike, or imitation firearm not capable of being marked as provided in subsection (a).

SEC. 3. For purposes of this Act, the term "look-alike firearm" means any imitation of any original firearm which was manufactured, designed, and produced since 1898, including and limited to toy guns, water guns, replica nonguns, and air-soft guns firing nonmetallic projectiles. Such term does not include any look-alike, nonfiring, collector replica of an antique firearm developed prior to 1898, or traditional B-B or pellet-firing air guns that expel a metallic projectile through the force of air pressure.

SEC. 4. (a) Any person who violates any provision of this Act shall be subject to a civil penalty of not more than $1,000 for the first such violation.

(b)(1) Any person who violates the provisions of this Act a second or subsequent time shall be guilty of a misdemeanor and upon conviction shall be fined not more than $5,000 or imprisoned for not more than one year, or both.

(2) Any individual director, officer, or agent of a corporation who authorizes, orders, or performs any act which constitutes in whole or in part, a violation of the provisions of this Act, shall be subject to penalties under this section without regard to any penalties to which such corporation may be subject under subsection (a).

SEC. 5. This Act shall become effective on the date one year after the date of its enactment and shall apply to toy, look-alike, and imitation firearms manufactured or entered into commerce after such date of enactment.

SEC. 6. The provisions of this Act shall supersede any State or local laws or ordinances which provide for markings or identification inconsistent with provisions of this Act.

TOY GUNS PROVING TO BE TOO REALISTIC

(By Matt Lait)

LOS ANGELES.—The nation's largest toy retailer has announced that it is no longer acquiring realistic toy guns, which have been brandished in a number of recent crimes and blamed in several accidental deaths.

Toys "R" Us Inc., which controls more than 15 percent of the domestic toy market and has 19 stores in Maryland and Virginia, has told manufacturers that it will not carry their products unless "they changed the designs of the guns to make them look less realistic," said Angela Bourdon, a spokeswoman for Toys "R" Us in Rochelle, N.J.

Current inventories of the replica guns are being sold, but those sales will stop next year.

The action follows a flurry of activism against toy guns in California after a police officer accidentally shot a youth carrying a toy "laser" gun and a man pointing a replica gun forced a television reporter to read an incoherent statement on the air. They have been used by bank robbers, burglars and hostage takers.

Three California cities have banned replica guns at least tentatively. And brandishing such toys will be illegal in California next year. A toy gun ban proposed for the District of Columbia by City Council Member Nadine Winder (D-Ward 6) died in committee last year.

The toy and replica gun industry is a $200 million business with 70 percent of the guns made to look like military weapons.

Toy gun manufacturers already have started submitting designs to Toys "R" Us to see if the changes are acceptable. "When Toys "R" Us talks, everybody listens" said Jodi Levin, speaking for the Toy Manufacturers of America, a trade association.

The Imperial Toy Corp. here now produces guns in bright fluorescent colors. Levin said Daisy Manufacturing Co. has put orange tips on its guns to make it clear they are toys.

But colored guns do not ease the minds of some police officers, who argue that if an officer waits to identify the color of the gun pointed at him, it may be too late to react.

"I can see some dirt bag painting his barrel and stock flourescent orange . . . or a kid with one of those guns and getting shot anyway. There's no way we can make that

determination especially at night," Sgt. Bill Hetherington of Palos Verdes, Calif., police department said.

The Alliance for Survival, a group that advocates elimination of toy guns, has declared the replica gun problem an "emergency." Aside from potential physical harm, the group believes children's emotional safety" is in jeopardy because the guns "desensitize people to the real horrors and violence of war," said Jerry Rubin, Los Angeles director for the Alliance for Survival.

KNBC-TV consumer reporter David Horowitz had been trying to ban toy guns even before a man walked onto the station's set in Burbank during the evening news and held a toy gun to his head. "If you point one of these at someone and they don't know the difference, then you're pointing a real gun at them," he said.

Burbank was the first city in the nation to ban sale of toy guns. The Los Angeles and Santa Monica city councils have tentatively approved similar ordinances. It will be a misdeameanor to exhibit a toy gun threateningly in the state starting in January.

"There have been a number of individuals who have lost their lives because they have brandished toy weapons," said Los Angeles City Councilman Nate Holden, who introduced the bill to prohibit their sale and manufacture. "So if it's against the law to brandish [a toy gun], then it ought to be [against the law] to make it or sell it."

State Sen. Pro Tem David Roberti (D-Burbank) and Horowitz have drafted a bill to ban sale, manufacture and distribution of toy gun replicas. The bill also makes it a felony in California to use one in the commission of a crime or to brandish one.

On the national level, Rep. Mel Levine (D-Calif.) has proposed a bill that would require identifying markings on all toy guns.

Levine said that if confusion still occurred, he would not be opposed to banning the guns. But he said such legislation would be harder to pass because of interest groups.

PROJECTILE-SHOOTING GUNS ESCAPE TOY SAFETY STANDARDS

(By Barbara Bradley)

WASHINGTON.—Before finishing your toy shopping for Christmas, take this quiz:

Which type of toy does not have to meet minimum safety standards before it can be sold in the store: (1) baby rattlers; (2) sleeping bags; (3) kites; (4) guns that shoot pellets?

No. 4 is the correct answer. And some parents and activists say the regulatory void is creating a new waive of dangerous toys—toys that can cause serious eye injury to children and other unsuspecting victims.

To sell a toy gun, "all a manufacturer has to do is drop it on the market," says James Lacy, general counsel for the Consumer Product Safety Commission. A company may choose to follow voluntary standards about the maximum impact the projectile should have.

If the CPSC gets complaints that the toy has caused accidents or is defective in any way, it may investigate, and possibly issue a recall or ban. But critics say that with only one toy tester and a more hands-off attitude during Reagan administration, the commission can be slow to act, "We shouldn't need a body count to tell a toy is dangerous," says Edward Swartz, a product-liability lawyer in Boston.

Consider the case of Scott, a 14-year-old high-school football player who lives just north of Chicago. A year ago on Halloween, Scott was driving with friends when another car with three teen-age boys caught up with them and "gunned" Scott down with their Splatmasters, guns that shoot marble-sized pellets of ink. A pellet accidentally hit him in the eye.

One year and several operations later, Scott has just started playing football again. No one really blames the boys. "These are the kinds of things that any irresponsible but not delinquent kid would do," says a lawyer representing Scott's family in a lawsuit against the store that sold the gun to the boys.

Although labels on products like Splatmaster; which is for adult outdoor survival games, contain warnings that they are meant for adults, stores are not required to ask for proof of the buyer's age.

And an increasing number of other guns marketed for children can be found on toy-store shelves. "It's the worst year I've seen in 20 years," says Mr. Swartz, who compiles an annual "Top 10 list" of dangerous toys. This time, seven shoot projectiles. The hot armament is Gotcha, which shoots ink pellets.

The projectile-gun controversy is less publicized than the one over realistic-looking guns: Several legislatures have banned or are considering banning realistic-looking guns, which have been used to hold up people and stores and have been responsible for one death last spring.

But the CPSC and Congress have no plans to change the laws concerning projectile-flinging toys. "From a safety standpoint, we would recommend avoiding toys that shoot projectiles," says Elaine Tyrrell, project manager for the children's team at the CPSC. "But that's a decision for consumers to make." And since there haven't been many injuries reported, she says, "I don't see anything to make us rethink the issue."

Several cities, including Chicago and Milwaukee, are considering ordinances to ban projectile-shooters. Chicago Alderman William Krystynik says he has received several complaints from people who were shot as kids with Gotcha guns passed by in their cars.

Toymakers say they do extensive testing of their guns before they sell them. "It makes business sense: Lawsuits and recalls are very expensive," says Diane Cardinale at the Toy Manufacturers of America.

Indeed, at least two manufacturers have raised a small furor with their testing. According to one source at the CPSC, LJN Toys tested Gotcha by shooting the pellets into the eyes of rabbits. (LJN refuses to discuss its testing practices.) The president of Ray Plastics says the firm tested its Super Shot Jr. Sportsman repeating rifle the same way.

As for toys in general, the CPSC is getting credit for winnowing out a big chunk of potentially dangerous toys. Its "Operation Toyland" has been cracking down on imports that don't meet US safety standards. Between July and October, the commission and Customs Service seized 2 million defective toys.

HOBBY INDUSTRY OF AMERICA,
Elmwood Park, NJ, October 23, 1987.

Senator ROBERT DOLE,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR DOLE: It is our understanding you have consideration proposed legislation to require manufacturers and importers of toy and non-firing look-alike firearms to distinctively mark these pieces to be recognizable and distinguishable from real firearms.

The Board of Directors of the Hobby Industries of America, at its meeting last week, voted unanimously to support this proposal, particularly the language which we understand now exists.

We urge you and your staff to find an appropriate vehicle to secure early enactment of this legislation. We feel strongly that the legislation would do much to prevent possible misuse of these items which are enjoyed by so many hobbyists.

We are also concerned that absent of Federal legislation many localities would enact conflicting and confusing ordinances to the detriment of the industry. We wholeheartedly support your action and urge favorable consideration.

Respectfully yours,

FREDERIO P. POLK, CAE,
Executive Director.

By Mr. HEINZ:

S. 1982. A bill to require the Secretary of the Treasury to mint and issue one-dollar coins in commemoration of the 100th anniversary of the birth of Dwight David Eisenhower; referred to the Committee on Banking, Housing, and Urban Affairs.

DWIGHT DAVID EISENHOWER COMMEMORATIVE COINS

● Mr. HEINZ. Mr. President, 1990 will mark the 100th anniversary of the birth of one of our Nation's greatest and most popular military and civilian leaders—President Dwight D. Eisenhower. The centennial birthday of this great American will undoubtedly generate tremendous interest among Americans of all ages. Many groups and organizations, particularly those in Pennsylvania where he spent his retirement years, are already planning events to honor our 34th President on that date.

It is only fitting that the country pay tribute to him as well. In light of the significance of this upcoming event, I am introducing today legislation authorizing the U.S. Treasury to mint a commemorative silver dollar, bearing the likeness of the late President.

The bill is the companion to H.R. 3654, introduced by my colleague and fellow Pennsylvanian, Congressman GOODLING. The coin would recognize and honor the legacy of Dwight David Eisenhower, a man who earned his place in American history. As a general, he led the greatest army to victory in World War II, and as a President, he dedicated all of his time and labors to peace and reconciliation. Throughout his lifetime, Ike's humility, honesty, and sincerity won him the respect of both friends and foes. He is recognized as one of the truly great historical figures of the twentieth century.

Mr. President, I want to assure my colleagues that this legislation is consistent with the intent and purpose of using commemorative coins to celebrate and honor American people, places, events, and institutions that have patriotic value for the people of the United States. More importantly,

the production of this coin would involve no net cost to the Federal Government, and the proceeds generated by a surcharge would go for the sole purpose of reducing the national debt.

Mr. President, I urge my colleagues to join me in cosponsoring this legislation. I also ask unanimous consent that the legislation be included in its entirety in the RECORD following my statement.

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

S. 1982

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 "Dwight David Eisenhower Commemorative Coin Act of 1987".

SEC. 2. DWIGHT DAVID EISENHOWER COMMEMORATIVE COINS

(a) AUTHORIZATION.—Subject to subsection (b), the Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall mint and issue one-dollar coins in commemoration of the 100th anniversary of the birth of Dwight David Eisenhower.

(b) LIMITATION ON THE NUMBER OF COINS.—The Secretary may not mint more than 10,000,000 of the coins referred to in subsection (a).

(c) SPECIFICATIONS AND DESIGN OF COINS.—Each coin referred to in subsection (a) shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches;

(3) contain 90 percent silver and 10 percent copper;

(4) designate the value of such coin;

(5) have an inscription of—

(A) the year "1990"; and

(B) the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum";

(6) have the likeness of Dwight David Eisenhower on the obverse side of such coin; and

(7) have an illustration of the home of Dwight David Eisenhower located in the Gettysburg National Historic Site on the reverse side of such coin.

(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, the coins referred to in subsection (a) shall be considered to be numismatic items.

(e) LEGAL TENDER.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins referred to in section 1(a) only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. MINTING AND ISSUANCE OF COINS.

(a) UNCIRCULATED AND PROOF QUALITIES.—The Secretary may mint and issue the coins referred to in section 1(a) in uncirculated and proof qualities.

(b) USE OF THE UNITED STATES MINT.—The Secretary may not use more than 1 facility of the United States Mint to strike the coins referred to in section 1(a).

(c) COMMENCEMENT OF AUTHORITY TO SELL COINS.—The Secretary may begin selling the coins referred to in section 1(a) on January 1, 1990.

(d) TERMINATION OF AUTHORITY TO MINT COINS.—The Secretary may not mint the coins referred to in section 1(a) after December 31, 1990.

SEC. 5. SALE OF COINS.

(a) IN GENERAL.—Subject to subsections (b) and (c), and notwithstanding any other provision of law, the Secretary shall sell the coins referred to in section 1(a) at a price equal to—

(1) the face value of such coins; and

(2) the cost of designing, minting, dies, use of machinery, and overhead expenses.

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins referred to in section 1(a) at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS.—Before January 1, 1990, the Secretary shall accept prepaid orders for the coins, referred to in section 1(a). The Secretary shall make sales with respect to such prepaid orders at a reasonable discount to reflect the benefit to the Federal Government of prepayment.

(d) SURCHARGES.—The Secretary shall include a surcharge of $9 per coin on all sales of the coins referred to in section 1(a).

SEC. 6. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 1(a) shall result in no net costs to the Federal Government.

(b) PAYMENT FOR THE COINS.—The Secretary may not sell a coin referred to in section 1(a) unless the Secretary has received—

(1) full payment for such coin;

(2) security satisfactory to the Secretary to indemnify the Federal Government for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

SEC. 7. PROCUREMENT OF GOODS AND SERVICES.

(a) IN GENERAL—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not apply with respect to any law relating to equal employment opportunity.

SEC. 8. REDUCTION OF FEDERAL DEBT.

The Secretary shall deposit in the general fund of the Treasury for the purpose of reducing the Federal debt an amount equal to the amount of all surcharges that are received by the Secretary from the sale of the coins referred to in section 1(a).●

By Mr. STEVENS:

S. 1983. A bill to amend title 28, United States Code; to the Committee on the Judiciary

ADDITIONAL BANKRUPTCY JUDGE FOR THE JUDICIAL DISTRICT OF ALASKA

● Mr. STEVENS. Mr. President, today I introduce legislation to authorize an additional bankruptcy judgeship for the judicial district of Alaska. Alaska currently has only one bankruptcy judge to serve the entire State.

As a result of the collapse of the oil industry, a long shadow has been cast on the Alaskan economy. The reduction in State oil revenues has forced State and local governments to cinch up their belts. Oil companies, related support industries, and State government have had to lay off workers to adjust to the reduction in revenues. This has led to an increase in business failures which in turn has had a rippling effect on personal finances. Together all of these factors had a reverberating impact on all segments of the Alaskan economy.

According to statistics provided by the Administrative Office of the U.S. Courts, Alaska has experienced a 360-percent increase in bankruptcy filings over the past 5 years. In the year ending June 1987, 1,351 bankruptcy cases were filed in the judicial district of Alaska. Many of those cases were time consuming chapter 11's. Although the average bankruptcy judge handling only 80 chapter 11's last year, Alaska's lone judge handled 206 such cases.

And while the average bankruptcy judge hears only 212 adversarial proceedings per year, Alaska's solitary judge handled 773 such hearings in the year ending June 1987. In addition, a greater proportion of Alaska's bankruptcy cases are filed by businesses than in the rest of the country. That is significant because business cases consume much more of a judge's time than personal bankruptcies. While only 16 percent of bankruptcy cases filed by businesses in the Nation as a whole, 31 percent of Alaska's bankruptcies are filed by businesses.

Alaska's heavy caseload problem is exacerbated by the fact that our single judge must travel extensively around the State to hold court. He spends 3½ days a month traveling from Anchorage to Nome, Fairbanks, and Juneau. During those days, he is not free to sit on the bench to hear casees. The only benches he sits on are the ones in the airport terminals. The Administrative Office of the U.S. Courts has recommended expanding court sites to include Cordova, Kodiak, Valdez, and Sitka. That will mean even more nonproductive time must be spent travelling.

Mr. President, the situation in Alaska has reached crisis proportions. The ninth circuit has had to pull a judge out of other districts for a week each month to send up to Alaska along with a law clerk and a court reporter. Even with this extra help, we still aren't able to keep up with the workload. The situation will only get worse if the price of oil plummets still further. In light of the crisis situation facing my State, it is my hope that the Judiciary Committee will consider this legislation at its earliest convenience.●

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

S. 1984. A bill for the relief of Leroy W. Shebal, of North Pole, Alaska; to the Committee on Energy and Natural Resources.

RELIEF OF LEROY W. SHEBAL

● Mr. STEVENS. Mr. President, this bill would direct the Secretary of the Interior to sell a parcel of Federal land along Beaver Creek to Leroy Shebal of North Pole, AK.

Leroy filed on this land under the Small Tract Act in 1958. He was given a lease on the land in 1960. Five years later, the Bureau of Land Management offered to sell the land to Leroy for $650. Leroy was unable to accept the offer at the time because of an illness in his family. He was given assurances that the offer to sell would remain open until his financial situation improved.

In September 1971, Leroy accepted the BLM's offer to sell the land. The BLM failed to process Leroy's acceptance in a timely fashion. As a result, before the BLM took an action to reclassify the land and sell it to Leroy, a public land order prohibiting land sales in the Beaver Creek area was promulgated. A year and one-half later after he had written to BLM to accept their offer, Leroy received a letter from the agency rejecting his acceptance.

The public land order that prevented the BLM from selling the Beaver Creek parcel is no longer in effect. The Alaska National Interest Lands Conservation Act of 1980, however, included Beaver Creek in the National Wild and Scenic Rivers System. The Wild and Scenic Rivers Act prohibits the sale of any land within the System.

Mr. President, for more than two decades, Leroy Shebal has operated an environmentally sound guiding operation on Beaver Creek. He has made substantial improvements to the property he leased from the Federal Government in reliance on the assurance of the Bureau of Land Management that he would eventually be able to purchase the property. He has done everything possible to meet the terms of the BLM's offer of sale. It would be a grave injustice if Congress did not act to authorize the sale of the Beaver Creek property to him.●

By Mr. DOLE:

S.J. Res. 237. Joint resolution to designate May 1988, as "Neurofibromatosis Awareness Month"; to the Committee on the Judiciary.

NEUROFIBROMATOSIS AWARENESS MONTH

Mr. DOLE. Mr. President, today I am intoducing a joint resolution to designate May 1988 as "Neurofibromatosis Awareness Month" and I ask my colleagues to join with me in drawing national attention to this disfiguring and often progressive disorder.

Neurofibromatosis [NF] is a neurological, genetic condition that can cause tumors to form on the nerves anywhere in the body at any time. It affects people of all races and both sexes with varying manifestations and degrees of severity.

Health statistics indicate that roughly 100,000 people in the United States have the condition and that 1 in every 4,000 children born today has NF. Though there is evidence that it is genetic, 50 percent of the people with NF have no family history of the condition. There seems to be two forms of the disorder. The first affects the peripheral nervous system and shows up at birth. The second attacks the central nervous system and manifests itself later in life. The latter often causes deafness.

A cure for NF has not yet been found and the only treatment available is to surgically remove the tumors when they appear and correct any resulting bone abnormalities. There is no known method of stopping the tumors from growing.

The Neurofibromatosis Foundation has worked hard over the years to bring this condition to the attention of the general public and to seek support for further research and education. Declaring May 1988 as "Neurofibromatosis Awareness Month" can only help the foundation in its efforts.

I know you share my concern for the many individuals with NF and their families and sympathize with their continuous struggle to overcome the psychological impact of disfigurement and the resulting isolation. Therefore I ask you to support this joint resolution.

ADDITIONAL COSPONSORS

S. 1896

At the request of Mr. CRANSTON, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1896, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue in honor and recognition of the women of the United States who served in the Vietnam conflict.

SENATE RESOLUTION 348—ESTABLISHING AN ARMS CONTROL TREATY REVIEW SUPPORT OFFICE

Mr. BYRD (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 348

Resolved, That there is established within the Senate an Arms Control Treaty Review Support Office (hereafter in this resolution referred to as the "Office"), which shall be under the policy direction of the Majority Leader and the Minority Leader and which shall be under the administrative direction and supervision of the Secretary of the Senate (hereafter in this resolution referred to as the "Secretary").

SEC. 2. (a) The Office shall provide to the Senate such administrative support as the Majority and Minority Leaders may direct, with respect to Senate consideration of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-Range and Shorter-Range Missiles, done at Washington on December 8, 1987, and of any other arms control treaties submitted, during the One Hundredth Congress, by the President to the Senate for its advice and consent to ratification. Such support shall include—

(1) the temporary storage and organization, system of access to, and security of, documents related to the negotiating records of such treaties; and

(2) such other assistance to the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate, as may be deemed necessary to their consideration of such treaties.

(b) The Office shall maintain an active liaison on behalf of the Senate, or any committee listed under subsection (a)(2), with all departments and agencies of the United States on matters relating to the functions of the Office described in subsection (a).

(c) Nothing in this resolution shall be construed to alter the jurisdiction of any committee of the Senate.

SEC. 3. (a) The Office is authorized, from funds made available under section 5 of this resolution, to employ such staff (including consultants at a daily rate of pay) in the manner and at a rate not to exceed that allowed for employees of a standing committee of the Senate under paragraph (3) of section 105(e) of the Legislative Branch Appropriations Act, 1968 (2 U.S.C. 61-1(e)), and to incur such expenses as may be necessary and appropriate to carry out its duties and functions.

(b) The Secretary, upon the recommendation of the Majority and Minority Leaders, shall appoint and fix the compensation of such personnel, including clerical staff, as may be necessary to carry out the provisions of this resolution.

SEC. 4. (a)(1) The Majority and Minority Leaders shall make arrangements with the Executive Branch to provide for the transmission, organization, and system of access to the negotiating record relating to arms control treaties submitted during the One Hundredth Congress by the President to the Senate for its advice and consent to ratification.

(2)(A) Access by staff personnel and consultants employed by the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate to any document in the possession of the Office or to the premises of the Office shall be limited to individuals who are designated jointly by the chairman of the respective committee and by the Majority Leader, in consultation with the Minority Leader.

(B) Access by staff personnel and consultants employed by any office of the Senate (other than the Office or any of the committees specified in subparagraph (A)) to any document in the possession of the Office or to the premises of the Office shall be limited to individuals who are designated jointly by the Majority Leader and the Minority Leader.

(C) The Majority Leader and the Minority Leader shall jointly determine which staff members and consultants of the Office shall be required to have security clearances.

(D) No person described in subparagraph (A), (B), or (C) may be given access to classified information held by the Office unless such person has an appropriate security clearance and a need to know such information.

(3) All staff members and consultants shall, as a condition of employment, agree in writing to abide by the conditions of an appropriate nondisclosure agreement promulgated by the Office of Senate Security.

(4) The Office shall employ a security officer qualified to administer appropriate security procedures to ensure the protection of confidential and classified information in the possession of the Office.

(5) The case of any Senator who violates the security procedures of the Office may be referred to the Select Committee on Ethics of the Senate for the imposition of sanctions in accordance with the rules of the Senate. Any staff member or consultant who violates the security procedures of the Office shall immediately be subject to dismissal or such other sanction as the Majority and Minority Leaders may direct.

(b)(1) The Office shall make suitable arrangements, in consultation with the Office of Senate Security, for the physical protection and storage of classified information in its possession.

(2) Upon termination of the Office pursuant to section 6 of this resolution, all records, files, documents, and other materials in the possession, custody, or control of the Office, under appropriate conditions established by the Office, shall be transferred to the Office of Senate Security.

SEC. 5. (a) Such sums as are necessary to carry out the provisions of this resolution, shall be made available from the contingent fund of the Senate, out of the Account of Miscellaneous Items, to pay the expenses of the Office, upon vouchers approved by the Secretary (except that vouchers shall not be required for the disbursement of salaries of employees who are paid at an annual rate).

(b)(1) Such sums as are necessary to carry out the provisions of this resolution may be expended by the Office, with the prior approval of the Committee on Rules and Administration, to procure the temporary (not in excess of one year) or intermittent services, including related and necessary expenses, of individual consultants, or organizations thereof, to make studies or advise the Office,

(2) Such services in the cases of individuals or organizations may be procured by contract as independent contractors or, in the case of individuals, by employment at daily rates of compensation not in excess of the per diem equivalent to the highest gross rate of compensation which may be paid to the regular employee of a standing committee of the Senate. Such contracts shall not be subject to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) or any other provisions of law requiring advertising.

(3) Any such consultant shall be selected by the Majority and Minority Leaders acting jointly. The Office shall submit to the Committee on Rules and Administration of the Senate information bearing on the qualifications of each consultant whose services are procured pursuant to this subsection, including organizations, and such information shall be retained by the Office and shall be made available for public inspection upon request.

SEC. 6. The Office shall terminate not later than thirty days after the sine die adjournment of the One Hundredth Congress.

AMENDMENTS SUBMITTED

RENEWABLE RESOURCES EXTENSION ACT AUTHORIZATION

LEAHY (AND HATFIELD) AMENDMENT NO. 1369

Mr. BYRD (for Mr. LEAHY, for himself and Mr. HATFIELD) proposed an amendment to the bill (H.R. 2401) to extend the authorization of the Renewable Resources Extension Act of 1978, and for other purposes; as follows:

Beginning on page 1, line 6, strike all through page 2, line 9, and insert in lieu thereof the following:

SEC. 2. EXTENSION.

The Renewable Resources Extension Act of 1978 (16 U.S.C. 1600 note) is amended—

(1) in Section 6 (16 U.S.C. 1675) by striking out the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated to implement this Act $15,000,000 for the fiscal year ending September 30, 1988, and $15,000,000 for each of the next twelve fiscal years."; and

(2) in Section 8 (16 US.C. 1671 note) by striking out "1988" and inserting in lieu thereof "2000".

NATIONAL PARKS AND RECREATION ACT AMENDMENTS

JOHNSTON AMENDMENT NO. 1370

Mr. BYRD (for Mr. JOHNSTON) proposed an amendment to the bill (H.R. 2566) to amend the National Parks and Recreation Act of 1978, as amended, to extend the term of the Delta Region Preservation Commission, and for other purposes; as follows:

Strike all after the enacting clause and insert:

"That Title IX of the National Parks and Recreation Act of 1978, as amended (16 U.S.C. 230), is further amended as follows:

(a) In section 901 by adding the following new phrase and renumbering subsequent phrases accordingly:

"(4) folk life centers to be established in the Acadian region;";

(b) In section 902 by adding the following new subsection:

"(g) The secretary is authorized to acquire lands or interests in lands by donation, purchase with donated or appropriated funds or exchange, not to exceed approximately 20 acres, in Acadian villages and towns. Any lands so acquired shall be developed, maintained and operated as part of the Jean Lafitte National Historical Park."; and

(c) In section 907(e) by striking out 'ten years" and inserting in lieu thereof 'twenty years'.".

ACCEPTANCE OF GIFTS OF FINE ART FOR THE CAPITOL

BYRD AMENDMENT NO. 1371

Mr. BYRD proposed an amendment to the bill (H.R. 60) to permit the Architect of the Capitol, under the direction of the Joint Committee on the Library, to accept gifts of money for the purpose of works of fine art for the Capitol, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. PURCHASE OF WORKS OF FINE ART FOR THE CAPITOL.

(a) ACCEPTANCE OF GIFTS OF MONEY.—

(1) AUTHORITY.—The Architect of the Capitol is authorized to accept, on behalf of the Congress and with prior approval of the Joint Committee on the Library, gifts of money for the purchase of works of fine art for the Capitol.

(2) FORM OF GIFT.—Any gift accepted under paragraph (1) shall be in the form of a check or similar instrument made payable to the Department of the Treasury.

(3) MANNER OF ACCEPTANCE.—An acceptance under paragraph (1) shall be carried out in the manner prescribed by the Joint Committee on the Library, which shall supervise the works of fine art in accordance with section 1831 of the Revised Statutes of the United States (40 U.S.C. 188).

(b) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury a fund for purchase of works of fine art for the Capitol.

(2) DEPOSITS AND AVAILABILITY.—Amounts accepted under subsection (a) shall be deposited in the fund, which, subject to appropriation, shall be available to the Architect of the Capitol for such purchases as may be approved by the Joint Committee on the Library, the Speaker and the minority leader of the House of Representatives, and the majority leader and the minority leader of the Senate.

(c) DISBURSEMENTS FROM THE FUND.—Disbursements from the fund established under subsection (b) shall be made on vouchers signed by the Architect of the Capitol and approved by the Joint Committee on the Library, the Speaker and the minority leader of the House of Representatives, and the majority leader and the minority leader of the Senate.

SEC. 2. GIFTS AND PURCHASES FOR THE SENATE AND THE CAPITOL.

(a) ACCEPTANCE OF GIFTS.—The Commission on Art and Antiquities of the United States Senate (hereinafter "Commission") is authorized to—

(1) accept gifts and bequests of money and other property of whatever character for the purpose of aiding, benefiting, or facilitating the work of the Commission, including the purchase of works of fine art for the Senate wing of the Capitol and any Senate office buildings, and rooms, spaces, or corridors thereof;

(2) hold, administer, use, invest, reinvest and sell gifts and bequests of propery received under this section for the purpose stated in paragraph (1); and

(3) apply any income produced from the use of such gifts and bequests of property for the purpose stated in paragraph (1).

(b) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury a fund for use in accordance with the provisions of this section.

(2) DEPOSITS AND AVAILABILITY.—Gifts and bequests of money and the proceeds from sales of other property accepted under subsection (a) may be deposited in the fund, which shall be available to the Executive Secretary of the Commission for the work of the Commission and the administration of property received under this section. Such funds shall be held in trust by the Secretary of the Treasury.

(c) DISBURSEMENTS FROM THE FUND.—Disbursements from the fund established under subsection (b) shall be made on vouchers signed by the Executive Secretary of the Commission and approved by the Chairman of the Commission.

(d) TAXES.—For the purpose of Federal income, estate, and gift tax laws, property accepted under this section shall be considered a contribution to or for the use of the United States.

(e) INVESTMENTS.—The Executive Secretary of the Commission may request the Secretary of the Treasury to invest such portion of the fund established under subsection (b) as is not in the judgment of the Commission required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable to the needs of the fund as determined by the Commission and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. The income from such investments shall be credited to and form a part of the fund.

(f) PUBLIC DISCLOSURE.—At least once each year, the Executive Secretary of the Commission shall make a public disclosure of the amount and source of each gift and bequest received under this section, and any investment thereof, and the purposes for which any amounts are expended under this section.

(g) COMMISSION ON ART AND ANTIQUITIES OF THE UNITED STATES SENATE.—

(1) INCORPORATION.—The provisions of Senate Resolution 382 (Ninetieth Congress; agreed to October 1, 1968) (as amended by this Section) and Senate Resolution 95 (Ninety Second Congress; agreed to April 1, 1971) are hereby incorporated by reference.

(2) TECHNICAL CHANGES.—Senate Resolution 382 (Ninetieth Congress; agreed to October 1, 1968) is amended—

(A) in section 1(b) by adding at the end thereof "The Secretary of the Senate shall be the Executive Secretary of the Commission"; and

(B) in section 2(a)—

(i) by striking out "and protect" and inserting in lieu thereof "protect, and make known"; and

(ii) by striking out "within the Senate wing of the Capitol", and inserting in lieu thereof "within the Senate wing of the Capitol, any Senate Office Building".

(h) ADVISORY BOARD.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Commission is authorized to establish an Advisory Board (hereinafter "Board").

(B) COMPOSITION.—The Board shall be headed by a Chairman and composed of six members (including the Chairman). The membership of the Board may be expanded by Act of the Commission, consistent with the pattern established in paragraph (3)(B) of this section. The Board, with the approval of the Commission, may establish and maintain additional entities to further the purpose stated in subparagraph (C).

(C) PURPOSE.—The purpose of the Board shall be to encouarge the acquisition of fine arts, furnishings, and historical documents and to foster activities relating to the preservation and enhancement of the history and traditions of the United States Senate.

(2) COMPENSATION.—The Chairman and Board members shall be from public and private life, and shall serve without compensation. The Chairman and Board members may be reimbursed for actual and necessary expenses incurred in the performance of the duties of the Board at the discretion of the Commission.

(3) TERMS.—

(A) CHAIRMAN.—The Chairman of the Board shall be appointed by the Chairman of the Commission, and shall serve at the pleasure of the Commission for a 4-year term.

(B) OTHER MEMBERS.—The other members of the Board shall be appointed by the President pro tempore of the Senate, and shall serve staggered 4-year terms at the pleasure of the Commission. The term of the initial appointments of two Board members shall be for four years. The term of the initial appointment of the remaining three Board members shall be for two years.

(C) VACANCIES.—Any vacancies on the Board shall be filled in same manner as the appointment to such position was made.

(i) SENATE RULEMAKING POWER.—The provisions of this section (except subsections (b), (d), and (e)) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate, and as such they shall be considered as part of the rules of the Senate, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) 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.

SEC. 3 OLD EXECUTIVE OFFICE BUILDING.

(a) ACCEPTANCE OF GIFTS OF MONEY AND PROPERTY.—The Director of the Office of Administration is authorized to—

(1) accept, hold, administer, utilize and sell gifts and bequests of property, both real and personal, and loans of personal property other than money; and

(2) accept and utilize voluntary and uncompensated services; for the purpose of aiding, benefiting, or facilitating the work of preservation, restoration, renovation, rehabilitation, or historic furnishing of the Old Executive Office Building and the grounds thereof.

(b) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury a fund for use in accordance with the provisions of this section.

(2) DEPOSITS AND AVAILABILITY.—Amounts of money and proceeds from the sale of property accepted under subsection (a) shall be deposited in the fund, which shall be available to the Director of the Office of Administration. Such funds shall be held in trust by the Secretary of the Treasury.

(c) USE OF FUND.—Property accepted pursuant to this section or the proceeds from the sale thereof, shall be used as nearly as possible in accordance with the terms of gift or bequest. The Director of the Office of Administration shall not accept any gift under this section that is expressly conditioned on any expenditure not to be met from the gift itself unless such expenditure has been approved by an Act of Congress.

(d) TAXES.—For the purpose of the Federal income, estate, and gift tax laws, property accepted under this section shall be considered as a contribution to or for the use of the United States.

(e) PUBLIC DISCLOSURE.—At least once each year, the Director of the Office of Administration shall make a public disclosure of the amount and source of each gift and bequest received under this section, and the purpose for which amounts in the fund established under subsection (b) are expended.

TECHNICAL AMENDMENTS TO FEDERAL EMPLOYEES' RETIREMENT SYSTEM

PRYOR (AND STEVENS) AMENDMENT NO. 1372

Mr. BYRD (for Mr. PRYOR, for himself and Mr. STEVENS) proposed an amendment to the bill (H.R. 3395) making technical corrections relating to the Federal Employees' Retirement System, and for other purposes; as follows:

On page 4, line 7, insert "for at least 3 years" after "(B)".

On page 4, line 9, insert before the period "and insert in lieu thereof 'for at least 3 years'".

On page 16, line 2, strike out "or".

On page 16, line 4, strike out the period and insert in lieu thereof a semicolon.

On page 16, insert between lines 4 and 5 the following:

(C) a contract under which the services of an individual may be terminated by a person other than the individual or the Government; or

(D) a contract for a single transaction or a contract under which services are paid for in a single payment.

On page 29, beginning with line 12, strike out all through line 18.

On page 35, strike line 18 and all that follows through page 36, line 10, and insert in lieu thereof the following:

(c) APPLICABILITY.—This section applies with respect to—

(1) any individual participating in the Civil Service Retirement System or the Federal Employees' Retirement System as—

(A) an individual who has entered on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees (as defined by section 8331(1) or 8401(11) of title 5, United States Code);

(B) an individual assigned from a Federal agency to a State or local government under subchapter VI of chapter 33 of title 5, United States Code; or

(C) an individual appointed or otherwise assigned to one of the cooperative extension services, as defined by section 1404(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3105(5)); and

(2) any individual who is participating in the Civil Service Retirement System as a result of a provision of law described in section 8347(o).

On page 36, line 18, strike "subsection (c)(3)," and insert "subsection (c)(1)(C),".

On page 38, line 4, strike out the period and insert in lieu thereof a semicolon and "and".

On page 38, insert between lines 4 and 5 the following:

(3) by amending clause (v) by striking out "at the time of filing such application" and inserting in lieu thereof "on May 7, 1987".

SEC. 128. REFUNDS OF CERTAIN EXCESS DEDUCTIONS TAKEN AFTER 1983 TO OFFSET EMPLOYEES UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) REFUND ELIGIBILITY.—An individual shall upon written application to the Office of Personnel Management, receive a refund under subsection (b), if such individual—

(1) was subject to section 8334(a)(1) of title 5, United States Code, for any period of service after December 31, 1983, because of an election under section 208(a)(1)(B) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1107; 5 U.S.C. 8331 note);

(2) is not eligible to make an election under section 301(b) of the Federal Employees' Retirement System Act of 1986 (Pub. Law 99-335; 100 Stat. 599); and

(3) becomes subject to section 8334(k) of title 5, United States Code.

(b) REFUND COMPUTATION.—An individual eligible for a refund under subsection (a) shall receive a refund—

(1) for the period beginning on January 1, 1984, and ending on December 31, 1986, for the amount by which—

(A) the total amount deducted from such individual's basic pay under section 8334(a)(1) of title 5, United States Code, for service described in subsection (a)(1) of this section, exceeds

(B) 1.3 percent of such individual's total basic pay for such period; and

(2) for the period beginning on January 1, 1987, and ending on the day before such individual becomes subject to section 8334(k) of title 5, United States Code, for the amount by which—

(A) the total amount deducted from such individual's basic pay under section 8334(a)(1) of title 5, United States Code, for service described in subsection (a)(1) of this section, exceeds

(B) the total amount which would have been deducted if such individual's basic pay had instead been subject to section 8334(k) of title 5, United States Code, during such period.

(c) INTEREST COMPUTATION.—A refund under this section shall be computed with interest in accordance with section 8334(e) of title 5, United States Code, and regulations prescribed by the Office of Personnel Management.

SEC. 129. ADJUSTMENTS IN METHODS OF ANNUITY PAYMENTS FOR YEARS WITH ZERO OR NEGATIVE INFLATION.

Section 8434(a)(2)(C) and (D) of title 5, United States Code, is amended to read as follows:

"(C) a method described in subparagraph (A) which provides for automatic adjustments in the amount of the annuity payable so long as the amount of the annuity payable in any one year shall not be less than the amount payable in the previous year;

"(D) a method described in subparagraph (B) which provides for automatic adjustments in the amount of the annuity payable so long as the amount of the annuity payable in any one year shall not be less than the amount payable in the previous year; and".

SEC. 130. COVERAGE UNDER THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM FOR INDIVIDUALS SUBJECT TO THE FOREIGN SERVICE PENSION SYSTEM WHO ENTER FEDERAL EMPLOYMENT OTHER THAN THE FOREIGN SERVICE.

Section 8402 of title 5, United States Code, is amended—

(1) in the matter following subparagraph (B) of paragraph (2) of subsection (b) by inserting "subsection (d) of this section or" before "title III"; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) Paragraph (2) of subsection (b) shall not apply to an individual who becomes subject to subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 (relating to the Foreign Service Pension System) pursuant to an election and who subsequently enters a position in which, but for such paragraph (2), he would be subject to this chapter.".

SEC. 131. ANNUITY COMPUTATIONS FOR THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

(a) SURVIVOR REDUCTION COMPUTATION.—Section 8419(a) of title 5, United States Code, is amended—

(1) in paragraph (1) by striking out ", shall be reduced" and inserting in lieu thereof "or one-half of the annuity, if jointly designated for this purpose by the employee or Member and the spouse of the employee or Member under procedures prescribed by the Office of Personnel Management, shall be reduced"; and

(2) in paragraph (2)(A) by striking out ", shall be reduced" and inserting in lieu thereof "or one-half of the annuity, if jointly designated for this purpose by the employee or Member and the spouse of the employee or Member under procedures prescribed by the Office of Personnel Management, shall be reduced".

(b) SURVIVOR BENEFITS.—Section 8442 of title 5, United States Code, is amended—

(1) in subsection (a)(1) by inserting after "with respect to the annuitant," the following: "(or one-half thereof, if designated for this purpose under section 8419 of this title),"; and

(2) in subsection (g)(1) by inserting after "paragraph (2)" the following: "(or one-half thereof if designated for this purpose under section 8419 of this title)".

SEC. 132. LOANS FROM EMPLOYEES' CONTRIBUTION TO THE THRIFT SAVINGS FUND.

Section 8433(i)(3) of title 5, United States Code, is amended to read as follows:

"(3) Loans under this subsection shall be available to all employees and Members on a reasonably equivalent basis, and shall be subject to such other conditions as the Board may by regulation prescribe. The restrictions of section 8477(c)(1) of this title shall not apply to loans made under this subsection.".

SEC. 133. FIDUCIARY RESPONSIBILITIES AND LIABILITIES IN MANAGEMENT OF THRIFT SAVINGS FUND.

(a) FIDUCIARY RESPONSIBILITIES AND LIABILITIES.—Section 8477(e) of title 5, United States Code, is amended—

(1) in paragraph (1)(A) by inserting before the period at the end of the first sentence a comma and "except as provided in paragraphs (3) and (4) of this subsection";

(2) in paragraph (1)(B) by striking out "Internal Revenue Code of 1954" and inserting in lieu thereof "Internal Revenue Code of 1986";

(3) in paragraph (1)(D) by inserting "only" before "if" in the matter preceding clause (i);

(4) by redesignating paragraphs (4) and (5) as paragraphs (7) and (8), respectively; and

(5) by striking out paragraphs (2) and (3) and inserting in lieu thereof:

"(2) No civil action may be maintained against any fiduciary with respect to the responsibilities, liabilities, and penalties authorized or provided for in this section except in accordance with paragraphs (3) and (4).

"(3) A civil action may be brought in the district courts of the United States—

"(A) by the Secretary of Labor against any fiduciary other than a Member of the Board or the Executive Director of the Board—

"(i) to determine and enforce a liability under paragraph (1)(A);

"(ii) to collect any civil penalty under paragraph (1)(B);

"(iii) to enjoin any act or practice which violates any provision of subsection (b) or (c);

"(iv) to obtain any other appropriate equitable relief to redress a violation of any such provision; or

"(v) to enjoin any act or practice which violates subsection (g)(2) or (h) of section 8472 of this title;

"(B) by any participant, beneficiary, or fiduciary against any fiduciary—

"(i) to enjoin any act or practice which violates any provision of subsection (b) or (c);

"(ii) to obtain any other appropriate equitable relief to redress a violation of any such provision; or

"(iii) to enjoin any act or practice which violates subsection (g)(2) or (h) of section 8472 of this title;

"(C) by any participant or beneficiary—

"(i) to recover benefits of such participant or beneficiary under the provisions of subchapter III of this chapter, to enforce any right of such participant or beneficiary under such provisions, or to clarify any such right to future benefits under such provisions; or

"(ii) to enforce any claim otherwise cognizable under sections 1346(b) and 2671 through 2680 of title 28, if the remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for injury or loss of property caused by the negligent or wrongful act or omission of any fiduciary while acting within the scope of his duties or employment is exclusive of any other civil action or proceeding by the participant or beneficiary for recovery of money by reason of the same subject matter against the fiduciary (or the estate of such fiduciary) whose act or omission gave rise to such action or proceeding, whether or not such action or proceeding is based on an alleged violation of subsection (b) or (c).

"(4)(A) In all civil actions under paragraph (3)(A), attorneys appointed by the Secretary may represent the Secretary (except as provided in section 518(a) of title 28), however all such litigation shall be subject to the direction and control of the Attorney General.

"(B) The Attorney General shall defend any civil action or proceeding brought in any court against any fiduciary referred to in paragraph (3)(C)(ii) (or the estate of such fiduciary) for any such injury. Any fiduciary against whom such a civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such fiduciary (or an attested copy thereof) to the Execu-

tive Director of the Board, who shall promptly furnish copies of the pleading and process to the Attorney General and the United States Attorney for the district wherein the action or proceeding is brought.

"(C) Upon certification by the Attorney General that a fiduciary described in paragraph (3)(C)(ii) was acting in the scope of such fiduciary's duties or employment as a fiduciary at the time of the occurrence or omission out of which the action arose, any such civil action or proceeding commenced in a State court shall be—

"(i) removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division in which it is pending; and

"(ii) deemed a tort action brought against the United States under the provisions of title 28 and all references thereto.

"(D) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect. To the extent section 2672 of title 28 provides that persons other than the Attorney General or his designee may compromise and settle claims, and that payment of such claims may be made from agency appropriations, such provisions shall not apply to claims based upon an alleged violation of subsections (b) or (c).

"(E) For the purposes of paragraph (3)(C)(ii) the provisions of sections 2680(h) of title 28 shall not apply to any claim based upon an alleged violation of subsection (b) or (c).

"(F) Notwithstanding sections 1346(b) and 2671 through 2680 of title 28, whenever an award, compromise, or settlement is made under such sections upon any claim based upon an alleged violation of subsection (b) or (c), payment of such award, compromise, or settlement shall be made to the appropriate account within the Thrift Savings Fund, or where there is no such appropriate account, to the participant or beneficiary bringing the claim.

"(G) For purposes of paragraph (3)(C)(ii), fiduciary includes only the Members of the Board and the Board's Executive Director.

"(5) Any relief awarded against a Member of the Board or the Executive Director of the Board in a civil action authorized by paragraphs (3) and (4) may not include any monetary damages or any other recovery of money.

"(6) An action may not be commenced under paragraph (3) (A) or (B) with respect to a fiduciary's breach of any responsibility, duty, or obligation under subsection (b) or a violation of subsection (c) after the earlier of—

"(A) 6 years after (i) the date of the last action which constituted a part of the breach or violation, or (ii) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation; or

"(B) 3 years after the earliest date on which the plaintiff had actual knowledge of the breach or violation, except that, in the case of fraud or concealment, such action may be commenced not later than 6 years after the date of discovery of such breach or violation.".

(b) EFFECTIVE DATE.—The provisions of section 8477(e) (1), (2), (3), (4), (5), and (6) of title 5, United States Code, (as amended by subsection (a) of this section) shall apply to any civil action or proceeding arising from any act or omission occurring on or after October 1, 1986.

(c) REPEAL.—The provisions of subsection (a) (and the amendments to section 8477(e) of title 5, United States Code, contained therein) and subsection (b) of this section are repealed effective on December 31, 1990. On and after December 31, 1990 the provisions of section 8477(e) of title 5, United States Code, shall be in effect as such provisions were in effect on the date immediately preceding the date of enactment of this section.

SEC. 134. AMENDMENTS CONCERNING REEMPLOYED ANNUITANTS.

(a) AMENDMENT TO CHAPTER 84 OF TITLE 5, UNITED STATES CODE.—Section 8468 is amended to read as follows:

"§ 8468. Annuities and pay on reemployment

"(a) If an annuitant, except a disability annuitant whose annuity is terminated because of the annuitant's recovery or restoration of earning capacity, becomes employed in an appointive or elective position, an amount equal to the annuity allocable to the period of actual employment shall be deducted from the annuitant's pay, except for lump-sum leave payment purposes under section 5551. Unless the annuitant's appointment is on an intermittent basis or is to a position as a justice or judge (as defined by section 451 of title 28) or as an employee subject to another retirement system for Government employees, or unless the annuitant is serving as President, deductions for the Fund shall be withheld from the annuitant's pay under section 8422(a) and contributions under section 8423 shall be made. The deductions and contributions referred to in the preceding provisions of this subsection shall be deposited in the Treasury of the United States to the credit of the Fund. The annuitant's lump-sum credit may not be reduced by annuity paid during the reemployment.

"(b)(1)(A) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, the annuitant's annuity on termination of reemployment shall be increased by an annuity computed under section 8415(a) through (f) as may apply based on the period of reemployment and the basic pay, before deduction, averaged during the reemployment.

"(B)(i) If the annuitant is receiving a reduced annuity as provided in section 8419, the increase in annuity payable under subparagraph (A) is reduced by 10 percent and the survivor annuity or combination of survivor annuities payable under section 8442 or 8445 (or both) is increased by 50 percent of the increase in annuity payable under subparagraph (A), unless, at the time of claiming the increase payable under subparagraph (A), the annuitant notifies the Office in writing that the annuitant does not desire the survivor annuity to be increased.

"(ii) If an annuitant who is subject to the deductions referred to in subparagraph (A) dies while still reemployed, after having been reemployed for not less than 1 year of full-time service (or the equivalent thereof, in the case of full-time employment), the survivor annuity payable is increased as though the reemployment had otherwise terminated.

"(2)(A) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for at least 5 years, or on a part-time basis for periods equivalent to at least 5 years of full-time service, the annuitant may elect, instead of the benefit provided by paragraph (1), to have such annuitant's rights redetermined under this chapter.

"(B) If an annuitant who is subject to the deductions referred to in subparagraph (A) dies while still reemployed, after having been reemployed for at least 5 years of full-time service (or the equivalent thereof in the case of part-time employment), any person entitled to a survivor annuity under section 8442 or 8445 based on the service of such annuitant shall be permitted to elect, in accordance with regulations prescribed by the Office of Personnel Management, to have such person's rights under subchapter IV redetermined. A redetermined survivor annuity elected under this subparagraph shall be in lieu of an increased annuity which would otherwise be payable in accordance with paragraph (1)(B)(ii).

"(3) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for a period of less than 1 year, or on a part-time basis for periods equivalent to less than 1 year of full-time service, the total amount withheld under section 8422(a) from the annuitant's basic pay for the period or periods involved shall, upon written application to the Office, be payable to the annuitant (or the appropriate survivor or survivors, determined in the order set forth in section 8424(d)).

"(c) This section does not apply to an individual appointed to serve as a Governor of the Board of Governors of the United States Postal Service.

"(d) If an annuitant becomes employed as a justice or judge of the United States, as defined by section 451 of title 28, the annuitant may, at any time prior to resignation or retirement from regular active service as such a justice or judge, apply for and be paid, in accordance with section 8424(a), the amount (if any) by which the lump-sum credit exceeds the total annuity paid, notwithstanding the time limitation contained in such section for filing an application for payment.

"(e) A reference in this section to an 'annuity' shall not be considered to include any amount payable from a source other than the Fund.".

(b) AMENDMENT TO FERSA.—Section 302(a)(12) of the Federal Employees' Retirement System Act of 1986 is amended to read as follows:

"(12)(A)(i) If the electing individual is a reemployed annuitant under section 8344 of title 5, United States Code, under conditions allowing the annuity to continue during reemployment, payment of the annuitant's annuity shall continue after the effective date of the election, and an amount equal to the annuity allocable to the period of actual employment shall continue to be deducted from the annuitant's pay and deposited as provided in subsection (a) of such section. Deductions from pay under section 8422(a) of such title and contributions under section 8423 of such title shall begin effective on the effective date of the election.

"(ii) Notwithstanding any provision of section 301, an election under such section shall not be available to any reemployed annuitant who would be excluded from the operation of chapter 84 of title 5, United States Code, under section 8402(c) of such title (relating to exclusions based on the temporary or intermittent nature of one's employment).

"(B) If the annuitant serves on a full-time basis for at least 1 year, or on a part-time basis for periods equivalent to at least 1

year of full-time service, such annuitant's annuity, on termination of reemployment, shall be increased by a annuity computed—

"(i) with respect to reemployment service before the effective date of the election, under section 8339 (a), (b), (d), (e), (h), (i), and (n) of title 5, United States Code, as may apply based on the reemployment in which such annuitant was engaged before such effective date; and

"(ii) with respect to reemployment service on or after the effective date of the election, under section 8415(a) through (f) of such title, as may apply based on the reemployment in which such annuitant was engaged on or after such effective date;

with the 'average pay' used in any computation under clause (i) or (ii) being determined (based on rates of pay in effect during the period of reemployment, whether before, on, or after the effective date of the election) in the same way as provided for in paragraph (6). If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k)(2) of title 5, United States Code, the increase in annuity payable under this subparagraph is reduced by 10 percent and the survivor annuity payable under section 8341(b) of such title is increased by 55 percent of the increase in annuity payable under this subparagraph, unless, at the time of claiming the increase payable under this subparagraph, the annuitant notifies the Office of Personnel Management in writing that such annuitant does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, after having been reemployed for at least 1 full year (or the equivalent thereof, in the case of part-time employment), any survivor annuity payable under section 8341(b) of such title based on the service of such annuitant is increased as though the reemployment had otherwise terminated. In applying paragraph (7) to an amount under this subparagraph, any portion of such amount attributable to clause (i) shall be adjusted under subparagraph (A) of such paragraph, and any portion of such amount attributable to clause (ii) shall be adjusted under subparagraph (B) of such paragraph.

"(C)(i) If the annuitant serves on a full-time basis for at least 5 years, or on a part-time basis for periods equivalent to at least 5 years of full-time service, such annuitant may elect, instead of the benefit provided by subparagraph (B), to have such annuitant's rights redetermined, effective upon separation from employment. If the annuitant so elects, the redetermined annuity will become payable as if such annuitant were retiring for the first time based on the separation from reemployment service, and the provisions of this section concerning computation of annuity (other than any provision of this paragraph) shall apply.

"(ii) If the annuitant dies while still reemployed, after having been reemployed for at least 5 full years (or the equivalent thereof, in the case of part-time employment), any person entitled to a survivor annuity under section 8341(b) of title 5, United States Code, based on the service of such annuitant shall be permitted to elect to have such person's rights redetermined in accordance with regulations which the Office shall prescribe. Redetermined benefits elected under this clause shall be in lieu of any increased benefits which would otherwise be payable in accordance with the next to last sentence of subparagraph (B).

"(D) If the annuitant serves on a full-time basis for less than 1 year (or the equivalent thereof, in the case of part-time employment), any amounts withheld under section 8422(a) of title 5, United States Code, from such annuitant's pay for the period (or periods) involved shall, upon written application to the Office, be payable to such annuitant (or the appropriate survivor or survivors, determined in the order set forth in section 8342(c) of such title).

"(E) For purposes of determining the period of an annuitant's reemployment service under this paragraph, a period of reemployment service shall not be taken into account unless—

"(i) with respect to service performed before the effective date of the election under section 301, it is service which, if performed for at least 1 full year, would have allowed such annuitant to elect under section 8344(a) of title 5, United States Code, to have deductions withheld from pay; or

"(ii) with respect to service performed on or after the effective date of the election under section 301, it is service with respect to which deductions from pay would be required to be withheld under the second sentence of section 8468(a) of title 5, United States Code.".

(c) TECHNICAL AMENDMENT.—Section 302(a)(4) of the Federal Employees' Retirement System Act of 1986 is amended by striking out all before "benefits" and inserting "Accrued".

(d) EFFECTIVE DATE.—

(1) GENERALLY.—The amendments made by this section shall take effect on the date of the enactment of this Act, and as provided in paragraph (2), shall apply with respect to any individual who becomes a reemployed annuitant on or after such date.

(2) EXCEPTION.—The amendment made by subsection (b) shall apply with respect to any election made by a reemployed annuitant on or after the date of the enactment of this Act.

SEC. 135. DESIGNATION OF UNITED STATES POST OFFICE BUILDING.

The United States Post Office Building located at 809 Nueces Bay Boulevard, Corpus Christi, Texas, shall be designated and hereafter known as the "Dr. Hector Perez Garcia Post Office Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "Dr. Hector Perez Garcia Post Office Building".

SEC. 136. CONTINUED COVERAGE FOR CERTAIN EMPLOYEES AND ANNUITANTS OF THE ALASKA RAILROAD IN FEDERAL HEALTH BENEFITS PLANS AND LIFE INSURANCE PLANS.

(a) AMENDMENT TO ALASKA RAILROAD TRANSFER ACT OF 1982.—Section 607 of the Alaska Railroad Transfer Act of 1982 (45 U.S.C. 1206) is amended by adding at the end thereof the following new subsection:

"(e)(1) Any person described under the provisions of paragraph (2) may elect life insurance coverage under chapter 87 of title 5, United States Code, and enroll in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with the provisions of this subsection.

"(2) The provisions of paragraph (1) shall apply to any person who—

"(A)(i) retired from the State-owned railroad during the period beginning on or after January 4, 1985 through the date of enactment of this subsection; and

"(ii)(I) was covered under a life insurance policy pursuant to chapter 87 of title 5, United States Code, on January 4, 1985, for the purpose of electing life insurance coverage under the provisions of paragraph (1); or

"(II) was enrolled in a health benefits plan pursuant to chapter 89 of title 5, United States Code, on January 4, 1985, for the purpose of enrolling in a health benefits plan under the provisions of paragraph (1); or

"(B)(i) on the date of enactment of this subsection is an employee of the State-owned railroad; and

"(ii)(I) has 26 years or more of service (in the civil service as a Federal employee or as an employee of the State-owned railroad, combined) on the date of retirement from the State-owned railroad; and

"(II)(aa) was covered under a life insurance policy pursuant to chapter 87 of title 5, United States Code, on January 4, 1985, for the purpose of electing life insurance coverage under the provisions of paragraph (1); or

"(bb) was enrolled in a health benefits plan pursuant to chapter 89 of title 5, United States Code, on January 4, 1985, for the purpose of enrolling in a health benefits plan under the provisions of paragraph (1).

"(3) For purposes of this section, any person described under the provisions of paragraph (2) shall be deemed to have been covered under a life insurance policy under chapter 87 of title 5, United States Code, and to have been enrolled in a health benefits plan under chapter 89 of title 5, United States Code, during the period beginning on January 5, 1985 through the date of retirement of any such person.

"(4) The provisions of paragraph (1) shall not apply to any person described under paragraph (2)(B), until the date such person retires from the State-owned railroad.".

(b) ADMINISTRATIVE PROVISIONS.—Within 180 days after the date of enactment of this section, the Director of the Office of Personnel Management shall notify any person described under the provisions of section 607(e)(2)(A) of such Act, for the purpose of the election of a life insurance policy or the enrollment in a health benefits plan pursuant to the provisions of section 607(e)(1) of the Alaska Railroad Transfer Act of 1982 (as amended by subsection (a) of this section).

SEC. 137. Section 5402 of title 39, United States Code, is amended—

(1) in subsection (f) by striking out "January 1, 1989" and inserting in lieu thereof "January 1, 1999"; and

(2) by adding at the end thereof the following new subsection:

"(g)(1) The Postal Service, in selecting carriers of non-priority bypass mail to any point served by more than one carrier in the State of Alaska, shall, at a minimum, require that any such carrier shall—

"(A) hold a certificate of public convenience and necessity issued under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371);

"(B) operate at least 3 scheduled flights each week to such point;

"(C) exhibit an adherence to such scheduled flights to the best of the abilities of such carrier; and

"(D) have provided scheduled service within the State of Alaska for at least 12 months before being selected as a carrier of non-priority bypass mail.

"(2) The Postal Service—

"(A) may provide direct mainline non-priority bypass mail service to any bush point in the State of Alaska, without regard to paragraph (1)(B), if such service is equal to

or better than interline service in cost and quality; and

"(B) shall deduct the non-priority bypass mail poundage flown on direct mainline flights to bush points within the State of Alaska by any carrier, from such carrier's allocation of the total poundage of non-priority bypass mail transported to the nearest appropriate Postal Service hub point in any month.

"(3)(A) The Postal Service shall determine the bypass mail bush points and hub points described under paragraph (2)(B) after consultation with the State of Alaska and the affected local communities and air carriers.

"(B) Any changes in the determinations of the Postal Service under subparagraph (A) shall be made—

"(i) after consultation with the State of Alaska and the affected local communities and air carriers; and

"(ii) after giving 12 months public notice before any such change takes effect.

On page 40, line 7, insert after "Representatives" the following: "and the Committee on Governmental Affairs".

PREPAYMENT OF CERTAIN SMALL BUSINESS LOANS

BUMPERS AMENDMENT NO. 1373

Mr. BYRD (for Mr. BUMPERS) proposed an amendment to the bill (S. 437) to amend the Small Business Investment Act of 1958 to permit prepayment of loans made to State and local development companies; as follows:

At line 9, on page 3 of the Committee Amendment, strike the comma after the word "debenture" and insert the following: "plus a prepayment penalty as described in subparagraph (c),".

On page 3, line 21, of the Committee Amendment insert the following new subparagraph (c) and renumber the existing subparagraphs accordingly:

(c) The Federal Financing Bank may impose a prepayment penalty on issuers of debentures who elect to pay those debentures before maturity according to the following schedule:

(1) For debentures with ten years or less remaining before maturity, a penalty not to exceed 40 percent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(2) For debentures with more than ten years but less than 15 years remaining before maturity, a penalty not to exceed fifty per cent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(3) For debentures with more than fifteen years but less than 20 years before maturity, a penalty not to exceed sixty percent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(4) For debentures with more than twenty years remaining before maturity, a penalty not to exceed seventy per cent of an amount equal to the annual interest on the outstanding balance of the debenture at the coupon rate.

EXCLUSION OF CERTAIN CHARITABLE DONATIONS AND PAYMENTS FROM GROSS INCOME

LEAHY (AND LUGAR) AMENDMENT NO. 1374

Mr. BYRD (for Mr. LEAHY, for himself and Mr. LUGAR) proposed an amendment to the bill (H.R. 3435) to provide that certain charitable donations, and payments for blood contributed, shall be excluded from income for purposes of the Food Stamp Program and the AFDC Program; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SEC. 1. That this Act may be cited as the "Charitable Assistance and Food Bank Act of 1987".

SEC. 2. FOOD STAMP PROGRAM.

(a) Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d) is amended—

(1) in clause (8) by inserting "cash donations based on need that are received from one or more private nonprofit charitable organizations, but not in excess of $300 in the aggregate in a quarter," after "or credits,";

(b)(1) Effective Date.—Except as provided in paragraph (2), the amendment made by this section shall become effective upon the date of enactment of this Act.

(2) Application of Amendment.—The amendment made by this section shall not apply with respect to allotments issued under the Food Stamp Act of 1977 to any household for any month beginning before the date of enactment of this Act.

SEC. 3. FOOD BANK DEMONSTRATION PROJECT.

(a) The Secretary of Agriculture shall carry out no less than one demonstration project to provide and redistribute agricultural commodities and food products thereof as authorized under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935, as amended (7 U.S.C. 612c), to needy individuals and families through community food banks. The Secretary may use a State agency or any other food distribution system for such provision or redistribution of section 32 agricultural commodities and food products through community food banks under a demonstration project.

(b) Each food bank participating in the demonstration projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and food products provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the project shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

(c) The Secretary shall determine the quantities, varieties, and types of agricultural commodities and food products to be made available under this section.

(d) This section shall be effective for the period beginning on the date of enactment of this Act and ending on December 31, 1990.

(e) The Secretary shall submit annual progress reports to Congress beginning on July 1, 1988, and a final report on July 1, 1990, regarding each demonstration project carried out under this section. Such reports shall include analyses and evaluations of the provision and redistribution of agricultural commodities and food products under the demonstration projects. In addition, the Secretary shall include in the final report any recommendations regarding improvements in the provision and redistribution of agricultural commodities and food products to community food banks and the feasibility of expanding such method of provisions and redistribution of agricultural commodities and food products to other community food banks.

ADDITIONAL STATEMENTS

SCHOOLS WITHOUT DRUGS

● Mr. DECONCINI. Mr. President, in September 1986, the U.S. Department of Education released "Schools Without Drugs," a handbook that provides practical information for parents, teachers, principals, and community leaders in combating the problem of drugs among our young people. "Schools Without Drugs" is one of the most popular books in Federal publishing history, and many of its recommendations have been adopted by schools throughout the country. One particular program cited in this publication, "The Greenway Experience," is of special interest to me and I believe it is worthy of additional attention and circulation.

"The Greenway Experience" is based on a very successful, comprehensive drug and alcohol education program that began at Greenway Middle School in Phoenix, AZ, during the 1979–80 school year. Greenway Middle School, located in a rapidly growing area of Phoenix, has a highly transient student population of approximately 950. Prior to the arrival of Principal Don Skawski, the school was plagued by low-test scores, and major discipline and vandalism problems. Mr. Skawski decided to implement a drug eduction program and the results have been remarkable. Since the program's implementation there has been a 75-percent reduction in classroom disturbances, 80-percent reduction in drug and alcohol problems, a reduction of 25 percent in student absenteeism, and major reductions in almost every other area of student negative behavior at the Greenway school. Principal Skawski traveled to Washington December 2 to testify at a hearing of the Senate Caucus on International Narcotics Control on his involvement with drug education at the local level.

The caucus hearing attempted to assess the effectiveness and implementation of the 1986 Anti-Drug Abuse Act—legislation that finally provided the Department of Education with the necessary funds, $200 million over each of the next 3 years, to provide school districts across the country with the resources to initiate drug education progams. However, because of the complex nature of the drug

abuse problem and a lack of research in the area of drug education, many school districts around the country are still in the early stages of developing a successful and comprehensive program.

I believe the Greenway Drug Education Program is unique in this respect because of its flexibility and diversity. The program is constructed in a manner that would allow an individual school to develop programs that coincide with the particular needs of that school and community. I think "The Greenway Experience" approach could be widely replicated around the country. At a time when schools all over the country are struggling to develop a drug education program of their own, "The Greenway Experience" might be the answer they have been searching for.

Mr. President, I ask that a copy of "What Works? Schools Without Drugs: The Greenway Program," be printed in the RECORD.

The material follows:

WHAT WORKS?—SCHOOLS WITHOUT DRUGS

(Don Skawski, Principal, Greenway Middle School)

"The foremost responsibility of society is to nurture and protect its children. In America today, the most serious threat to the health and well being of our children is drug use . . ."—William J. Bennett.

INTRODUCTION

Teachers and parents are concerned, as is the entire nation, about the drug abuse problem among today's youth. Schools are being called upon to take an aggressive role in helping the nation solve the drug problem. This is not the first time nor will this be the last time the nation's schools will be called upon to solve a social problem. There are some important reasons the nation's schools should become involved in developing a solution to the drug problem. First drug and alcohol use is a major cause of death among teenagers. Second, learning is impaired when minds are altered by chemicals. Third, the schools are becoming places where students can purchase and sell drugs. Finally, schools can become victims of drug problems with increased vandalism, increased truancy, increased violence, and lower student academic performance being the result.

There is a need for school-based drug prevention programs. Twenty years ago, most drug programs in the United States were limited to one-time programs where scare tactics were used. These kinds of programs raised awareness but failed to reduce drug problems. Today, the methodology needs to change if the drug problem is going to be dealt with. The new programs need to be comprehensive, have teachers involved, and be based on lifelong skills.

OVERVIEW

This manual is designed to take you through a step-by-step process for establishing a comprehensive drug and alcohol prevention program. The School Team approach, that this model supports has proven to be one of the most successful prevention models in the United States today. The staff and students at Greenway Middle School have received numerous awards and recognitions: Arizona Science Teacher of the Year, U.S. Counsellor of the Year, ranked Number One Middle Level School in Arizona, one of five schools listed in the U.S. Department of Education's publication, "What Works: Schools Without Drugs." In the last three years over one hundred articles about the accomplishments at Greenway Middle School have appeared in local, state and national publications. Statistics show a significant change in the behavior of the students at the school and the attitude of parents about the school, i.e., 75% reduction in classroom disturbances, 80% reduction in drug and alcohol problems, 25% reduction in student absenteeism problems, and, major reductions in almost every area of student negative behavior on campus.

If you follow the process you can establish an affective prevention model. The model is unique because it is flexible and allows you to develop programs that meet the unique needs of your school and community. The task is not simple; however, if you are serious about your task this model will pave the way.

THE DEVELOPMENT PROCESS

The establishment of a successful prevention program involves a four-step process. It is recommended that the four steps be undertaken in the sequence presented. The amount of time necessary to complete each step will depend upon the enthusiasm level and the number of people involved. It is important to understand that it takes time to develop a successful program and taking short cuts could well doom the prevention program to failure. The four necessary steps in developing a successful drug prevention program are as follows: (1) Research, (2) Education, (3) Planning, (4) Prevention Team.

RESEARCH

A necessary first step in the prevention process is to conduct research into the scope of the problem. The research will provide the data so the problem can be defined. Also, the research will establish baseline data for future evaluation to determine if the drug prevention program is meeting with success. The following are the areas and groups for which data should be accumulated:

1. Conduct a basic review of the literature related to drugs, drug prevention, and drug cultures.

2. Carefully review the school's discipline records to establish a baseline for negative behaviors: possession of drugs or alcohol, possession or use of cigarettes, fighting, vandalism, truancy, student absentee rate, etc.

3. Survey parents to determine if they believe there is a drug problem on campus. Conduct the survey on a yearly basis to determine if parent perceptions about the school's drug problems are changing.

4. Survey students to determine to what extent they believe there is a drug problem on campus.

5. Survey staff to determine if they believe there is a drug problem on campus.

EDUCATION

The second phase of the organizational part of the prevention program is the education of the staff, students, and parents. Each of these groups need to be provided with the necessary information relating to the drug problem on campus. Only through an informed student body, staff, and community can successful plans for prevention be developed. The following are key areas to consider when providing in-service to each group:

1. What literature tells about the scope of the drug problem nationwide.
2. The scope of the school's drug problem.
3. How to identify the signs of drug use.
4. What drugs are available in the community and school.
5. The language of drug culture.
6. The legal issues relating to drug use.
7. The effects on people who use drugs.

PLANNING

Now that the research and education phases of the prevention program are complete, it is time to start planning. Meetings should be scheduled with parents, staff members, and students to discuss the research findings and begin planning the prevention program. From these meetings should come the information and ideas for the establishment of a prevention philosophy and the development of prevention goals.

PREVENTION TEAM

There is no one drug prevention program on the market today that will seriously impact chemical abuse problems on a school campus. Drug use is not a single issue problem and can't be dealt with using single issue solutions. Each school and community are unique and it will take a comprehensive effort to bring the drug abuse problem under control. Tackling a problem as massive and complex as drug abuse requires the pooling of resources, ideas, and energy. The most successful method available today for dealing with school drug problems is the school-team approach. At each school a trained group of people assume responsibility for coordination of the school's prevention program. The team approach to problem-solving is a more coordinated, systematic, and effective model for prevention than any other on the market. It allows each school to utilize the resources available within the community to combat drug abuse. The team approach provides a flexible prevention program that adjusts to the unique needs of the school.

Each school should establish a prevention team consisting of an administrator, teachers, counsellor, support staff, and parents. This team will assume responsibility for developing and coordinating the school's prevention program. Also every effort should be made to provide training for the prevention team by the United States Department of Education's Alcohol and Drug Division or one of the private groups that conduct such training.

"Drug and alcohol abuse touches all Americans in one form or another, but it is our children who are most vulnerable to its influence. As parents and teachers, we need to educate ourselves about the dangers of drugs so that we can then teach our children. And we must go further still convincing them that drugs are morally wrong".—Nancy Reagan.

SUBSTANCE ABUSE PREVENTION PHILOSOPHY

One of the first tasks of the School Prevention Team should be to write a philosophy for the program. The existence of a written philosophy will provide meaning for the program. A philosophy should provide the purpose and direction for the prevention program.

A prevention program should include a variety of activities that promote mental, social, and physical health. The activities within the program should be positive in nature and should provide for non-users, experimenters, and recreational users. Prevention programs should not deal with teenage

addicts and alcoholics; these people need intervention and professional medical help.

Prevention is a complex process that must be woven into the fabric of the total school program. It is important to enhance basic life skills, improve opportunities for academic success, develop decision-making skills, and provide students with a feeling of self-worth. Prevention, then, is the total school effort to improve the health and wellness of students by eliminating destructive behavior.

PREVENTION GOALS

The next task for the School Prevention Team is to establish a set of goals for the school's prevention program. The goals should be based on the prevention program's philosophy and should utilize the data gathered during the first phase of research and from the planning phase. The following are some sample goals taken from successful prevention programs:

1. A prevention program must help each student develop a sense of self-worth.
2. A prevention program must help students become self-actualized.
3. A prevention program must provide sound intellectual training resulting in positive learning.
4. A prevention program must provide the students with positive role models and examples of drug-free life styles.
5. A prevention program must provide the students with factual and specific drug information.

THE GREENWAY MODEL

The Greenway Middle School Prevention Model is divided into three specific parts: curriculum, student management, and prevention. The three divisions of the model are for organizational and planning purposes. Each part has a definite purpose; however, all parts relate to each other.

The Greenway Model brings together all aspects of the school's educational program to deal with student negative behavior on campus. The drug problems at Greenway have been greatly reduced and there is a corresponding reduction in classroom behavior problems, vandalism, bus problems, fights, and lunchroom problems. The success of the Greenway Middle School prevention efforts is due to the scope of its efforts, a consistent year-to-year effort, and the flexible nature of the model. The model allows each school to deal with its specific problems by utilizing the unique resources of the school and community.

SCIENCE CLASSES

Each student attending Greenway Middle School takes science as part of the general curriculum. It is through the science classes that the students are exposed to the research and other drugs specific information. The following are the areas of drug and alcohol information provided for the students.

1. The fact that drugs cause physical and emotional dependence is studied. The harmful side effects are also studied.
2. The students learn the chemical properties of many of the street drugs.
3. The effects of drugs on the circulatory, digestive, nervous, reproductive and respiratory systems are included.
4. Information provided also includes patterns of substance abuse: the progressive effects of drugs on the body and mind.
5. All illegal substances are studied; however, major emphasis is placed upon tobacco, marijuana, and alcohol.

T-SHIRT AWARDS

Using a silk screening process and a T-shirt press that we purchased for about $1,000, we have been able to design T-shirts for various clubs and activities. We can produce a T-shirt for approximately $3.00 so they are available with a limited investment. On our campus you can find the following T-shirt slogans and student-designed logos: Greenway Trash Busters, French Club, Greenway Basketball, Greenway Yacht Club, I Quit Smoking, Say No to Drugs, Greenway Athletes Against Drugs, Spanish Club, Greenway Jazz Band, etc. The students love the shirts and they are an excellent source of revenue.

MINI-UNITS

If a student is going to be able to "Just Say No" it is the belief of the Greenway Middle School staff that the student will need to possess certain technical skills and have a sense of self-worth. Student self-esteem is often lowered or destroyed when certain disruptions enter their lives. The mini-units are taught before school and during lunch periods. Instructors and students are volunteers. The length and number of sessions are dependent upon the topic and needs of the group. Topics of the mini-units vary each year depending on the needs of the students. The following are some of the most frequently requested topics:

1. How to cope when your parents divorce.
2. How to lose weight.
3. How to quit smoking.
4. How to improve your grades.
5. How to make friends.
6. How to improve communications at home.

ACADEMIC PEP FEST

One of the most interesting attention-getting activities we have worked with is, "The Academic Pep Fest." The Friday prior to the start of our State testing program, we schedule a pep test to promote doing your best on the tests. Cheerleaders, pep band, motivational speaking, etc., stress the importance of representing the school in the best possible manner on these tests. I believe it is important to keep an emphasis on the academics and this is one of the more interesting and enjoyable ways to do just that.

STUDY SKILLS

Each student should receive basic instruction in study skills. If success and self-esteem are treated, it is important that students develop those skills that will improve their success in school.

At Greenway Middle School a formal nine-week class in study skills and self-improvement is provided for each student. The following are the areas covered in the Study Skills classes:

1. How to organize a notebook.
2. How to develop an assignment calendar.
3. How to manage time.
4. How to do research.
5. Charting strategies.
6. Questioning strategies.
7. Test-taking strategies.
8. Decision-making strategies.

APPLE PIE DAY

In an effort to increase the students' understanding of the American way of life, once per year a special meal is prepared in the lunchroom. Hot dogs, apple pie and cheese are served; and, all during the day patriotic music is played over the P.A. system.

PEER TUTORS

It is difficult for a student to have high self-esteem if he/she is not successful in the classroom. If self-esteem is high in students who are drug free then it becomes important to help the students become successful academically. One of the programs that is designed to improve students' academic progress is the Peer Tutoring program.

The Peer Tutoring program is under the direct control of the school's counsellors. Peer Tutoring programs are no longer described as a fad in education. Research has shown that students helping students to improve their academic skills works. In fact, not only does the student being tutored improve academically, but the student providing the help improves in academic understanding.

The students who serve as peer tutors are selected by the counselling staff and trained by the counsellors. The tutors must have teacher recommendation and they must be proficient in the subject they tutor. A student needing help can receive up to two hours of help each week. The counsellors check with teachers of the students receiving help to ensure progress is being made.

BIRTHDAY CLUB

An important part of establishing a positive school climate is to create a comfortable working climate for staff. One of the easy ways to get started is a staff birthday club. At Greenway, the principal sends staff members cards on their birthdays with a pencil that has a special message printed on it, and a letter of appreciation for their efforts to improve the school.

PROJECT LEARN

There are studies that show that students who are not successful in school also have a low sense of self-worth. Often students who turn to drugs are students who are not successful in school. Project Learn was developed to deal with non-Special Education students who were two or more years behind in reading or math. Utilizing computer-assisted and small-group instruction, this program has had enormous success in improving student reading levels and math skills.

Students are recommended by classroom teachers due to poor performance. The students' records are reviewed and additional testing is conducted. If a student qualifies and parent permission is received, instruction starts. There is a full-time teacher and three paraprofessionals in the room and the student load never exceeds twenty-three students per period. The Project Learn lab contains sixteen Apple Computers and an extensive reading and math disc library.

VIDEO MESSAGES

At Greenway, we are in the process of producing short video productions about the school. With a highly transient population and 90% of our parents working during the day these videos should help parents learn about the school. In a survey about 47% of our homes had VCR's so the market is large enough to warrant such a production. We plan to check the tapes out to parents so they can learn more about the school. Some of the topics we plan to cover are: discipline, homework, and student activities.

ACADEMIC TEAMS

Several years ago the staff decided to form academic teams to deliver the subjects of history, science, and language arts. The teams were developed to meet a void that had developed in the instructional process. Middle school students, moving from one class to the next, seemed lost and often suffered from lack of identity. Teachers were frustrated by the lack of cooperation and poor communication among the staff.

By dividing students into academic teams and assigning names to those teams much improvement was noted. The students would see the same three teachers of the same subject. There was an immediate improvement in communication, student attitudes, and academic performance. Although not originally developed as a drug prevention tool, the Academic Teams have become the backbone of the self-esteem programs relating to curriculum. When functioning properly the teams are superior to a homeroom or an advisor/advisee program.

STAFF BREAKFAST

Building unity and cooperation among staff is a key to having a school with a positive learning environment. One activity that can help build unity is the staff breakfast. We divide the staff (certified and classified) into four groups. Each group meets and plans a breakfast for the staff. One breakfast is sponsored each quarter and has proven to be excellent in promoting staff spirit.

CAREER DAY

There are frightening statistics about school dropouts and drug use. Students who quit school move quickly from the experimental stage to the abuse stage in the drug use spectrum.

Career Day at Greenway Middle School is actually two days. Both days are coordinated by the school's counselling staff. The first day is traditional in nature; members of the business community visit the school and review their careers with students. The second day is the one that directly becomes involved with the school's prevention effort. On this day successful members of the community come to school to share with students; however, their message is quite different. Each of these business people dropped out of high school and failed in business. They returned to school and earned their high school diploma and went on to be a success. The message is clear—stay in school.

BALLOON AND DONUT DAY

An easy way for the Student Council, or other student groups, to show their appreciation for teachers is the Balloon and Donut Day. One morning per year when the teacher arrives in his/her classroom there is a helium-filled balloon with Super Teacher written on it and a donut in a small bag attached. Telling someone how much you appreciate that person can never be overdone. Balloon and Donut Day is one way to make that statement.

STUDENT MANAGEMENT—ASSERTIVE DISCIPLINE

Assertive Discipline is a competency-based discipline program designed to provide teachers the skills necessary to deal with students in the modern classroom. In Greenway Middle School's Assertive Discipline program we have identified specific competencies a teacher must possess in order to deal effectively with students.

The Assertive Discipline program is schoolwide and every teacher uses the system. This program provides the necessary consistency needed at a school with a high transient rate. In this system the main emphasis is on "catching the students doing good." However, if the student chooses to violate a school rule the system is designed to deal with the student in a fair and consistent manner.

The result of this discipline program is that staff conducts their classes with far fewer discipline problems; and, discipline becomes a businesslike act, not an emotional act on the part of the teacher. Students clearly understand what is expected of them and tend to operate within the system.

BUTTON REWARDS

We purchased a button-making machine and utilizing students, work and a silk screening process, buttons with a variety of school slogans are produced. Students love these buttons and the buttons are also a small source of revenue. The buttons are worn with pride. One idea is to produce a "Top Gun Student" button and allow each teacher to give their top ten students these buttons each quarter.

DISCIPLINE CODE

The Paradise Valley School District places a high priority on providing each student with the opportunity to learn within a safe and stimulating environment. For this reason, the Governor Board accepts the responsibility for identifying those behaviors which, if allowed to exist without restrictions and appropriate disciplinary action, would interfere with the orderly conduct of our public schools. Furthermore, the Governing Board charges are professional staff with the responsibility for enforcing the rules of conduct, establishing consistency in their enforcement, and maintaining an appropriate learning and behavioral environment.

According to Arizona law (ARS 15-341), the Governing Board also has the authority to "discipline students for disorderly conduct on their way to and from school." The Governing Board gives this responsibility to local school administrators.

The above information is the introduction to a comprehensive districtwide discipline code that provides minimums and maximums for each offense. This strict discipline code supports the school administrators in their efforts and provides consistency in enforcement. Also, clear-cut procedures are established for suspensions and expulsions.

TELEPHONE CONFERENCES

Keeping lines of communication open between the school and community is extremely important. One technique that has proven to be successful is to let parents know the principal will be in his/her office the first Tuesday of every month from 7:00-8:30 p.m. to answer telephone calls about school concerns. Five minutes would be the maximum of time per call. This provides an excellent opportunity for parents to ask questions and provide input into the operation of the school.

B.M.C.

There is a need on every campus to deal with students who can't be dealt with through traditional student management procedures. At Greenway the typical reaction was to suspend these students off campus. The School Discipline Committee felt an alternative to off-campus suspensions needed to be developed. There was a belief that suspending students from school generally resulted in little, if any, improvement in student attitudes toward school. Off-campus suspension sometimes contributes to increased family anxieties and hostilities. It seldom involves any effort to help the student understand his/her actions in relation to the infraction.

At Greenway, the Behavior Modification Center (B.M.C.) is a response to the need to help students understand the error of their ways and develop skills to change their negative behaviors. The B.M.C. Coordinator is a full-time professional who has had training in working with problem students. The Behavior Modification Center at Greenway Middle School is a three-track program which is both punitive and corrective: short-term referrals, three to ten-day referrals, and long-term referrals. The B.M.C. has proven to be one of the most successful tools in the school's prevention program.

EXIT CONFERENCES

In an effort to maintain lines of communication with staff, the principal conducts an exit conference with every employee during the Spring. They discuss: how the year went, what the future holds, and what the principal can do to help them reach personal and professional goals. This conference is an ideal time for the principal to get to know his/her employees and try to help them improve their support of the school.

PREVENTION—ALL STAR

ALL STAR is a positive, peer leadership program. It's name is an acronym for Activity Leadership Laboratories—Students Teaming Around Responsibility. ALL STAR joins students, staff, school administrators, and parents in the concept that young people develop standards of behavior which positively affect their environment. At the heart of the ALL STAR program is the proven theory that young people can take responsibility for their own behavior.

Utilizing professional athletes and counsellors the students are put through a series of workshops at weekend retreats. The students work on developing self-control, learning how to make decisions, how to write goals, and how to like themselves. The ALL STAR program is designed to deal with self-defeating behaviors.

After retreats ALL STAR teams are formed. Each team consists of one staff member and ten students. The teams meet a minimum of twice per month. Each student develops a goal to improve his/her academic performance, a goal to improve his/her relationships at home, and a goal to improve the quality of life on campus.

At Greenway there has been a noticeable improvement in student attitudes since the school's involvement with the ALL STAR program. There has been a reduction in vandalism, drug-related problems, and, in fact, there has been a reduction in all areas of negative behavior.

The ALL STAR program has become an important part of Greenway Middle School's prevention program.

PENCIL AWARDS

Two thousand pencils imprinted with various slogans are used mainly for student rewards; they also are nice PR gifts for parents and others who visit the school. Greenway Middle School is Number 1, and Greenway Middle School, the Best in the West, are examples of what is printed on the pencils. The principal keeps a supply of pencils with him as he walks about campus. When he sees students or staff doing something special he gives them a pencil and thanks them.

P.O.P.S.

The goal of the Power of Positive Students program is to assist every individual within the school to learn to believe in themselves, to acquire self-confidence, to have high expectations, to set and attain goals, and to acquire the feeling of positive self-worth. Also, part of the goal is to assist each individual to acquire specific skills of communication and human relations so that each person can acquire competencies that will lead to self-worth and pride.

At Greenway, the P.O.P.S. program is used to project a theme of "people feeling good about themselves." Programs are conducted, articles written, and activities scheduled to build upon the self-esteem concept. It is belief of the Greenway Middle School staff that students who feel good about themselves and are in control of their lives won't need to use drugs or consume alcohol.

WRITING CONTEST

During American Education Week we sponsor a student-writing contest. Students must write in fifty words or less, "Why I like Greenway Middle School." Every day a winner is selected; the student receives a soft drink and reads his/her theme over the P.A. system, thus combining an academic process with a school spirit activity and reward system.

PREVENTION FAIR

The Prevention Fair is an activity modeled after the traditional Career Day concept. Rather than have people from various areas of employment we have people from the community who work with prevention programs. We have people from the Police Department Alcoholics Anonymous. Ala Teen, Juvenile Detention Center, half-way homes, child abuse clinics, suicide prevention experts, runaway centers, etc. who make small group presentations during the day. There is also a luncheon where staff can meet with the presenters. A festive atmosphere is created with posters, signs, poems, etc. relating to prevention. A Prevention Fair can prove to be an excellent starting or concluding activity to your prevention efforts.

RECOGNITION FLAG

At Greenway, we have made a flag which is flown above the school on special occasions. When a team wins a conference title; when a student wins recognition in a district or state writing contest; if a teacher receives special recognition, etc., the flag is raised and an announcement is made over the P.A. system as to why.

"JUST SAY NO"

This is one of the many "canned" programs that is used at Greenway Middle School. The prepackaged programs alone can't create a drug-free school, but used as parts of a comprehensive prevention program they can be very effective.

The "Just Say No" clubs are groups of children, 7-14, years of age, united in their commitment not to drink or use drugs. Through a variety of educational, recreational, and service activities and with adult guidance, the club seek to strengthen the non-use norm that exists among young children.

For information on "Just Say No" clubs or "The Just Say No Foundation", write or phone the Foundation at 1777 North California Blvd, Suite 200, Walnut Creek, California 94596.

STUDENT REWARDS

It is important for students who follow the rules to know they are appreciated. A special activity is scheduled at the end of each nine-week period for those students who have not been sent to the office or had more than one lunch detention. Some of the activities are: ice cream parties, roller skating, and special assemblies.

RED RIBBON DAY

This is a tradition that started two years ago and is a good example of an awareness program. On the first Monday of each month a small red ribbon about the size of a quarter is distributed to each student and staff member. The ribbon is worn that day as a symbol of our concern for every student in the United States who is being held captive by drug or alcohol addiction. We have pledged to wear these ribbons until every student is free from addictive drug and alcohol use.

PREP PERIOD IN-SERVICE

The Prep Period In-service has proven to be a successful tool and communication device. It's a welcome change of pace from the traditional staff meeting or in-service. Teachers are asked to report to the principal's office during their prep period at which time in-depth discussion of an issue can take place. At Greenway this is done two times a year and the topics are carefully selected. The drawback in making the same presentation seven times a day is outweighed by the degree of interaction due to the small numbers involved each period.

PEER COUNSELING

The school counselors carefully select and train peer counselors. The selected students receive six weeks of training and once they begin working with other students they are closely supervised. There are three specific goals for the Greenway Middle School Peer Counseling Program:

1. To facilitate personal growth within the peer counselor—Through extensive training and actual experience, the peer counselors will learn how to deal more effectively with their peers and they will learn how to strengthen themselves in the areas of leadership and responsibility.

2. To increase guidance effectiveness on campus—Peer counselors can handle much of the routine work such as answering countless questions about school, class schedules, etc. The peer counselors can assist at student-parent functions such as Orientation and Open House. By screening student problems, they can help ensure that those students who really need to see the school counselors do so.

3. To increase the amount of guidance service done on the Greenway campus—By increasing the number of people actively involved through the use of trained peer counselors a large increase in students receiving guidance services is made possible.

STAFF MEETING AWARDS

Principals need to model and stress the importance of being on time to meetings. In an effort to encourage staff members to be on time, the principal presents a small gift to a staff member who is on time to a staff meeting. When staff members arrive on time to a meeting, their names are placed in a hat and at the end of the meeting a name or two is drawn. Some of the awards are: lunch with the principal, principal covers a class period, six pack of pop, etc.

"YOU MISS SCHOOL—YOU MISS OUT"

Research tells us that students who are out of school and not under direct supervision of an adult have a greater chance to get involved with drugs or alcohol. Also, students who are not in school won't benefit from the formal instructional process. Efforts in this area have provided dramatic results in the school's attendance program. At Greenway Middle School the "You Miss School—You Miss Out" is an attendance program designed to reduce absenteeism and truancy. The following are the key points in this attendance program:

1. Community businesses are asked to contribute prizes and money to reward students who demonstrate positive attendance patterns.

2. A strict written attendance policy that deals severely with truants.

3. A comprehensive counseling program to work with students who have erratic attendance patterns.

4. Daily communications with parents of students absent from school.

TRASH BUSTERS

As part of our ALL STAR program, one team formed a Trash Busters' Unit. Twelve boys formed a team and committed their entire efforts to help keep the campus clean. We had Trash Buster T-shirts made and the students took their task most seriously. In addition to picking up trash they conducted a "clean campus poster contest" and rewarded students they saw who helped keep the campus clean.

GAAD (GREENWAY ATHLETES AGAINST DRUGS)

Realizing the use of drugs and alcohol by students is a serious problem, the staff and parents of Greenway Middle School have developed a comprehensive substance abuse program. On any secondary campus student athletes have great potential for good; and, by serving as positive role models they can have a major impact on the campus. In an effort to develop the potentiality of the school's athletes the Greenway Athletes Against Drugs (GAAD) has come about. This program involves coaches and athletes working together to reduce student self-defeating behaviors.

The coach is a teacher; and, the coach's Number One concern is the welfare of the students on the team. Therefore, each coach should be concerned about the seriousness of drug use among young people. A coach need not be an expert in treating drug problems; however, each coach should be able to recognize the signs of alcohol or drug use. If a coach identifies an athlete with a substance abuse problem there is a responsibility to report the student so that help can be given. There are things a coach can do to help the total prevention effort on campus. They are as follows:

1. Call a meeting of team members and talk about the problems of drug and alcohol use.

A. Ask athletes to make a commitment to keep training rules during the season.

B. Review the consequences that students face if they violate training rules.

2. The coach should set a good example for the athletes.

3. Conduct a ninety-minute goal-setting and decision-making practice for team members. This session will help the team members define their goals and plan for the season.

SPIRIT DOOR CONTEST

Each year we have a "Spirit Door" contest. The fifth-period classes are challenged to decorate their room doors around a theme of school spirit of pride. The doors are judged by the office staff and prizes awarded for the best entry.

PROJECT MOVING UP

The staff at Greenway Middle School places a great deal of importance on grade-to-grade articulation. There are five elementary schools in Northeast Phoenix that send all or part of their sixth grade graduates to Greenway. It is difficult to establish a feeling of school pride and a sense of school spirit in a two-year school—we start in the sixth grade by going into the elementary feeder schools and working with the students.

During the first half of the school year we schedule our Drama Department, school

band and choirs into the elementary schools so that they will begin to see and hear about life on the Greenway campus. During the second half of the school year we take a three-track approach to articulation. First, we bring the parents and students to the school so that they can see firsthand how a middle school operates. Second, we send teachers, counsellors, and administrators to the elementary schools to talk with students about registration and how to best make the transition to middle school. Third, we take the sixth-grade student on a mini-retreat. While there the students learn decision making, goal setting, and middle school expectations.

PLEDGE BOARD

One way to encourage teachers to call students' parents about positive things the students are doing is to develop a pledge board. At a staff meeting distribute pledge cards and ask teachers to pledge the amount of positive telephone calls they will make during the first semester. Have a goal—as your teachers turn in their call log books the staff will be able to see how successful the results are. This has proven to be an excellent way to call attention to the importance of teachers establishing positive communications with parents.

STUDENT REWARDS

Success is one of the most important factors in improving students' self-esteem. At Greenway, an extensive and comprehensive system of rewarding students who make an effort to be all they can be is utilized. The following are some of the reward systems that are in place:

1. Classroom teachers use verbal praise, notes to students, telephone calls to parents, and classwide rewards.

2. Academic student-of-the-month, most improved student-of-the-month, and quarterly outstanding student awards are some of the schoolwide rewards for academics and effort.

3. At the end of each quarter students who have not caused any discipline problems on campus are rewarded. The following are some of the activities used over the years: movie, special assembly, roller skating party, ice cream party, and swimming parties.

4. Special assemblies are held to recognize those students who earned honor role status or played on the school's athletic teams.

PRINCIPAL'S BULLETIN

One of the common communication tools used by a principal with his/her staff is the weekly bulletin. As this is a valuable means of communication, it is important that it does not become a "gripe sheet." Start with a thanks for a job well done on the part of a staff member. Always be specific as to what the staff member accomplished. There also is value in including a short in-service item about student management or instruction.

SUMMARY

After seven years of prevention efforts there are certain conclusions that can be drawn. These are truisms that have surfaced and are supported by the data, and from hundreds of discussions and conversations with students. They are as follows:

1. The school staff and administration must hold high expectations for students in the area of self-defeating behaviors. There needs to be a system of strict rules; and, the rules need to be enforced.

2. The school staff has the responsibility of developing a positive peer influence on campus. Peers modeling positive behavior have enormous potential for influencing the behavior of other students on campus.

3. All school activities must be supervised by responsible adults.

4. The school has the responsibility of providing the students with social skills, such as decision-making, goal-setting, problem-solving, and communication.

5. School must help students understand the importance of education, develop a faith in the future, and develop the strength to resist immediate gratification from self-destructive behaviors. The value of taking control of one's own life must be at the center of all prevention efforts.

CLEAN LUNCHROOM

One good way to involve the students in keeping the lunchroom clean is to have a large score board or card made on which you record each day the lunchroom is kept clean. The custodians should judge the condition of the lunchroom. The school year might be started by informing students that they can schedule their first dance as soon as 15 clean lunchroom days have been earned. There are a variety of incentives that are age-appropriate for all age levels.

CONCLUSION

If drug-free schools are ever to become a reality, school staffs and communities will need to work together to establish positive school climates. Each school will need effective leadership, a hardworking staff, realistic and defined goals, a comprehensive plan of action, and cooperation among students, staff and parents.

The climate of a drug-free school is one that has activities, practices, and policies that improve the feeling of self-worth among the students and staff. Working to attain a positive climate and a drug-free school is a continuing process requiring a concerted effort by the school staff, parents, and students.

As Principal of Greenway Middle School, I know that the entire gamut of negative behaviors, including the use of drugs and alcohol by our teenagers can be brought under control. With hard work and faith in our young people, we can once and for all eliminate drugs and alcohol from our nation's schools.●

SUPERCONDUCTING SUPER COLLIDER

● Mr. WILSON. Mr. President, today I rise in support of locating the proposed superconducting super collider [SSC] in California. There has been much discussion on what this super collider would represent to respective States. Unfortunately, because of widespread unfamiliarity regarding what will be the world's largest scientific instrument, there are also widespread misperceptions concerning the super collider. I would like to clarify what the super collider is and is not.

The super collider is a Federal project to build the world's largest particle accelerator to increase our understanding of the fundamental particles and forces of nature. The device would be oval-shaped and consist of 10,000 super magnets 53 miles in circumference. This project is considered one of world's most historic and potentially the most valuable scientific projects.

Of course, a project of this magnitude means jobs and dollars to the State in which the project is sited. The people of the State of California believe that the same features that make the Golden State a great place to live—climate, environment, educational facilities—also make the California proposal for the SSC more compelling. The seriousness of California in acquiring the SSC project is underscored by the $1.2 billion in State costs which it is willing to incur.

The State of California has submitted two proposals to the Department of Energy for siting the superconducting super collider. These sites were selected carefully by a team of scientists familiar with the requirements of this machine which will be the largest particle accelerator ever built.

Two sites in my State have been identified which would be perfectly suited geologically for this project. The sites are relatively flat, allow for tunneling within 50 feet of the surface, and are not crossed by active earthquake faults.

Let me now depart from a discussion of the merits of the super collider and briefly mention two points concerning what the super collider is not.

First, as I mentioned, the super collider is not a device which will be threatened by earthquakes. The publication of the U.S. Geological Service has confirmed information presented in California's proposal for the SSC. The findings of an early draft of the USGS report and information from the USGS report author, Jerry Eaton, were available and used as California prepared its proposal. The SSC's proposed alignment in Davis does not cross any known fault lines so the potential for surface rupture or any shearing of the SSC tunnel is essentially nonexistant. Also, the ability of the SSC's magnet system to withstand earthquakes was studied. The group conducting the study recommended an easy redesign of magnet supports that would increase the durability of 0.64 g. At present, the design of the SSC allows for ground acceleration of 0.37 g.

We are all familiar with the surface damage which can be caused by a large quake, having seen newsreels and reports from around the world of the death and destruction which can result when nature sees fit to shift around a bit. In California, a recent quake in Los Angeles, measuring 6.5 on the Richter scale, caused some damage, but nowhere near as much damage occurred as one might have anticipated from a quake of that magnitude. The reason is superior earthquake engineering techniques, pioneered in California, which withstand the structural stress caused by ground motion. The Jet Propulsion Laboratory of NASA, located at Cal Tech, was

not far from the epicenter, but suffered only books off their shelves and little else. Their research continued. The techniques applicable for sound stress engineering, by the way, are also applicable to areas prone to tornadoes and hurricanes.

Second, the super collider is not opposed by Californians—quite the contrary. Farmers have become vocal and ardent supporters of the project even though they would stand to lose some land. In the words of Malcolm Leizer, representing farmers for the collider at the Yolo and Solano site, "The agriculture community overwhelmingly supports the project." Farmers have been joined by government entities, educators, scientists, politicians, realtors, and other citizens by a group called Californians for the Collider. I support the efforts of this group and am personally committed to doing my utmost to ensure that the super collider is given the best location in the State of California.

Mr. President, I appreciate this opportunity to bring these thoughts to my colleagues' attention, and I look forward to continuing our discussion on this vitally important project in the New Year.●

THE RETAIL COMPETITION ENFORCEMENT ACT OF 1987

● Mr. METZENBAUM. Mr. President, on Wednesday, December 16, the Wall Street Journal published an editorial opposing an antitrust bill introduced by me and cosponsored by Senators DECONCINI, GRASSLEY, and 21 other Senators from both sides of the aisle. A bipartisan Judiciary Committee approved the bill this summer by voice vote after lengthy discussions with and endorsements from members of the business community. A companion measure recently passed the House of Representatives on the Suspension Calendar—with no dissenting views to the committee report or opposition to passage on the House floor.

I will defend to the end the Journal's right to state its opinion on any piece of legislation—including its right to oppose any bill I am sponsoring. I am also realistic enough, and have been around too long, to expect the Journal to support strengthening the antitrust laws. As a matter of fact, I don't remember the last time the Journal supported a proconsumer antitrust measure in Congress.

The Journal's right to express its view, it seems to me, does not excuse it from stating the facts correctly when doing so. The Journal's recent editorial concerning S. 430 was filled with so many inaccuracies that I barely recognized the bill it was describing. If everything the Journal said about the bill were correct, I might not even support it.

For example, the Journal states:

> Under the bill, the fact that a manufacturer cut off shipments to a discounter would be sufficient evidence to warrant a jury trial on charges that antitrust laws against price fixing have been violated.

This isn't even close.

The bill states, in brief, that if a plaintiff presents sufficient evidence of a discounter being eliminated from selling a product because of a competitor's desire to curtail price competition, then the court shall permit the jury to consider whether the law against price fixing was violated.

It's one thing for the Journal to believe that a jury should not be able to view evidence of a conspiracy to put a discounter out of business and restrict price competition in a case claiming illegal price fixing. If that is the paper's position, so be it. I disagree. So does the Senate Judiciary Committee and the House of Representatives. I would also venture to guess that parents looking for toys, clothes, and gifts for their children this holiday season would also disagree.

But it's quite another thing for the Journal to mislead its readers about the substance of such an important piece of legislation. There is absolutely no excuse for such sloppiness.

The Journal didn't even get a basic legal definition right. It defines "resale price maintenance" as occurring when a "manufacturer sets a minimum retail price below which its products should not be sold." Such a definition would earn an "F" in any basic antitrust course: It fails to point out that only collusive, or conspiratorial, behavior is condemned by the antitrust laws—and by the compromise bill. By misstating even such a basic fact, the editorial allows its readers to jump to an incorrect conclusion: That the bill restricts a company's freedom to deal with whomever it chooses, and that manufacturers' suggested retail prices are prohibited by the legislation. It would be no wonder if a reader of the editorial were to conclude that the bill would change the whole course of supplier-distributor relationships. Such a conclusion, however, would be flat wrong.

I will not continue to point out the serious factual flaws in this piece—either of the ones I have already mentioned is inexcusable for any respectable newspaper.

What I suggest the Journal do now is get the facts straight, set them out clearly, and then let its readers decide whether this bipartisan measure will benefit consumers or not. In 1983, a Harris poll asked some 600 officials of the major companies that make up Business Week's corporate scoreboard their view of the following statement: Competition on advertised products in a free market should allow retailers to sell at whatever price they choose above the wholesale price; 88 percent of those polled agreed, only 7 percent disagreed. I am not surprised—after all, this statement describes our free market and the American dream.

It's time for the self-proclaimed "daily diary of the American dream" to get in tune with the American dream of free and open competition.

The editorial follows:

[From the Wall Street Journal, Dec. 16, 1987]

DISCOUNTING THE MARKET

Say you want to buy a sophisticated stereo system for Christmas. You have a choice. You can go to a full-stereo store, where a "sound technician" will answer all your questions, arrange for free delivery and provide full service on repairs. Or you can visit "Discount City," where there are harried salespeople and minimal servicing, but prices are one-third less. Where you shop depends on what you value more—service or price. A bill introduced by Senator Howard Metzenbaum would narrow a consumer's opportunity to make such choices. It would penalize the store providing the expensive services by making a manufacturer who tries to pull his products out of Discount City liable to a treble-damages antitrust suit.

The legislation is designed to curb a practice called resale-price maintenance, in which a manufacturer sets a minimum retail price below which its products should not be sold. A typical dispute involves two retailers that carry a manufacturer's product. One begins to sell at a deep discount. The non-discounter suffers a drop in sales and asks the manufacturer to stop supplies to the discounter. Under the bill, the fact that a manufacturer cut off shipments to a discounter would be sufficient evidence to warrant a jury trial on charges that antitrust laws against price fixing have been violated. A Senate floor vote on the Metzenbaum bill is expected soon; similar legislation already has passed the House.

Under current case law, manufacturers have been able to withdraw products from discounters, the purpose of which usually is to encourage dealer services and a more sophisticated sales effort. In effect, the Metzenbaum legislation would overturn a 1984 Supreme Court decision, *Monsanto Co.* v. *Spray-Rite Service Corp.*, which ruled that an antitrust plaintiff must produce evidence that there was a price-fixing agreement between the manufacturer and one or more dealers. Senator Metzenbaum believes that any practice that limits discounting should be illegal and that his bill will force lower prices.

Discounters usually lose their contracts because consumers have complained to manufacturers of shoddy service and hostile return policies or because other stores complain that the discounter is "free-riding" on their service (typically, the consumer elicits lengthy product information from a store that provides it, then leaves to buy the product at the no-frills discounter).

While some consumers might instinctively support Mr. Metzenbaum's effort, it's unlikely that reality would match the theory. Some manufacturers, for instance, would avoid dealing at all with discounters, rather than risk a treble-damages antitrust lawsuit. In any event, no such law exists now, and the consumer market is flush with both kinds of retailers and a large universe of manufacturers designing products for all tastes. Bear in mind also that the Metzenbaum bill comes from one of Congress'

leading protectionists; the anti-import trade bill is the one thing that could hurt the people the senator is trying to protect.

A mini-revolution has taken place in the past decade as the Supreme Court has recognized that many anti-trust laws harm rather than help consumers. By removing the important distinction made in the Monsanto case between price fixing and legitimate price setting, the Metzenbaum bill ultimately would deliver consumers less choice than they have now.●

TRADE DEFICIT

● Mr. METZENBAUM. Mr. President, when Prime Minister Takeshita of Japan visits the United States next month I hope he comes ready to announce actions to relieve the unacceptable trade imbalance between our two countries. He could start by addressing the automotive imbalance. Japanese automotive exports account for more than 50 percent of our trade deficit with Japan.

The simple truth is that Japanese auto manufacturers have not adhered to the terms set forth in Japan's voluntary restraint agreement limiting automotive exports to the United States. Japanese manufacturers continue to import multipurpose vehicles—jeep-like cars—in numbers much greater than those levels established in this agreement. Japanese manufacturers are exporting multipurpose vehicles without rear seats, classifying them as trucks which are not subject to restraint agreement limits, and installing rear seats in the United States once the vehicles clear customs.

As a result of this unfair scheme, more than twice as many Japanese multipurpose vehicles will be sold in the United States than are allowed for in the restraint agreement. Such continued circumvention will result in the loss of more U.S. auto jobs. Workers in my State of Ohio, where Chrysler Jeep is located, could be especially hard-hit.

The Japanese Ministry for International Trade and Industry will very shortly reevaluate the voluntary restraint agreement for 1988. I have written to Minister Tamura to urge that Japan commit to a restraint agreement in 1988 which eliminates the circumvention of United States customs while providing Japanese manufacturers a reasonable share of the market on multipurpose vehicles. I hope that when Prime Minister Takeshita visits the United States that he will be able to bring us good news.

I ask that my letter to the Honorable Hajime Tamura, Minister for International Trade and Industry in Japan, be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, December 18, 1987.

Hon. HAJIME TAMURA,
Ministry for International Trade and Industry, 1-3-1, Kasumigaseki, Chiyoda-ku, Tokyo 100, Japan.

DEAR MINISTER TAMURA: There is a great deal of concern in Congress about the current overall U.S. trade deficit and, in particular, dismay over our nation's continued trade imbalance with Japan. As you well know, a disproportionate share of this imbalance involves the automotive sector. The 80 percent strengthening of the yen versus the dollar over the past two years has not brought this trade equation into balance. Pressures on the U.S. auto market continue to grow.

Your government responded to the automotive imbalance between our two nations by agreeing to limit car exports to the U.S. Unfortunately, Japan has not adhered to the voluntary restraint agreement as originally set forth. Japanese multi-purpose vehicles have entered the U.S. in numbers much greater than those established by the secondary "van" quota in the agreement. In order to avoid the 1987 quota of 112,000 on such vehicles, Japanese manufacturers are shipping jeep-like cars without rear seats and installing the seats once the vehicles arrives in the U.S. At the present rate of import, approximately 200,000 such units will enter the U.S. as trucks in 1987 and avoid the Japanese quota. This will result in 2.6 times as many multi-purpose vehicles being exported than are allowed for in the agreement.

While these "trucks" are subject to a higher U.S. import tariff, Japanese manufacturers are recovering that cost in their pricing and capturing a larger share of the multi-purpose vehicle market in the U.S. The total U.S. car market for 1988 is being projected by some to be as low as 9 million units as compared to a 1987 volume in excess of 10 million units. Continued circumvention of the voluntary restraints on multi-purpose vehicles will result in the loss of more U.S. auto jobs and will be particularly damaging to workers in my state of Ohio.

The Ministry of International Trade and Industry will soon reevaluate the automotive restraint agreement for 1988. A firm commitment to the agreement must be established in 1988 which preserves U.S. auto employment and provides Japanese manufacturers a reasonable share of the future U.S. multi-purpose vehicle market.

I look forward to hearing from you shortly about this important matter.

Very sincerely yours,

HOWARD M. METZENBAUM,
U.S. Senator.●

CHARTER OF U.S. VESSELS TO KUWAIT

● Mr. MURKOWSKI. Mr. President, this week I received disappointing news from the Maritime Administration that the contract for the lease of the *Maryland* to the Kuwait Oil Tanker Co. has fallen through.

It appears that in soliciting bids for charter of the vessel, MarAd underestimated the cost of repairs necessary to make the vessels seaworthy by approximately $1.5 million.

After extensive negotiations with MarAd, Kuwait indicated that it was unwilling to pay the additional repair costs or to extend the terms of contract to amortize added repair costs.

MarAD is now faced with the decision whether or not to absorb the additional $3.5 million of the repair costs in order to to put the vessel up for bid again.

This news is disappointing because it represents a lost opportunity for the U.S. maritime industry to benefit from our willingness to protect the oil trade of Kuwait.

MarAd has done a commendable job in seeking to lease the *Maryland* and recoup losses incurred when the vessel's original owners defaulted on their CDS loans.

It is possible that Kuwait may rebid on the *Maryland* when it is put up again, but I am disappointed at their initial response to absorbing additional repair costs in light of tremendous economic benefits they receive from our decision to reflag 11 of their vessels.

Mr. President, on July 21, we passed an amendment to the trade bill calling on the President to pursue alternatives to reflagging of Kuwait vessels, including the leasing or chartering to Kuwait of vessels of the U.S. domestic tanker fleet.

I feel that elements of administration responsible for the implementation of our policy in the gulf have been less than diligent in persuading the Kuwaitis on this issue despite the clear support of Congress. Absent this type of pressure, it is clear Kuwait is not willing to charter U.S. vessels, and why should they? They are now reaping the double benefits of utilizing their vessels and receiving the protection of the U.S. Navy.

I remain opposed to our current reflagging policy. I believe it is not a well developed policy. I have noted with some concern recent pressure from the Soviets calling on the U.S. and our Western allies to support the concept of a U.N. naval force in the gulf.

I am not confident that this is a good precedent, and believe that such action would require serious study.

However, it is not too late for the administration to encourage the Kuwaitis: the *Maryland* will be rebid, there are also private owned vessels such as the *Williamsburg* whose owners have expressed strong interest in chartering their vessels to Kuwait.

Mr. President, charity begins at home, this month's trade figures reached a record high of $17.6 million. Part of our trade problem can be attributed to our unwillingness to use leverage in seeking opportunities for trade of our goods and services. I strongly encourage the administration to pursue with the Government of Kuwait charter of these vessels; insuring some of the direct benefits of car-

rying out policy in gulf accrue to the U.S. economy.●

THE PHILIPPINES

● Mr. MURKOWSKI. Mr. President, the Reagan administration and the Congress have strongly supported the strengthening of constitutional democracy in the Philippines. As chairman of the East Asian and Pacific Affairs Subcommittee of the Foreign Relations Committee, I visited the Philippines to observe the last presidential elections. There is no doubt that a majority of the Philippine electorate supported the Aquino-Laurel ticket. Since then the Congress and the administration have applauded the steps President Aquino has taken to put in place a new democratic constitution and to elect a new legislature. The cornerstones of Philippines democracy are in place.

Nevertheless, these are difficult times in the Philippines. The Communist insurgency continues unabated, the economy is staggering under a huge burden of external debt, corruption remains a serious concern, and there is ample evidence of unrest in the Armed Forces. For the first time, Communist NPA assassination teams have announced they will target Americans in the Philippines. Already, three American servicemen have died. Most recently, Jimmy Ongpin, the widely respected former Finance Minister, died tragically of an apparent suicide.

We are all aware of the chorus of news reports predicting a short life for the Aquino government. If we are not careful, there is a real danger that these prophecies will become self-fulfilling, leaving the Philippines with an impossible choice between Communist rule, a military dictatorship, or chaos.

There is no reason to believe a military regime will be effective or stable. It will alienate large numbers of formerly disaffected Filipinos who have rallied to Mrs. Aquino's support. It will send a tragic signal that the Philippines is apparently incapable of democracy. The recent capture of Colonel Honason, the leader of the last coup attempt, is a helpful development.

Now is the time for those who wish the Philippines well to reaffirm their support for the Aquino government and the elected legislature. The United States must make it clear that it will not be intimidated by NPA threats. It is time for the Reagan administration, the Congress, and the Philippines Government to sit down and think creatively about how we can work together to solve the most serious problems facing the Philippines, including the economy and the insurgency. Discussions should include economic and military assistance, debt issues, and the bases. Many of the challenges facing the Philippines can be met only by Filipinos. But the United States can help—as it has in the past.

This is not the time for handwringing, panic, or opportunistic bids for power. It is a time for patience, steady nerves, and hard work.●

CLEAN AIR ACT AMENDMENTS

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. GORE. Mr. President, 1 month ago I joined Senator MITCHELL and 20 of our colleagues in introducing the Clean Air Standards Attainment Act of 1987, amendments to the Clean Air Act.

The legislation addresses a variety of critical air pollution issues that I believe we must address. My support for the bill represents my desire to see these issues debated, to be a part of those deliberations, and to see a conclusion reached. My support does not mean I endorse everything the bill tries to do. I don't. But frankly it is time for all the interested parties to sit down at the table and work this out.

I care deeply about the environment and the public health. I currently serve as Senate chairman of the Environmental and Energy Study Conference, the largest environmental protection group in the Congress. But I also care deeply about economic conditions in the South and Midwest. And there lies the heart of the debate, balancing protecting the public health and environment versus the dollar cost of achieving any one part of that goal. How much should America spend to clean up the air, when there are so many other priorities that demand our resources as well?

I don't dispute the South's substantial contribution to the overall burden of acid rain, or that we have a responsibility to play a major role in the solution. But more Southern dollars spent cleaning up sulfur dioxide and NO_x emissions means less will be available for problems such as infant mortality and improving the overall economic status of the region. Yet the five States with the highest infant mortality rates in the Nation are Southern States. In fact the 14 Southern States can all be found among the bottom 24 States in this category. It is not a coincidence that these same 14 States also rank among the bottom in AFDC payment levels, Medicaid coverage, and only one, Virginia, has a per capita income above the national average.

Clearly these economic problems must not be ignored or worsened as a result of well meaning but heavy handed legislation. These tradeoffs are realities we must face.

We must also not forget that a great deal of progress has already been made. We have been fighting against air pollution for two decades. America will spend $30 billion this year complying with existing regulations. And we have made substantial progress, for example by reducing the threat to human health.

Still the remaining costs of acid rain, not only in the Northeast but in the South as well, are so high that they should not be set aside or ignored.

The bill we have introduced provides many good starting points for solving these problems. I am not satisifed that we have found the best solutions. I remain vitally interested in how we will affect the coal industry, which is so important to the South, and concerned about what will happen to utility rates. But I am convinced this bill is the correct vehicle for raising the issue and for finding the appropriate middle ground.

I want to commend the members of the Environment and Public Works Committee for their tenacity in bringing this issue before the entire Senate. I urge my colleagues with remaining concerns about this bill to come forward and join the debate. The issues are too important to delay any longer.●

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, the majority leader is not in a position at this time to set the time for convening the Senate tomorrow. This will depend upon meetings that are going forward this afternoon and will depend upon the time of convening of the other body tomorrow to act, hopefully, on the conference reports, which, hopefully, will be ready for action by the House. It is not my intention to bring the Senate in prior to the time that the House convenes. As a matter of fact, I should think that the Senate should come in later than the hour at which the House convenes on tomorrow because the House has to act first on the conference reports.

Mr. President, I therefore ask unanimous consent that the Senate stand in recess subject to the call of the Chair. Later today I will be in a position to recess over until tomorrow at a given hour.

There being no objection, the Senate, at 3:11 p.m. recessed subject to the call of the Chair.

Whereupon, at 11:22 p.m. the Senate reassembled when called to order by the Presiding Officer [Mr. GLENN].

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, there have been various conferences that have been meeting all through the

later afternoon and into the late evening. Considerable progress has been made in many areas with respect to reconciliation and the continuing resolution. But the work is not done.

The conferences will continue on tomorrow at 11 o'clock and there will be rooms made available by the majority and minority leaders for those conferences to go forward. There will be no rollcall votes in the Senate tomorrow.

The Senate will come in at 6 o'clock and will pass the short-term CR by voice vote hopefully and then go over until Monday.

In the meantime, the House will have passed the short-term CR and hopefully will have passed a long-term CR. But the Senate has to operate so far behind the House since both the reconciliation and CR will have to pass the House before the House sends either of those packages over to the Senate, as I understand their plans, so there will be no need for the Senate to expect to do any rollcall votes tomorrow.

Rollcall votes then would occur on Monday as we take up the reconciliation and the long-term CR.

Mr. President, I apologize to all of the officers of the Senate and Senators and employees for keeping them in so late, but it was felt that we had no alternative. We did not know what time to put the Senate over to tomorrow until we had a better understanding as to what the overall situation would be and what the House plans would be in light of the progress that had been made.

ORDERS FOR SUNDAY, DECEMBER 20, 1987

RECESS UNTIL 6 P.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 6 p.m. tomorrow.

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

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I am authorized by the distinguished Republican leader to proceed with the following items which have been cleared for action by unanimous consent.

TECHNICAL CORRECTIONS RELATING TO THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM

Mr. BYRD. Mr. President, I ask unanimous consent to proceed to the consideration of Calendar Order No. 390.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3395) making technical corrections relating to the Federal Employees' Retirement System, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 1372

(Purpose: To amend chapters 83 and 84 of title 5, United States Code, to provide for the participation of certain employees under the Federal Employees' Retirement System to provide for a refund of certain excess deductions, to amend provisions relating to retirement credit for employees, government contributions to Thrift Savings Plans, adjustments in methods of annuity payments, and for other purposes)

Mr. BYRD. Mr. President, on behalf of Senators PRYOR and STEVENS I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD), for Mr. PRYOR (for himself and Mr. STEVENS), proposes an amendment numbered 1372.

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 4, line 7, insert "for at least 3 years" after "(B)".

On page 4, line 9, insert before the period "and insert in lieu thereof 'for at least 3 years' ".

On page 16, line 2, strike out "or".

On page 16, line 4, strike out the period and insert in lieu thereof a semicolon.

On page 16, insert between lines 4 and 5 the following:

(C) a contract under which the services of an individual may be terminated by a person other than the individual or the Government; or

(D) a contract for a single transaction or a contract under which services are paid for in a single payment.

On page 29, beginning with line 12, strike out all through line 18.

On page 35, strike line 18 and all that follows through page 36, line 10, and insert in lieu thereof the following:

(c) APPLICABILITY.—This section applies with respect to—

(1) any individual participating in the Civil Service Retirement System or the Federal Employees' Retirement System as—

(A) an individual who has entered on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees (as defined by section 8331(1) or 8401(11) of title 5, United States Code);

(B) an individual assigned from a Federal agency to a State or local government under subchapter VI of chapter 33 of title 5, United States Code; or

(C) an individual appointed or otherwise assigned to one of the cooperative extension services, as defined by section 1404(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3105(5)); and

(2) any individual who is participating in the Civil Service Retirement System as a result of a provision of law described in section 8347(o).

On page 36, line 18, strike "subsection (c)(3)," and insert "subsection (c)(1)(C),".

On page 38, line 4, strike out the period and insert in lieu thereof a semicolon and "and".

On page 38, insert between lines 4 and 5 the following:

(3) by amending clause (v) by striking out "at the time of filing such application" and inserting in lieu thereof "on May 7, 1987".

SEC. 128. REFUNDS OF CERTAIN EXCESS DEDUCTIONS TAKEN AFTER 1983 TO OFFSET EMPLOYEES UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) REFUND ELIGIBILITY.—An individual shall upon written application to the Office of Personnel Management, receive a refund under subsection (b), if such individual—

(1) was subject to section 8334(a)(1) of title 5, United States Code, for any period of service after December 31, 1983, because of an election under section 208(a)(1)(B) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1107; 5 U.S.C. 8331 note);

(2) is not eligible to make an election under section 301(b) of the Federal Employees' Retirement System Act of 1986 (Pub. Law 99-335; 100 Stat. 599); and

(3) becomes subject to section 8334(k) of title 5, United States Code.

(b) REFUND COMPUTATION.—An individual eligible for a refund under subsection (a) shall receive a refund—

(1) for the period beginning on January 1, 1984, and ending on December 31, 1986, for the amount by which—

(A) the total amount deducted from such individual's basic pay under section 8334(a)(1) of title 5, United States Code, for service described in subsection (a)(1) of this section, exceeds

(B) 1.3 percent of such individual's total basic pay for such period; and

(2) for the period beginning on January 1, 1987, and ending on the day before such individual becomes subject to section 8334(k) of title 5, United States Code, for the amount by which—

(A) the total amount deducted from such individual's basic pay under section 8334(a)(1) of title 5, United States Code, for service described in subsection (a)(1) of this section, exceeds

(B) the total amount which would have been deducted if such individual's basic pay had instead been subject to section 8334(k) of title 5, United States Code, during such period.

(c) INTEREST COMPUTATION.—A refund under this section shall be computed with interest in accordance with section 8334(e) of title 5, United States Code, and regulations prescribed by the Office of Personnel Management.

SEC. 129. ADJUSTMENTS IN METHODS OF ANNUITY PAYMENTS FOR YEARS WITH ZERO OR NEGATIVE INFLATION.

Section 8434(a)(2)(C) and (D) of title 5, United States Code, is amended to read as follows:

"(C) a method described in subparagraph (A) which provides for automatic adjustments in the amount of the annuity payable so long as the amount of the annuity payable in any one year shall not be less than the amount payable in the previous year;

"(D) a method described in subparagraph (B) which provides for automatic adjustments in the amount of the annuity payable so long as the amount of the annuity payable in any one year shall not be less than the amount payable in the previous year; and".

SEC. 130. COVERAGE UNDER THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM FOR INDIVIDUALS SUBJECT TO THE FOREIGN SERVICE PENSION SYSTEM WHO ENTER FEDERAL EMPLOYMENT OTHER THAN THE FOREIGN SERVICE.

Section 8402 of title 5, United States Code, is amended—

(1) in the matter following subparagraph (B) of paragraph (2) of subsection (b) by inserting "subsection (d) of this section or" before "title III"; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) Paragraph (2) of subsection (b) shall not apply to an individual who becomes subject to subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 (relating to the Foreign Service Pension System) pursuant to an election and who subsequently enters a position in which, but for such paragraph (2), he would be subject to this chapter.".

SEC. 131. ANNUITY COMPUTATIONS FOR THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

(a) SURVIVOR REDUCTION COMPUTATION.—Section 8419(a) of title 5, United States Code, is amended—

(1) in paragraph (1) by striking out ", shall be reduced" and inserting in lieu thereof "or one-half of the annuity, if jointly designated for this purpose by the employee or Member and the spouse of the employee or Member under procedures prescribed by the Office of Personnel Management, shall be reduced"; and

(2) in paragraph (2)(A) by striking out ", shall be reduced" and inserting in lieu thereof "or one-half of the annuity, if jointly designated for this purpose by the employee or Member and the spouse of the employee or Member under procedures prescribed by the Office of Personnel Management, shall be reduced".

(b) SURVIVOR BENEFITS.—Section 8442 of title 5, United States Code, is amended—

(1) in subsection (a)(1) by inserting after "with respect to the annuitant," the following: "(or one-half thereof, if designated for this purpose under section 8419 of this title),"; and

(2) in subsection (g)(1) by inserting after "paragraph (2)" the following: "(or one-half thereof if designated for this purpose under section 8419 of this title)".

SEC. 132. LOANS FROM EMPLOYEES' CONTRIBUTION TO THE THRIFT SAVINGS FUND.

Section 8433(i)(3) of title 5, United States Code, is amended to read as follows:

"(3) Loans under this subsection shall be available to all employees and Members on a reasonably equivalent basis, and shall be subject to such other conditions as the Board may by regulation prescribe. The restrictions of section 8477(c)(l) of this title shall not apply to loans made under this subsection.".

SEC. 133. FIDUCIARY RESPONSIBILITIES AND LIABILITIES IN MANAGEMENT OF THRIFT SAVINGS FUND.

(a) FIDUCIARY RESPONSIBILITIES AND LIABILITIES.—Section 8477(e) of title 5, United States Code, is amended—

(1) in paragraph (1)(A) by inserting before the period at the end of the first sentence a comma and "except as provided in paragraphs (3) and (4) of this subsection";

(2) in paragraph (1)(B) by striking out "Internal Revenue Code of 1954" and inserting in lieu thereof "Internal Revenue Code of 1986";

(3) in paragraph (1)(D) by inserting "only" before "if" in the matter preceding clause (i);

(4) by redesignating paragraphs (4) and (5) as paragraphs (7) and (8), respectively; and

(5) by striking out paragraphs (2) and (3) and inserting in lieu thereof:

"(2) No civil action may be maintained against any fiduciary with respect to the responsibilities, liabilities, and penalties authorized or provided for in this section except in accordance with paragraphs (3) and (4).

"(3) A civil action may be brought in the district courts of the United States—

"(A) by the Secretary of Labor against any fiduciary other than a Member of the Board or the Executive Director of the Board—

"(i) to determine and enforce a liability under paragraph (1)(A);

"(ii) to collect any civil penalty under paragraph (1)(B);

"(iii) to enjoin any act or practice which violates any provision of subsection (b) or (c);

"(iv) to obtain any other appropriate equitable relief to redress a violation of any such provision; or

"(v) to enjoin any act or practice which violates subsection (g)(2) or (h) of section 8472 of this title;

"(B) by any participant, beneficiary, or fiduciary against any fiduciary—

"(i) to enjoin any act or practice which violates any provision of subsection (b) or (c);

"(ii) to obtain any other appropriate equitable relief to redress a violation of any such provision;

"(iii) to enjoin any act or practice which violates subsection (g)(2) or (h) of section 8472 of this title; or

"(C) by any participant or beneficiary—

"(i) to recover benefits of such participant or beneficiary under the provisions of subchapter III of this chapter, to enforce any right of such participant or beneficiary under such provisions, or to clarify any such right to future benefits under such provisions; or

"(ii) to enforce any claim otherwise cognizable under sections 1346(b) and 2671 through 2680 of title 28, if the remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for injury or loss of property caused by the negligent or wrongful act or omission of any fiduciary while acting within the scope of his duties or employment is exclusive of any other civil action or proceeding by the participant or beneficiary for recovery of money by reason of the same subject matter against the fiduciary (or the estate of such fiduciary) whose act or omission gave rise to such action or proceeding, whether or not such action or proceeding is based on an alleged violation of subsection (b) or (c).

"(4)(A) In all civil actions under paragraph (3)(A), attorneys appointed by the Secretary may represent the Secretary (except as provided in section 518(a) of title 28), however all such litigation shall be subject to the direction and control of the Attorney General.

"(B) The Attorney General shall defend any civil action or proceeding brought in any court against any fiduciary referred to in paragraph (3)(C)(ii) (or the estate of such fiduciary) for any such injury. Any fiduciary against whom such a civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such fiduciary (or an attested copy thereof) to the Executive Director of the Board, who shall promptly furnish copies of the pleading and process to the Attorney General and the United States Attorney for the district wherein the action or proceeding is brought.

"(C) Upon certification by the Attorney General that a fiduciary described in paragraph (3)(C)(ii) was acting in the scope of such fiduciary's duties or employment as a fiduciary at the time of the occurrence or omission out of which the action arose, any such civil action or proceeding commenced in a State court shall be—

"(i) removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division in which it is pending; and

"(ii) deemed a tort action brought against the United States under the provisions of title 28 and all references thereto.

"(D) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect. To the extent section 2672 of title 28 provides that persons other than the Attorney General or his designee may compromise and settle claims, and that payment of such claims may be made from agency appropriations, such provisions shall not apply to claims based upon an alleged violation of subsections (b) or (c).

"(E) For the purposes of paragraph (3)(C)(ii) the provisions of sections 2680(h) of title 28 shall not apply to any claim based upon an alleged violation of subsection (b) or (c).

"(F) Notwithstanding sections 1346(b) and 2671 through 2680 of title 28, whenever an award, compromise, or settlement is made under such sections upon any claim based upon an alleged violation of subsection (b) or (c), payment of such award, compromise, or settlement shall be made to the appropriate account within the Thrift Savings Fund, or where there is no such appropriate account, to the participant or beneficiary bringing the claim.

"(G) For purposes of paragraph (3)(C)(ii), fiduciary includes only the Members of the Board and the Board's Executive Director.

"(5) Any relief awarded against a Member of the Board or the Executive Director of the Board in a civil action authorized by paragraphs (3) and (4) may not include any monetary damages or any other recovery of money.

"(6) An action may not be commenced under paragraph (3) (A) or (B) with respect to a fiduciary's breach of any responsibility, duty, or obligation under subsection (b) or a violation of subsection (c) after the earlier of—

"(A) 6 years after (i) the date of the last action which constituted a part of the breach or violation, or (ii) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation; or

"(B) 3 years after the earliest date on which the plaintiff had actual knowledge of the breach or violation, except that, in the case of fraud or concealment, such action may be commenced not later than 6 years after the date of discovery of such breach or violation.".

(b) EFFECTIVE DATE.—The provisions of section 8477(e) (1), (2), (3), (4), (5), and (6) of title 5, United States Code, (as amended by subsection (a) of this section) shall apply to any civil action or proceeding arising from any act or omission occurring on or after October 1, 1986.

(c) REPEAL.—The provisions of subsection (a) (and the amendments to section 8477(e) of title 5, United States Code, contained therein) and subsection (b) of this section are repealed effective on December 31, 1990. On and after December 31, 1990 the provisions of section 8477(e) of title 5, United States Code, shall be in effect as such provisions were in effect on the date immediately preceding the date of enactment of this section.

SEC. 134. AMENDMENTS CONCERNING REEMPLOYED ANNUITANTS.

(a) AMENDMENT TO CHAPTER 84 OF TITLE 5, UNITED STATES CODE.—Section 8468 is amended to read as follows:

"§ 8468. Annuities and pay on reemployment

"(a) If an annuitant, except a disability annuitant whose annuity is terminated because of the annuitant's recovery or restoration of earning capacity, becomes employed in an appointive or elective position, an amount equal to the annuity allocable to the period of actual employment shall be deducted from the annuitant's pay, except for lump-sum leave payment purposes under section 5551. Unless the annuitant's appointment is on an intermittent basis or is to a position as a justice or judge (as defined by section 451 of title 28) or as an employee subject to another retirement system for Government employees, or unless the annuitant is serving as President, deductions for the Fund shall be withheld from the annuitant's pay under section 8422(a) and contributions under section 8423 shall be made. The deductions and contributions referred to in the preceding provisions of this subsection shall be deposited in the Treasury of the United States to the credit of the Fund. The annuitant's lump-sum credit may not be reduced by annuity paid during the reemployment.

"(b)(1)(A) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, the annuitant's annuity on termination of reemployment shall be increased by an annuity computed under section 8415(a) through (f) as may apply based on the period of reemployment and the basic pay, before deduction, averaged during the reemployment.

"(B)(i) If the annuitant is receiving a reduced annuity as provided in section 8419, the increase in annuity payable under subparagraph (A) is reduced by 10 percent and the survivor annuity or combination of survivor annuities payable under section 8442 or 8445 (or both) is increased by 50 percent of the increase in annuity payable under subparagraph (A), unless, at the time of claiming the increase payable under subparagraph (A), the annuitant notifies the Office in writing that the annuitant does not desire the survivor annuity to be increased.

"(ii) If an annuitant who is subject to the deductions referred to in subparagraph (A) dies while still reemployed, after having been reemployed for not less than 1 year of full-time service (or the equivalent thereof, in the case of full-time employment), the survivor annuity payable is increased as though the reemployment had otherwise terminated.

"(2)(A) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for at least 5 years, or on a part-time basis for periods equivalent to at least 5 years of full-time service, the annuitant may elect, instead of the benefit provided by paragraph (1), to have such annuitant's rights redetermined under this chapter.

"(B) If an annuitant who is subject to the deductions referred to in subparagraph (A) dies while still reemployed, after having been reemployed for at least 5 years of full-time service (or the equivalent thereof in the case of part-time employment), any person entitled to a survivor annuity under section 8442 or 8445 based on the service of such annuitant shall be permitted to elect, in accordance with regulations prescribed by the Office of Personnel Management, to have such person's rights under subchapter IV redetermined. A redetermined survivor annuity elected under this subparagraph shall be in lieu of an increased annuity which would otherwise be payable in accordance with paragraph (1)(B)(ii).

"(3) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for a period of less than 1 year, or on a part-time basis for periods equivalent to less than 1 year of full-time service, the total amount withheld under section 8422(a) from the annuitant's basic pay for the period or periods involved shall, upon written application to the Office, be payable to the annuitant (or the appropriate survivor or survivors, determined in the order set forth in section 8424(d)).

"(c) This section does not apply to an individual appointed to serve as a Governor of the Board of Governors of the United States Postal Service.

"(d) If an annuitant becomes employed as a justice or judge of the United States, as defined by section 451 of title 28, the annuitant may, at any time prior to resignation or retirement from regular active service as such a justice or judge, apply for and be paid, in accordance with section 8424(a), the amount (if any) by which the lump-sum credit exceeds the total annuity paid, notwithstanding the time limitation contained in such section for filing an application for payment.

"(e) A reference in this section to an 'annuity' shall not be considered to include any amount payable from a source other than the Fund.".

(b) AMENDMENT TO FERSA.—Section 302(a)(12) of the Federal Employees' Retirement System Act of 1986 is amended to read as follows:

"(12)(A)(i) If the electing individual is a reemployed annuitant under section 8344 of title 5, United States Code, under conditions allowing the annuity to continue during reemployment, payment of the annuitant's annuity shall continue after the effective date of the election, and an amount equal to the annuity allocable to the period of actual employment shall continue to be deducted from the annuitant's pay and deposited as provided in subsection (a) of such section. Deductions from pay under section 8422(a) of such title and contributions under section 8423 of such title shall begin effective on the effective date of the election.

"(ii) Notwithstanding any provision of section 301, an election under such section shall not be available to any reemployed annuitant who would be excluded from the operation of chapter 84 of title 5, United States Code, under section 8402(c) of such title (relating to exclusions based on the temporary or intermittent nature of one's employment).

"(B) If the annuitant serves on a full-time basis for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, such annuitant's annuity, on termination of reemployment, shall be increased by a annuity computed—

"(i) with respect to reemployment serviee before the effective date of the election, under section 8339 (a), (b), (d), (e), (h), (i), and (n) of title 5, United States Code, as may apply based on the reemployment in which such annuitant was engaged before such effective date; and

"(ii) with respect to reemployment service on or after the effective date of the election, under section 8415(a) through (f) of such title, as may apply based on the reemployment in which such annuitant was engaged on or after such effective date;

with the 'average pay' used in any computation under clause (i) or (ii) being determined (based on rates of pay in effect during the period of reemployment, whether before, on, or after the effective date of the election) in the same way as provided for in paragraph (6). If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k)(2) of title 5, United States Code, the increase in annuity payable under this subparagraph is reduced by 10 percent and the survivor annuity payable under section 8341(b) of such title is increased by 55 percent of the increase in annuity payable under this subparagraph, unless, at the time of claiming the increase payable under this subparagraph, the annuitant notifies the Office of Personnel Management in writing that such annuitant does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, after having been reemployed for at least 1 full year (or the equivalent thereof, in the case of part-time employment), any survivor annuity payable under section 8341(b) of such title based on the service of such annuitant is increased as though the reemployment had otherwise terminated. In applying paragraph (7) to an amount under this subparagraph, any portion of such amount attributable to clause (i) shall be adjusted under subparagraph (A) of such paragraph, and any portion of such amount attributable to clause (ii) shall be adjusted under subparagraph (B) of such paragraph.

"(C)(i) If the annuitant serves on a full-time basis for at least 5 years, or on a part-time basis for periods equivalent to at least 5 years of full-time service, such annuitant may elect, instead of the benefit provided by subparagraph (B), to have such annuitant's rights redetermined, effective upon separation from employment. If the annuitant so elects, the redetermined annuity will become payable as if such annuitant were retiring for the first time based on the separation from reemployment service, and the provisions of this section concerning computation of annuity (other than any provision of this paragraph) shall apply.

"(ii) If the annuitant dies while still reemployed, after having been reemployed for at least 5 full years (or the equivalent thereof, in the case of part-time employment), any person entitled to a survivor annuity under section 8341(b) of title 5, United States Code, based on the service of such annuitant shall be permitted to elect to have such person's rights redetermined in accordance with regulations which the Office shall prescribe. Redetermined benefits elected under this clause shall be in lieu of any increased benefits which would otherwise be payable in accordance with the next to last sentence of subparagraph (B).

"(D) If the annuitant serves on a full-time basis for less than 1 year (or the equivalent thereof, in the case of part-time employment), any amounts withheld under section 8422(a) of title 5, United States Code, from such annuitant's pay for the period (or periods) involved shall, upon written application to the Office, be payable to such annuitant (or the appropriate survivor or survivors, determined in the order set forth in section 8342(c) of such title).

"(E) For purposes of determining the period of an annuitant's reemployment service under this paragraph, a period of reemployment service shall not be taken into account unless—

"(i) with respect to service performed before the effective date of the election under section 301, it is service which, if performed for at least 1 full year, would have allowed such annuitant to elect under section 8344(a) of title 5, United States Code, to have deductions withheld from pay; or

"(ii) with respect to service performed on or after the effective date of the election under section 301, it is service with respect to which deductions from pay would be required to be withheld under the second sentence of section 8468(a) of title 5, United States Code.".

(c) TECHNICAL AMENDMENT.—Section 302(a)(4) of the Federal Employees' Retirement System Act of 1986 is amended by striking out all before "benefits" and inserting "Accrued".

(d) EFFECTIVE DATE.—

(1) GENERALLY.—The amendments made by this section shall take effect on the date of the enactment of this Act, and as provided in paragraph (2), shall apply with respect to any individual who becomes a reemployed annuitant on or after such date.

(2) EXCEPTION.—The amendment made by subsection (b) shall apply with respect to any election made by a reemployed annuitant on or after the date of the enactment of this Act.

SEC. 135. DESIGNATION OF UNITED STATES POST OFFICE BUILDING.

The United States Post Office Building located at 809 Nueces Bay Boulevard, Corpus Christi, Texas, shall be designated and hereafter known as the "Dr. Hector Perez Garcia Post Office Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "Dr. Hector Perez Garcia Post Office Building".

SEC. 136. CONTINUED COVERAGE FOR CERTAIN EMPLOYEES AND ANNUITANTS OF THE ALASKA RAILROAD IN FEDERAL HEALTH BENEFITS PLANS AND LIFE INSURANCE PLANS.

(a) AMENDMENT TO ALASKA RAILROAD TRANSFER ACT OF 1982.—Section 607 of the Alaska Railroad Transfer Act of 1982 (45 U.S.C. 1206) is amended by adding at the end thereof the following new subsection:

"(e)(1) Any person described under the provisions of paragraph (2) may elect life insurance coverage under chapter 87 of title 5, United States Code, and enroll in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with the provisions of this subsection.

"(2) The provisions of paragraph (1) shall apply to any person who—

"(A)(i) retired from the State-owned railroad during the period beginning on or after January 4, 1985 through the date of enactment of this subsection; and

"(ii)(I) was covered under a life insurance policy pursuant to chapter 87 of title 5, United States Code, on January 4, 1985, for the purpose of electing life insurance coverage under the provisions of paragraph (1); or

"(II) was enrolled in a health benefits plan pursuant to chapter 89 of title 5, United States Code, on January 4, 1985, for the purpose of enrolling in a health benefits plan under the provisions of paragraph (1); or

"(B)(i) on the date of enactment of this subsection is an employee of the State-owned railroad; and

"(ii)(I) has 26 years or more of service (in the civil service as a Federal employee or as an employee of the State-owned railroad, combined) on the date of retirement from the State-owned railroad; and

"(II)(aa) was covered under a life insurance policy pursuant to chapter 87 of title 5, United States Code, on January 4, 1985, for the purpose of electing life insurance coverage under the provisions of paragraph (1); or

"(bb) was enrolled in a health benefits plan pursuant to chapter 89 of title 5, United States Code, on January 4, 1985, for the purpose of enrolling in a health benefits plan under the provisions of paragraph (1).

"(3) For purposes of this section, any person described under the provisions of paragraph (2) shall be deemed to have been covered under a life insurance policy under chapter 87 of title 5, United States Code, and to have been enrolled in a health benefits plan under chapter 89 of title 5, United States Code, during the period beginning on January 5, 1985 through the date of retirement of any such person.

"(4) The provisions of paragraph (1) shall not apply to any person described under paragraph (2)(B), until the date such person retires from the State-owned railroad.".

(b) ADMINISTRATIVE PROVISIONS.—Within 180 days after the date of enactment of this section, the Director of the Office of Personnel Management shall notify any person described under the provisions of section 607(e)(2)(A) of such Act, for the purpose of the election of a life insurance policy or the enrollment in a health benefits plan pursuant to the provisions of section 607(e)(1) of the Alaska Railroad Transfer Act of 1982 (as amended by subsection (a) of this section).

SEC. 137. Section 5402 of title 39, United States Code, is amended—

(1) in subsection (f) by striking out "January 1, 1989" and inserting in lieu thereof "January 1, 1999"; and

(2) by adding at the end thereof the following new subsection:

"(g)(1) The Postal Service, in selecting carriers of non-priority bypass mail to any point served by more than one carrier in the State of Alaska, shall, at a minimum, require that any such carrier shall—

"(A) hold a certificate of public convenience and necessity issued under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371);

"(B) operate at least 3 scheduled flights each week to such point;

"(C) exhibit an adherence to such scheduled flights to the best of the abilities of such carrier; and

"(D) have provided scheduled service within the State of Alaska for at least 12 months before being selected as a carrier of non-priority bypass mail.

"(2) The Postal Service—

"(A) may provide direct mainline non-priority bypass mail service to any bush point in the State of Alaska, without regard to paragraph (1)(B), if such service is equal to or better than interline service in cost and quality; and

"(B) shall deduct the non-priority bypass mail poundage flown on direct mainline flights to bush points within the State of Alaska by any carrier, from such carrier's allocation of the total poundage of non-priority bypass mail transported to the nearest appropriate Postal Service hub point in any month.

"(3)(A) The Postal Service shall determine the bypass mail bush points and hub points described under paragraph (2)(B) after consultation with the State of Alaska and the affected local communities and air carriers.

"(B) Any changes in the determinations of the Postal Service under subparagraph (A) shall be made—

"(i) after consultation with the State of Alaska and the affected local communities and air carriers; and

"(ii) after giving 12 months public notice before any such change takes effect.

On page 40, line 7, insert after "Representatives" the following: "and the Committee on Governmental Affairs".

Mr. PRYOR. Mr. President, I am joined today by Senator STEVENS in offering a package of amendments to H.R. 3395, a bill making technical corrections relating to various Federal retirement systems.

Last July, we passed the Federal Employees Retirement System Act of 1986 [FERSA]. This legislation created an entirely new retirement system, the Federal Employees Retirement System [FERS]. This was a sweeping change in the Federal retirement system and took years to develop. Senator STEVENS was instrumental in leading the effort to develop FERS and I am pleased to be working with him on this legislation.

As with many complicated pieces of legislation, FERSA overlooked some issues and in other areas, clarifications are necessary. The House Post Office and Civil Service Committee developed a comprehensive set of technical amendments to FERS, the Civil Service Retirement System, the Foreign Service Retirement System, and the Foreign Service Pension System.

Senator STEVENS and I have reviewed H.R. 3395 and have put together a package of 14 amendments to the House-passed bill. Many of these were suggested by executive branch agencies as further improvements. The package includes:

An amendment to section 103 to require law enforcement officers and firefighters to spend at least 3 years "on the street" in order to be eligible for the early retirement provision. FERSA contained a requirement that law enforcement officers and firefighters be "on the street" for at least 10 years. Law enforcement and firefighter officials were concerned that this requirement would create severe hardship in recruiting and retaining these individuals. H.R. 3395 would strike the provision in its entirety. Our amendment would ensure that the early retirement benefit was not abused while

not adversely affecting law enforcement officers and firefighters.

An amendment to section 110 to clarify that retirement credit will not be extended to employees of contracts that could be terminated by a party other than the individual or the Government, or to employees of contracts let for a specific transaction. This addresses the concerns of the Office of Personnel Management [OPM] that this section would give unintended benefits to contractor employees.

An amendment to section 125 to clarify that the class of employees referenced in section 108 of H.R. 3395 can participate in the thrift savings plan [TSP]. Because these individuals do not receive a Federal paycheck, there may be a question as to whether they are eligible to participate in the plan. However, we feel that they, like any other CSRS employee, should be able to participate in the thrift savings plan.

An amendment to section 127 to insure that H.R. 3395, while extending the deadline for applications for benefits under the Spouse Equity Act, does not inadvertently enlarge the class of individuals eligible for such benefits.

An addition of section 128 to refund excess CSRS contributions to employees who become subject to the CSRS offset provision by statute, rather than by choice. Current law only allows such refunds if the individual chooses to participate in the CSRS offset provision.

An addition of section 129 to allow the Thrift Investment Board to tie its annuity distribution to an index similar to the Consumer Price Index but not to decrease amounts paid under such annuities in those years where there is negative inflation. Current statutory language does not satisfy tax regulations and may inadvertently create problems for participating employees.

An addition of section 130 to ensure that a participant in the Foreign Service Pension System who enters the civil service will be covered by FERS, not CSRS. This ensures that CSRS is a closed system and prevents the anomalous situation of a person moving from a "new" retirement system into the "old" retirement system.

An addition of section 131 to provide for a variable base survivors annuity. An employee would be able to select from the options of providing no survivor annuity, a survivor annuity based on one-half of the employee's annuity or a survivor annuity based on all of the employee's annuity. This addresses Senator STEVENS' concern that FERS retirees be granted some flexibility in providing a survivors annuity, so that retirees can assure their survivors continued coverage under the Federal Employees Health Benefit [FEHB] Program.

An addition of section 132 to clarify that the Thrift Investment Board has the sole authority to determine the appropriate interest rate for loans made from the TSP. Under FERSA, the Thrift Investment Board has the authority to determine an appropriate interest rate for loans made under section 8433(i), title 5, United States Code. However, under certain circumstances, the rate determined by the Board under FERSA may not be appropriate for employee benefit plans subject to the Employee Retirement Income Security Act of 1974 [ERISA]. Therefore, the specific reference to ERISA is deleted in this amendment, while the reference to the requirement that these loans be made on a reasonably equivalent basis is retained from the language of section 408(b)(1) of ERISA. In addition, section 8477(c)(1) of FERSA relating to adequate consideration is made inapplicable to loans made under this subsection to eliminate any ambiguity with respect to the interpretation and application of this section.

An addition of section 133 to provide for the indemnification of the fiduciaries of the Thrift Investment Board. The fiduciaries are defined as the Board members and the executive director. Any other fiduciaries would be private, and therefore are not indemnified by this provision. This addresses the concerns of the fiduciaries that, given the inadequacy of available insurance, they are personally liable for their actions as fiduciaries of the fund.

An addition of section 134 to clarify provisions regarding reemployed annuitants. Current law does not provide clear guidelines for the treatment of reemployed annuitants.

An addition of section 135 naming the Dr. Hector Perez Garcia Post Office Building in Corpus Christi, TX.

An addition of section 136 extending to certain employees and retirees of the Alaska Railroad coverage under the FEHB Program and the Federal Employees Group Life Insurance Program. This ensures that these individuals do not lose health or life insurance benefits due to the transfer of the Alaska Railroad from the Federal Government to the State of Alaska.

An addition of section 137 to guarantee uninterrupted mail service to rural areas in Alaska.

An amendment to section 202 to include Senate Governmental Affairs as an additional recipient of regulations to be issued by the Secretary of State regarding retirement benefits for former spouses.

Mr. President, this package of amendments contains simple clarifications or technical changes and will rectify various oversights in FERSA. I urge its speedy adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (No. 1372) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 3395) was passed.

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.

AMENDING THE SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. BYRD. Mr. President, I ask unanimous consent to proceed to the consideration of Calendar Order No. 491.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 437) to amend the Small Business Investment Act of 1958 to permit prepayment of loans made to State and local development companies.

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

There being no objection, the Senate proceeded to consider the bill, which was reported from the Committee on Small Business, with an amendment in the nature of a substitute.

(The amendment in the nature of a substitute was printed earlier in today's RECORD.)

AMENDMENT NO. 1373

Mr. BYRD. Mr. President, I call up an amendment by Mr. BUMPERS to the committee substitute.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] on behalf of Mr. BUMPERS proposes an amendment numbered 1373.

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:

At line 9, on page 3 of the Committee Amendment, strike the comma after the word "debenture" and insert the following: "plus a prepayment penalty as described in subparagraph (c),".

On page 3, line 21, of the Committee Amendment insert the following new sub-

paragraph (c) and renumber the existing subparagraphs accordingly:

(c) The Federal Financing Bank may impose a prepayment penalty on issuers of debentures who elect to pay those debentures before maturity according to the following schedule:

(1) For debentures with ten years or less remaining before maturity, a penalty not to exceed 40 percent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(2) For debentures with more than ten years but less than 15 years remaining before maturity, a penalty not to exceed fifty percent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(3) For debentures with more than fifteen years but less than 20 years before maturity, a penalty not to exceed sixty percent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(4) For debentures with more than twenty years remaining before maturity, a penalty not to exceed seventy percent of an amount equal to the annual interest on the outstanding balance of the debenture at the coupon rate:

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1373) was agreed to.

The PRESIDING OFFICER. If there are no further amendments, the question is on agreeing to the committee substitute.

The committee substitute was agreed to.

The PRESIDING OFFICER. If there is no further debate, the bill is deemed read the third time.

The bill having been deemed read the third time, the question is on the passage of the bill.

The bill (S. 437) was passed as follows:

S. 437

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

In title V of the Small Business Investment Act of 1958, insert the following new section:

SEC. 506. (a) DEFINITIONS.—(1) As used in this section, "issuer" means the issuer of a debenture which has been purchased by the Federal Financing Bank pursuant to section 503 of this Act.

(2) "Borrower" means the small business concern whose loan secures a debenture issued pursuant to section 503 of this Act.

(b) The issuer of a debenture purchased by the Federal Financing Bank and guaranteed under section 503 of this Act may at the election of the borrower prepay such debenture by paying to the Federal Financing Bank the outstanding principal balance and accrued interest due on the debenture at the coupon rate on the debenture plus a prepayment penalty as described in subparagraph: *Provided,* That:

(1) the loan that secures the debenture is not in default on the date the prepayment is made;

(2) private capital, with or without the existing debenture guarantee, is used to prepay the debenture, and provided further that if private capital with the existing debenture guarantee is used, such refinancing may be done solely pursuant to sections 504 and 505 of this Act;

(3) the issuer of the debenture certifies that the benefits associated with prepayment of the debenture are entirely passed through to the borrower.

(c) The Federal Financing Bank may impose a prepayment penalty on issuers of debentures who elect to pay those debentures before maturity according to the following schedule:

(1) For debentures with ten years or less remaining before maturity, a penalty not to exceed 40 per cent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(2) For debentures with more than ten years but less than 15 years remaining before maturity, a penalty not to exceed fifty per cent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(3) For debentures with more than fifteen years but less than 20 years before maturity, a penalty not to exceed sixty percent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(4) For debentures with more than twenty years remaining before maturity, a penalty not to exceed seventy per cent of an amount equal to the annual interest on the outstanding balance of the debenture at the coupon rate;

(d) No fees other than those specified in this section may be imposed as a condition on such prepayment against the issuer of the debentures, or the borrower, or the Small Business Administration or any fund or account administered by the Small Business Administration. If a debenture is refinanced without the existing debenture guarantee, the borrower may be required to pay a fee to the issuer of the debenture in the amount of one percent of the outstanding principal amount of the loan which secures the debenture. If a debenture is refinanced with the existing guarantee pursuant to section 504 of this Act, the borrower shall be subject to imposition of a fee by the issuer of the debenture in the amount of one-half of one percent of the outstanding principal amount of the loan which secures the debenture. Debentures refinanced under section 504 otherwise shall be subject to all of the provisions of such section and section 505 of this Act and the rules and regulations of the Administration promulgated thereunder, including but not limited to payment of authorized expenses and commissions, fees or discounts to brokers and dealers in trust certificates issued pursuant to section 505: Provided, however, That the issuer shall be deemed to have waived any origination fee on the new debenture to which it would have otherwise been entitled under 13 Code of Federal Regulations section 108.503-6(a)(1)

(e) Any debenture refinanced under section 504 pursuant to this section shall have a term of either 10 or 20 years, as determined by the Administration.

(f) In the event of default by a borrower, the Administration's guarantee shall be extinguished by payment by the Administration of the remaining principal balance plus accrued interest.

(g) Notwithstanding any other law, rule or regulations, the guarantee by the Administration under section 503 of this Act of existing debentures purchased by the Federal Financing Bank which are refinanced pursuant to this section under section 504 of this Act shall continue in full force and effect and the full faith and credit of the United States shall continue to be pledged to the payment of all amounts which may be required to be paid under any guarantee of debentures or trust certificates (representing ownership of all or a fractional part of such debentures) issued by the Administration or its agency pursuant to section 505 of this Act.

(h) The Administration shall issue regulations to implement this section and to facilitate the prepayment of debentures and loans made with the proceeds of such debentures within 60 days of the date of enactment of this section.

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.

COMMODITY DISTRIBUTION REFORM ACT AND WIC AMENDMENTS.

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1340.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1340) entitled "An Act to improve the distribution procedures for agricultural commodities and their products donated for the purposes of assistance through the Department of Agriculture, and for other purposes", with the following amendment:

In lieu of the matter inserted by the amendment of the Senate, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commodity Distribution Reform Act and WIC Amendments of 1987".

SEC. 2. STATEMENT OF PURPOSE; SENSE OF CONGRESS.

(a) STATEMENT OF PURPOSE.—It is the purpose of this Act to improve the manner in which agricultural commodities acquired by the Department of Agriculture are distributed to recipient agencies, the quality of the commodities that are distributed, and the degree to which such distribution responds to the needs of the recipient agencies.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the distribution of commodities and products—

(1) should be improved as an effective means of removing agricultural surpluses from the market and providing nutritious high-quality foods to recipient agencies;

(2) is inextricably linked to the agricultural support and surplus removal programs; and

(3) is an important mission of the Secretary of Agriculture.

SEC. 3. COMMODITY DISTRIBUTION PROGRAM REFORMS.

(a) COMMODITIES SPECIFICATIONS.—

(1) DEVELOPMENT.—In developing specifications for commodities acquired through price support, surplus removal, and direct

purchase programs of the Department of Agriculture that are donated for use for programs or institutions described in paragraph (2) the Secretary shall—

(A) consult with the advisory council established under paragraph (3);

(B) consider both the results of the information received from recipient agencies under subsection (f)(2) and the results of an ongoing field testing program under subsection (g) in determining which commodities and products, and in which form the commodities and products, should be provided to recipient agencies; and

(C) give significant weight to the recommendations of the advisory council established under paragraph (3) in ensuring that commodities and products are—

(i) of the quality, size, and form most usable by recipient agencies; and

(ii) to the maximum extent practicable, consistent with the Dietary Guidelines for Americans published by the Secretary of Agriculture and the Secretary of Health and Human Services.

(2) APPLICABILITY.—Paragraph (1) shall apply to—

(A) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(B) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b));

(C) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

(D) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(E) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a); and

(F) to the extent practicable—

(i) the temporary emergency food assistance program established under the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note); and

(ii) programs under which food is donated to charitable institutions.

(3) ADVISORY COUNCIL.—(A) The Secretary shall establish an advisory council on the distribution of donated commodities to recipient agencies. The Secretary shall appoint not less than 9 and not more than 15 members to the council, including—

(i) representatives of recipient agencies;

(ii) representatives of food processors and food distributors;

(iii) representatives of agricultural organizations;

(iv) representatives of State distribution agency directors; and

(v) representatives of State advisory committees.

(B) The council shall meet not less than semiannually with appropriate officials of the Department of Agriculture and shall provide guidance to the Secretary on regulations and policy development with respect to specifications for commodities.

(C) Members of the council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the committee.

(D) The council shall report annually to the Secretary of Agriculture, the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(E) The council shall expire on September 30, 1992.

(b) DUTIES OF SECRETARY WITH RESPECT TO PROVISION OF COMMODITIES.—With respect to the provision of commodities to recipient agencies, the Secretary shall—

(1) before the end of the 270-day period beginning on the date of the enactment of this Act—

(A) implement a system to provide recipient agencies with options with respect to package sizes and forms of such commodities, based on information received from such agencies under subsection (f)(2), taking into account the duty of the Secretary—

(i) to remove surplus stocks of agricultural commodities through the Commodity Credit Corporation;

(ii) to purchase surplus agriculture commodities through section 32 of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.); and

(iii) to make direct purchases of agricultural commodities and other foods for distribution to recipient agencies under—

(I) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(II) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b));

(III) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

(IV) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(V) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a); and

(B) implement procedures to monitor the manner in which State distribution agencies carry out their responsibilities;

(2) provide technical assistance to recipient agencies on the use of such commodities, including handling, storage, and menu planning and shall distribute to all recipient agencies suggested recipes for the use of donated commodities and products (the recipe cards shall be distributed as soon as practicable after the date of enactment of this Act and updated on a regular basis taking into consideration the Dietary Guidelines for Americans published by the Secretary of Agriculture and the Secretary of Health and Human Services, as in effect at the time of the update of the recipe files);

(3) before the end of the 120-day period beginning on the date of the enactment of this Act, implement a system under which the Secretary shall—

(A) make available to State agencies summaries of the specifications with respect to such commodities and products; and

(B) require State agencies to make such summaries available to recipient agencies on request;

(4) implement a system for the dissemination to recipient agencies and to State distribution agencies—

(A) not less than 60 days before each distribution of commodities by the Secretary is scheduled to begin, of information relating to the types and quantities of such commodities that are to be distributed; or

(B) in the case of emergency purchases and purchases of perishable fruits and vegetables, of as much advance notification as is consistent with the need to ensure that high-quality commodities are distributed;

(5) before the expiration of the 90-day period beginning on the date of the enactment of this Act, establish procedures for the replacement of commodities received by recipient agencies that are stale, spoiled, out of condition, or not in compliance with the specifications developed under subsection (a)(1), including a requirement that the appropriate State distribution agency be notified promptly of the receipt of commodities that are stale, spoiled, out of condition, or not in compliance with the specifications developed under subsection (a)(1);

(6) monitor the condition of commodities designated for donation to recipient agencies that are being stored by or for the Secretary to ensure that high quality is maintained;

(7) establish a value for donated commodities and products to be used by State agencies in the allocation or charging of commodities against entitlements; and

(8) require that each State distribution agency shall receive donated commodities not more than 90 days after such commodities are ordered by such agency, unless such agency specifies a longer delivery period.

(c) QUALIFICATIONS FOR PURCHASE OF COMMODITIES.—

(1) OFFERS FOR EQUAL OR LESS POUNDAGE.—Subject to compliance by the Secretary with surplus removal responsibilities under other provisions of law, the Secretary may not refuse any offer in response to an invitation to bid with respect to a contract for the purchase of entitlement commodities (provided in standard order sizes) solely on the basis that such offer provides less than the total amount of poundage for a destination specified in such invitation.

(2) OTHER QUALIFICATIONS.—The Secretary may not enter into a contract for the purchase of entitlement commodities unless the Secretary considers the previous history and current patterns of the bidding party with respect to compliance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption.

(d) DUTIES OF STATE DISTRIBUTION AGENCIES.—Before the expiration of the 270-day period beginning on the date of the enactment of this Act, the Secretary shall by regulation require each State distribution agency to—

(1) evaluate its warehousing and distribution systems for donated commodities;

(2) implement the most cost-effective and efficient system for providing warehousing and distribution services to recipient agencies;

(3) use commercial facilities for providing warehousing and distribution services to recipient agencies unless the State applies to the Secretary for approval to use other facilities, showing that other facilities are more cost effective and efficient;

(4) consider the preparation and storage capabilities of recipient agencies when ordering donated commodities, including capabilities of such agencies to handle commodity product forms, quality, packaging, and quantities; and

(5) in the case of any such agency that enters into a contract with respect to processing of agricultural commodities and their products for recipient agencies—

(A) test the product of such processing with the recipient agencies before entering into a contract for such processing; and

(B) develop a system for monitoring product acceptability.

(e) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall provide by regulation for—

(A) whenever fees are charged to local recipient agencies, the establishment of mandatory criteria for such fees based on national standards and industry charges (taking into account regional differences in such charges) to be used by State distribution agencies for storage and deliveries of commodities;

(B) minimum performance standards to be followed by State agencies responsible for intrastate distribution of donated commodities and products;

(C) procedures for allocating donated commodities among the States;

(D) delivery schedules for the distribution of commodities and products that are consistent with the needs of eligible recipient agencies, taking into account the duty of the Secretary—

(i) to remove surplus stocks of agricultural commodities through the Commodity Credit Corporation;

(ii) to purchase surplus agricultural commodities through section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes," approved August 24, 1935 (7 U.S.C. 612c); and

(iii) to make direct purchases of agricultural commodities and other foods for distribution to recipient agencies under—

(I) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(II) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)); and

(III) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

(IV) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(V) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a).

(2) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary shall promulgate—

(A) regulations as required by paragraph (1) (D) before the end of the 90-day period beginning on the date of enactment of this Act; and

(B) regulations as required by subparagraphs (A), (B), and (C) of paragraph (1) before the end of the 270-day period beginning on such date.

(f) REVIEW OF PROVISION OF COMMODITIES.—

(1) IN GENERAL.—Before the expiration of the 270-day period beginning on the date of the enactment of this Act, the Secretary shall establish procedures to provide for systematic review of the costs and benefits of providing commodities of the kind and quantity that are suitable to the needs of recipient agencies.

(2) INFORMATION FROM RECIPIENT AGENCIES.—Before the expiration of the 120-day period beginning on the date of the enactment of this Act, the Secretary shall establish procedures to ensure that information is received from recipient agencies at least semiannually with respect to the types and forms of commodities that are most useful to persons participating in programs operated by recipient agencies.

(g) TESTING FOR ACCEPTABILITY.—The Secretary shall establish an ongoing field testing program for present and anticipated commodity and product purchases to test product acceptability with program participants. Test results shall be taken into consideration in deciding which commodities and products, and in what form the commodities and products, should be provided to recipient agencies.

(h) BUY AMERICAN PROVISION.—

(1) IN GENERAL.—The Secretary shall require that recipient agencies purchase, whenever possible, only food products that are produced in the United States.

(2) WAIVER.—The Secretary may waive the requirement established in paragraph (1)—

(A) in the case of recipient agencies that have unusual or ethnic preferences in food products; or

(B) for such other circumstances as the Secretary considers appropriate.

(3) EXCEPTION.—The requirement established in paragraph (1) shall not apply to recipient agencies in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands.

(i) UNIFORM INTERPRETATION.—The Secretary shall take such actions as are necessary to ensure that regional offices of the Department of Agriculture interpret uniformly across the United States policies and regulations issued to implement this section.

(j) PER MEAL VALUE OF DONATED FOODS.—Section 6(e) of the National School Lunch Act (42 U.S.C. 1755(e)) is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) adding at the end the following new paragraph:

"(2) Each State agency shall offer to each school food authority under its jurisdiction that participates in the school lunch program and receives commodities, agricultural commodities and their products, the per meal value of which is not less than the national average value of donated foods established under paragraph (1). Each such offer shall include the full range of such commodities and products that are available from the Secretary to the extent that quantities requested are sufficient to allow efficient delivery to and within the State.".

(k) REPORT.—Not later than January 1, 1989, the Secretary shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the implementation and operation of this section.

SEC. 4. FOOD BANK DEMONSTRATION PROJECT.

(a) DEMONSTRATION PROJECT.—The Secretary shall carry out not less than one demonstration project to provide and redistribute agricultural commodities and food products thereof as authorized under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c), to needy individuals and families through community food banks. The Secretary may use a State agency or any other food distribution system for such provision or redistribution of section 32 agricultural commodities and food products through community food banks under a demonstration project.

(b) RECORDKEEPING AND MONITORING.—Each food bank participating in the demonstration projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and food products provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the projects shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

(c) DETERMINATION OF QUANTITIES, VARIETIES, AND TYPES OF COMMODITIES.—The Secretary shall determine the quantities, varieties, and types of agricultural commodities and food products to be made available under this section.

(d) EFFECTIVE PERIOD.—This section shall be effective for the period beginning on the date of the enactment of this Act and ending on December 31, 1990.

(e) PROGRESS REPORTS.—The Secretary shall submit annual progress reports to Congress beginning on July 1, 1988, and a final report on July 1, 1990, regarding each demonstration project carried out under this section. Such reports shall include analyses and evaluations of the provision and redistribution of agricultural commodities and food products under the demonstration projects. In addition, the Secretary shall include in the final report any recommendations regarding improvements in the provision and redistribution of agricultural commodities and food products to community food banks and the feasibility of expanding such method of provisions and redistribution of agricultural commodities and food products to other community food banks.

SEC. 5. EXTENSION OF ELIGIBILITY OF CERTAIN SCHOOL DISTRICTS TO RECEIVE CASH OR COMMODITY LETTERS OF CREDIT ASSISTANCE FOR SCHOOL LUNCH PROGRAMS.

Section 18 of the National School Lunch Act (42 U.S.C. 1769) is amended by adding at the end the following new subsection:

"(e)(1) Upon request to the Secretary, any school district that on January 1, 1987, was receiving all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program for the duration beginning July 1, 1987, and ending December 31, 1990.

"(2) Any school district that elects under paragraph (1) to receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive bonus commodities in the same manner as if such school district was receiving all entitlement commodities for its school lunch program.".

SEC. 6. EXTENSION OF NATIONAL DONATED COMMODITY PROCESSING PROGRAMS.

Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(a)(2)(A)) is amended by striking out "June 30, 1987," and inserting in lieu thereof "September 30, 1990,".

SEC. 7. ASSESSMENT AND REPORT TO CONGRESS.

(a) ASSESSMENT.—The Comptroller General of the United States shall monitor and assess the implementation by the Secretary of the provisions of this Act.

(b) REPORT.—Before the expiration of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report of the findings of the assessment conducted as required by subsection (a).

SEC. 8. FUNDS FOR NUTRITION SERVICES AND ADMINISTRATION.

(a) IN GENERAL.—Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) In addition to the amounts otherwise made available under paragraphs (1) and (2), each State agency may convert funds intially allocated to the State agency for program food purchases to nutrition services and administration funds for the cost of the State agency and local agencies associated with increases in the number of persons served, if the State agency has implemented a competitive bidding, rebate, direct distribution, or home delivery system as described in its approved Plan of Operation and Administration.

"(B) The Secretary shall—

"(i) project each such State agency's level of participation for the fiscal year, excluding anticipated increases due to use during the fiscal year of any of the cost-saving strategies identified in subparagraph (A) of this paragraph; and

"(ii) compute, with an adjustment for the anticipated effects of inflation, each such State agency's average administrative grant per participant for the preceding fiscal year.

"(C) Each such State agency may convert funds at a rate equal to the amount established by the Secretary under subparagraph (B)(ii) of this paragraph for each food package distributed to each additional participant above the participation level projected by the Secretary under subparagraph (B)(i) of this paragraph, up to the level of increased participation estimated in its approved Plan of Operation and Administration.".

(b) STATE PLAN OR PLAN AMENDMENT.—Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by, in paragraph (1)(C)—

(1) striking out "and" at the end of clause (vii);

(2) redesignating clause (viii) as clause (ix); and

(3) adding the following new clause:

"(viii) if the State agency chooses to request the funds conversion authority established in clause (h)(5) of this section, an estimate of the increased participation which will result from its cost-saving initiative, including an explanation of how the estimate was developed; and".

(c) STUDY OF NUTRITION SERVICES AND ADMINISTRATION FUNDING.—The Secretary shall conduct a study of the appropriateness of the percentage of the annual appropriation for the program required by paragraph (h)(1) of this section to be made available for State and local agency costs for nutrition services and administration, and shall report the results of this study to the Congress not later than March 1, 1989. Such study shall include an analysis of the impact in future years on per participant administrative costs if a substantial number of States implement competitive bidding, rebate, direct distribution, or home delivery systems and shall examine the impact of the percentage provided for nutrition services and administration on the quality of such services.

(d) EFFECTIVE DATE.—The amendment made by subsections (a), (b), and (c) shall take effect October 1, 1987.

SEC. 9. COORDINATION OF WIC PROGRAM WITH MEDICAID COUNSELING.

Section 17(f)(1)(C)(iii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)(C)(iii)) is amended by striking out "and maternal and child health care programs" and inserting in lieu thereof "maternal and child health care, and medicaid programs".

SEC. 10. STUDY OF MEDICAID SAVINGS FOR NEWBORNS FOR WIC PROGRAM.

(a) STUDY.—The Secretary of Agriculture, in consultation with the Secretary of Health and Human Services, shall conduct a national study of savings in the amount of assistance provided to families with newborns under State plans for medical assistance approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and State indigent health care programs, during the first 60-day period after birth, as the result of the participation of mothers of newborns before birth in the special supplemental food program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(b) REPORT.—Not later than February 1, 1990, the Secretary shall submit to Congress a report that describes the results of the study conducted under subsection (a).

(c) FUNDING.—This section shall be carried out using funds made available under section 17(g)(3) of the Child Nutrition Act of 1966.

SEC. 11. SUPPLYING INFANT FORMULA FOR THE WIC PROGRAM.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end thereof the following new paragraph:

"(16) To be eligible to participate in the program authorized by this section, a manufacturer of infant formula that supplies formula for the program shall—

"(A) register with the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.); and

"(B) before bidding for a State contract to supply infant formula for the program, certify with the State health department that the formula complies with such Act and regulations issued pursuant to such act.".

SEC. 12. OVERSPENDING AND UNDERSPENDING UNDER THE WIC PROGRAM.

Section 17(i)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)(3) is amended—

in subparagraph (A)—

(A) by inserting "and subject to subparagraphs (B) and (C)" after "paragraph (2)"; and

(B) by striking out "or" at the end of clause (i) and inserting in lieu thereof "and"; and

(2) by adding at the end thereof the following new subparagraph:

"(C) The total amount of funds transferred from any fiscal year under clauses (i) and (ii) of subparagraph (A) shall not exceed 1 percent of the amount of the funds allocated to a State agency for such fiscal year.".

SEC. 13. DEFINITIONS.

For purposes of this Act:

(1) The term "donated commodities" means agricultural commodities and their products that are donated by the Secretary to recipient agencies.

(2) The term "entitlement commodities" means agricultural commodities and their products that are donated and charged by the Secretary against entitlements established under programs authorized by statute to receive such commodities.

(3) The term "recipient agency" means—

(A) a school, school food service authority, or other agency authorized under the National School Lunch Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) to operate breakfast programs, lunch programs, child care food programs, summer food service programs, or similar programs and to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase;

(B) a nutrition program for the elderly authorized under title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.) to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase;

(C) an agency or organization distributing commodities under the commodity supplemental food program established in section 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(D) any charitable institution, summer camp, or assistance agency for the food distribution program on Indian reservations authorized under section 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase; or

(E) an agency or organization distributing commodities under a program established in section 202 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note).

(4) The term "State distribution agency" means a State agency responsible for the intrastate distribution of donated commodities.

(5) The term "Secretary" means Secretary of Agriculture, unless the context specifies otherwise.

SEC. 14. GENERAL EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made be this Act shall take effect on the date of the enactment of this Act.

Mr. LEAHY. Mr. President, I am delighted that we are able to see final congressional consideration of H.R. 1340, thc Commodity Distribution Reform and WIC Amendment Act of 1987. This bill will improve the current Commodity Distribution Program so that it better serves our schools and other feeding programs. It will also provide for an extension of the Commodity Letter of Credit Program [CLOC], as well as making the Special Supplemental Feeding Program for Women, Infants and Children [WIC] more effective in serving the needs of pregnant women and young children.

The Senate and the House both worked very hard on this bill. I especially congratulate the House Agriculture and House Education and Labor Committees for their fine effort at reaching a compromise on the detailed issues involved in this bill.

Mr. President, this bill is bipartisan. It was supported by all the members of the Senate Agriculture Committee. It also has benefited from the active involvement of the American School Service Association, as well as a host of commodity groups, including the Grange, the National Milk Producers Federations, among others.

The Commodity Distribution Reform Act of 1987 will improve

the operation of the U.S. Department of Agriculture's Food Donation Program by making it more responsive to the needs of local operators.

The Commodity Distribution Programs in this country have a unique blend of goals: to support our agricultural price support programs and to serve the nutritional needs of America's children and recipients of our other feeding programs. I expect the Department to continue to work with recipient agencies to improve the operation of all programs and to run these programs in a manner which will deliver the greatest amount of food at the least possible cost to the Government.

The Department has made great strides in the right direction. This bill will encourage even greater efficiency and responsiveness in the years to come.

America has the largest stockpiles of agricultural surpluses of any nation in history. We should use those surpluses to feed the hungry and to feed our school children. The agricultural support programs, so important to our farmers, have for years provided vital foods to America's needy and hungry.

Mr. President, aside from the reforms to the commodity distribution system, this bill also makes major improvements in the WIC Program.

This bill will mean that thousands of needy infants and pregnant women, determined to be at nutritional risk by health professionals, can receive special nutritional foods at no additional cost to the taxpayer.

Indeed, it is possible that several hundred thousand pregnant women, newborns, infants, and children under age 5 who are poor will be able to receive infant formula, milk, cheese, fortified cereals, and other nutritious foods selected by health professionals without 1 penny of Federal or State money being used.

The need to help these needy women and children is clear. Assistant Secretary of Agriculture John Bode testified this year that only 40 percent of the women, infants, and children eligible for the WIC Program can participate because of Federal budget restrictions. Indeed, President Reagan's proposed budget would have thrown more than 50,000 eligible women, infants, and children off this program this fiscal year.

This bill will provide for increased participation without increasing the cost to the American taxpayer.

The bill borrows an idea that has been used in Vermont for years. Vermonters are very frugal and it shows in the way they run the WIC Program. Vermont, buys the commodities which it distributes through the WIC Program at volume discounts. Because of these procedures Vermont serves more eligible WIC recipients than any other State. Vermont serves over 70 percent of those eligible whereas the national average is only 40 percent.

On the other hand most States pay a lot more—they buy these same commodities at retail prices. This bill provides incentives for States to adopt Vermont's approach and use competitive bidding to obtain the same healthy and fortified foods at discount—volume buying—pieces.

Under these procedures, for example, the assistant commissioner of the Tennessee Health Department testified that $4 million could be saved, per year, in Tennessee alone.

The problem is that the Department of Agriculture, following Office of Management and Budget directives, has ruled that State could not use any of the saved taxpayer money to process additional eligible pregnant women and infants. Tennessee would be able to serve 8,000 to 10,000 more people, but would be given no extra money to process those applicants and health screen them.

To be eligible for WIC the applicant must not only be poor but also be at nutritional risk as determined by a physician, nurse or nutritionist, Under the USDA ruling, the cost of that eligibility processing, especially the nutritional health assessments, prevented States from using this cost-saving approach.

This bill takes down that roadblock.

When you also consider other taxpayers savings involved in the WIC Program this bill will actually save money while serving more pregnant women, new mothers, infants, and children under 5.

Recent studies published in the American Journal of Public Health have shown that participation by pregnant women in WIC reduces Federal Medicaid costs regarding newborn infants. Babies born to WIC participants were less likely to be seriously ill at birth as measured by lower neonatal intensive care unit admission rates and shorter stays in intensive care.

This act also extends around 60 School Lunch Program CLOC pilot projects for 2 years. These pilot projects, two of which are in Vermont, are designed to test two alternatives to the regular Commodity Delivery Program for schools that participate in the School Lunch Program.

Mr. President. Since this bill has been modified from the House, and since there is no traditional "Statement of Managers" as there was no formal conference, I would offer the following clarifications and explanations of the bill.

Section 3(j)(2) establishes that each school authority should be offered the national average value of donated foods. In passing this bill, it is understood that the language in this section is intended neither to cause States to operate their distribution systems inefficiently nor to increase USDA's expenditures for commodities. This provision is intended to ensure that States make every effort to equitably provide foods to all school districts within practical constraints.

First, commodity entitlements must be computed based on the current year's meal counts. Therefore, it is not possible to determine these entitlements at the local level with absolute precision until the school year is over. Second, some of the current differences in the value of foods provided to school food authorities are the result of practical considerations in ordering and shipping commodities. Schools receive slightly more or slightly less than the national average payment because commodities are in discrete units and they have to be provided in sufficient quantities for efficient use by individual schools. This provision would not force States to abandon these practices. In allocating commodities among school districts, States should minimize the differences in per meal reimbursement rates to the extent that it does not result in inefficient splitting of shipments or delivery of commodities in quantities that are impractical for school district use. States are expected to make every effort to ensure that this provision does not cause assessments to school districts to increase.

Section 3(B)(1)(A) requires the offering of optional forms and package sizes.

It is not expected that the Department to incur additional costs to provide optional forms and sizes of commodity items that are provided as bonus items to schools, the Temporary Emergency Food Assistance Program, charitable institutions or any other outlet. To do so would necessarily increase the Department's costs to operating the Commodity Program and diminish the agricultural impact. The optional forms and sizes are mandatory only for programs where a specific funding source is available to purchase food for use in that program and where a significant portion of the recipient agencies have expressed a desire for an alternative form or package size.

Regarding section 3(F)(1), it is recognized that the Department currently assess the costs and benefits of commodity purchases, but anticipates that the system for doing so will be improved by the added semiannual data collection from recipient agencies that is also required by the bill.

Section 3(b)(4)(A) requires that the Department provide 60 days' notice before distribution of commodities is scheduled to begin. The Senate does not expect the Department to incur additional costs of storage in meeting the 60-day advance notice provisions. Where additional storage costs would be necessary or the amount of product

removed from the market would have to be reduced to meet the requirement is one type of emergency situation the legislation is intended to provide exceptions for. In these instances the Secretary shall provide as much advance notice as possible.

It is intended under section 3(b)(8) that the Secretary take appropriate steps to improve the predictability of the receipt of donated commodities to State distribution agencies. In taking any such action, however, the Secretary shall ensure that it is consistent with, and not disruptive of, normal commercial activity in the processing and transportation industries.

Section 3 extends the Department's authority to offer cash or commodity letters of credit to sites previously participating in a Congressionally mandated pilot study through December 31, 1990.

H.R. 1340 contains a series of important provisions to improve the operations of the Special Supplemental Food Program for Women, Infants, and Children [WIC]. Perhaps the most significant of these is a provision which would encourage States to institute systems to obtain WIC foods more economically, so that WIC funds can be stretched to serve more people.

Under current law, if a State institutes a rebate, competitive bidding, home delivery, or direct distribution system to procure WIC food at lower-than-retail prices, the State lowers the per-person cost of providing WIC foods. This ought to enable the State to serve additional participants. However, the State receives no more administrative money to administer blood tests, determine eligibility, or provide nutrition education to these additional recipients. As a result, current law effectively discourages States from instituting major cost-saving changes to obtain WIC foods at reduced prices.

H.R. 1340 would remedy this problem. It would enable States to use, for administrative costs, a modest portion of the savings from instituting systems to obtain food at a reduced cost. Under the provision, USDA would project a State's WIC participation for the coming fiscal year, based on the State's average food cost per person and the State's funding allocation for the coming fiscal year. The State would, as part of its State plan, describe the new cost-saving system it planned to institute and the maximum additional number of participants it could serve as a result of the new system. Once the department approved the State plan, the State would, for each participant actually served above the Department's projected participation level and up to the maximum number of new participants specified in the State plan be allowed automatically to convert a specific amount of the State's WIC food funds to administrative funds. The specific per-participant amount the State would be allowed to convert would be based on the State's average WIC administrative cost per participant. At the beginning of each fiscal year, this process would be repeated until such time as the increase in participation, due to the cost-saving system, had been fully achieved and fully reflected in the projected participation level for the State for the coming fiscal year. After that time, the State would still receive administrative funds to cover the costs of the added participants but these funds would be provided through the Department's administrative allocation formula.

The result would be that if a State operated a rebate, competitive bidding, home delivery, or direct distribution system, the State could cover the administrative as well as the food costs of serving additional participants. This should provide incentives for States to institute major efficiency measures in their programs.

The provision would cover States instituting a rebate, competitive bidding, home delivery, or direct distribution systems in the future, as well as States that instituted such systems earlier in fiscal year 1988 or in the latter part of fiscal year 1987 in anticipation of enactment of this legislation. In addition, States that instituted such a system at an earlier point could also participate—if such States made significant changes in their systems that produced savings and resulted in additional participation, these States would be eligible to convert food to administrative dollars to cover the added participation resulting from these changes.

It is expected that in making the participation projection required by this provision, the Department will divide the State's prior fiscal year's average food cost per participant, with an allowance for inflation, into the State's food grant for the new fiscal year. This method will ensure that the projected participation level takes into account normal increases in WIC funding levels. It is further expected that this projection will take into account significant and reliably quantifiable participation expected to result from causes other than planned cost-saving initiatives, such as the participation increase resulting this year—in some States—from elimination of State sales tax charges on WIC food purchases. In implementing this provision for fiscal year 1988, it is expected that the Department will make the participation projections in the same manner as it would have done if the projections were being made at the start of the fiscal year.

In addition to this provision, H.R. 1340 includes a provision for a study of several issues related to WIC administrative funding levels. This study is needed to assess the impact on administrative funding allocations if substantial numbers of States institute cost-saving systems to lower WIC food costs.

H.R. 1340 also includes several other WIC provisions included in the bill as it passed the Senate last summer. The House accepted these provisions without modification. In implementing these provisions, we expect the Department to be guided by the Senate committee report and Senate floor debate accompanying the approval of these provisions.

I would like to add some emphasis to one such provision, a provision requiring coordination between State and local WIC programs and State and local Medicaid programs. Unpublished census data recently analyzed by the Center on Budget and Policy Priorities show that only one of every three low-income children below the age of 5 who participates in Medicaid is enrolled in WIC. Similarly, only half of those in WIC are covered by Medicaid. There is reason to fear that some of the pregnant women and young children who are at greatest risk are among those remaining outside one of these programs. Since we do not have the resources to serve all persons eligible for WIC, it has long been the intention of Congress that those at greatest risk be served first. Similarly, Congress has, on a bipartisan basis, passed legislation in recent years extending Medicaid to more pregnant women and children who are not on welfare but nevertheless are poor. Accordingly, we hope that, in enacting this provision to bring closer coordination between WIC and Medicaid, the Department will work closely with State WIC agencies to bring about greater emphasis on referral, both by the WIC and the Medicaid programs, of women and children who may be eligible for the other program.

Mr. LUGAR. Mr. President, I rise today along with Senator LEAHY and others to offer support for the final passage of H.R. 1340, the Commodity Distribution Reform Act of 1987. I believe we have before us a measure that will make needed changes in our commodity distribution system, but also changes in the WIC Program which provides a much needed program to so many needy individuals.

As stated earlier when this bill first came before the Senate, these changes will allow for more pregnant women, children, and infants who have been determined to be at nutritional risk to receive the extra nutritional needs they require. I believe it is important to note that these changes will allow the WIC Program to serve a much larger percentage of eligible participants without adding to program costs.

It has been proven time and time again that enrolling pregnant women in the WIC Program will reduce Federal Government outlays on newborn infants through Medicaid programs. Increasing participation levels without increasing money spent on the WIC Program actually saves taxpayer's money in the long run. At a time when we are all looking to save money this is a program we should all support.

Another section in this bill provides for commodity distribution reforms that will improve the operation of the Department of Agriculture's Food Donation Program by making it more responsive to local needs. One of the areas affected by this section is the time period allowed to get commodities to State distribution agencies.

In specifying that the period will be no more than 90 days—unless a longer period is specified by the State agency—it is not intended that the cost of providing the commodities be increased. Therefore, we expect the Secretary will administer this requirement in a way that is budget neutral. The Secretary and his staff are to be commended for their aggressive actions to reassess their own policies in order to become more responsive to local concerns. As a result, the Department is already in compliance with most provisions of this legislation.

Mr. President, I urge my colleagues to join with me in giving final passage of this bill our fullest support.

Mr. HARKIN. Mr. President, I rise in support of H.R. 1340, the Commodity Distribution Improvement Act. The Subcommittee on Nutrition and Investigation, which I chair, held several hearings on the issues addressed in this bill. I feel strongly about this bill which has been introduced by Senator LEAHY and enjoys strong bipartisan support.

Before I begin my statement, I want to thank my good friend and the chairman of the Agriculture Committe, Senator LEAHY, for his support and commitment to resolving the problems this bill seeks to address and for his leadership in guiding this bill through the legislative process. I know it has required a lot of his personal time and attention. I also want to thank the minority leader, Senator LUGAR, and Senator BOSCHWITZ. Without their support and active participation in our hearings, this bill would not be a reality.

This bill addresses three very important programs. First, it mandates improvements in the Commodity Distribution Program. It is important to recognize the dual objectives of this program: First, to remove domestically produced surplus commodities from the marketplace and second, to provide commodities to recipient agencies. It also calls for compliance with the Dietary Guidelines for Americans. This is an issue that I feel strongly about. If the USDA does not follow its own dietary guidelines, it is hard to believe Americans will take them seriously. The bill also calls for distribution of recipe cards to school districts. My incoming mail tells me these recipe cards are very important to our school lunch programs.

The second program this bill addresses is the cash-in-lieu-of-commodity [CASH] and commodity letters of credit [CLOC] Programs. These pilot project alternatives to the Commodity Distribution Program are extended for another couple of years. It is my personal hope that this bill will facilitate improvements in the Commodity Distribution Program so that the 64 participating school districts will be anxious to get back into the Commodity Distribution Program in 1990.

The third program this bill addresses, and one that I feel very strongly about, is the Women, Infants, and Children [WIC] Program. I have been a supporter of the WIC Program because of its objectives, its economy, and efficency. These amendments which I was pleased to develop in my subcommittee, allow States to use competitive bidding or congressional pricing and rebate programs. This will reduce the commodity costs of WIC and thereby expand WIC participation at no additional cost to the Federal Government. I have attached a letter from the General Accounting Office which says that these changes will result in expanding WIC participation by over 630,000 more women, infants, and children.

Mr. President, I support this bill and congratulate my colleague, Senator LEAHY, on his legislation and his leadership. I urge my colleague to support this bill as amended.

I ask unanimous consent that a letter from the General Accounting Office estimating the savings achieved by the WIC amendments be included at the end of my statement.

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

GENERAL ACCOUNTING OFFICE,
Washington, DC, October 9, 1987.

B-176994.

Hon. TOM HARKIN,
Chairman, Subcommittee on Nutrition and Investigations, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate.

DEAR MR. CHAIRMAN: Pursuant to your July 9, 1987, letter and subsequent meetings with your office, we agreed to estimate the number of additional participants—any eligible women, infants, or children—who might be added to the Special Supplemental Food Program for Women, Infants, and Children (WIC) by applying any savings that might be achieved by states purchasing infant formula at less than retail cost.

Generally, states, through their local agencies, provide eligible WIC participants with vouchers or checks that are redeemable for food at local retail stores. U.S. Department of Agriculture (USDA) regulations require that any savings achieved through cost saving practices under the WIC program must be used solely to purchase food for additional eligible WIC participants. (USDA estimated that only 40 to 50 percent of the people eligible are participating in the WIC program.) One food item—infant formula—has been purchased by some states through competitive bids for less than retail cost. However, according to state WIC officials, purchasing food under cost saving methods presents a disincentive to increasing program participation because states are not allowed to use any of the savings to cover increases in administrative costs incurred as a result of increased participation. As a result of these states' concerns, the Congress is currently debating this issue and legislation has been proposed to allow states to use 10 to 20 percent of any savings achieved to cover increases in administrative costs of adding WIC participants.

In summary, based on cost savings methods used by six states to purchase infant formula at less than the retail cost, we estimated that for fiscal year 1988 between 221,400 and 630,200 additional eligible WIC participants [1] might be served nationwide with savings achieved if all states purchased infant formula at reduced rates similar to those of the six states. These estimated numbers are based on current regulations requiring that all savings be used to purchase food for additional eligible WIC participants. In addition, we estimated that the number of additional eligible WIC participants that might be served by states using 10 to 20 percent of the estimated savings to cover administrative costs is between 200,500 and 567,700 at the 10-percent level and between 177,100 and 505,200 at the 20-percent level. The wide range in the number of eligible WIC participants that might be added to the program reflects the different estimated savings experienced by each of the six states. In using this information, it is important to understand that there are limitations to our nationwide projections. (Section 2 provides a detailed description of our methodology, assumptions, and limitations of the estimates.)

Six states—Maryland, Mississippi, Ohio, Oregon, Tennessee, and Vermont—have contracts to purchase infant formula for less than the average retail during fiscal year 1988. Using data from these states and USDA, we provide nationwide estimates of savings and, by using those savings, the number of additional eligible WIC participants that might be added to the program in fiscal year 1988. Although we cannot provide a precise assessment of nationwide savings, we have attempted to provide an indication of possible savings if the experiences of the six states were duplicated nationwide. Actual savings nationwide are likely to be different because all states may not be able to purchase infant formula for savings rates within the range achieved by the six states. As requested by your office, we did not obtain official agency comments on a draft of this report. However, we did discuss the contents of this report with USDA Food and Nutrition Service program officials.

Section 1 of this briefing report contains more detailed information on the WIC program's background and an overview of our methodology to calculate nationwide sav-

[1] The term "participant," as used in this report, refers to "participant slots" rather than individuals.

ings that could be achieved by purchasing infant formula for less than retail cost and the estimated number of eligible WIC participants that might be added to the program with the savings. Section 2 provides a detailed description of our methodology, information on the data used in our calculations, and the resulting estimates. Section 3 illustrates the steps we took to calculate one state's savings and the estimated number of additional participants that might be added nationwide assuming all states could achieve the same percent of savings.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 15 days after its issue date. At that time, we will send copies of this report to appropriate congresssional committees; the Secretary of Agriculture; and the Director, Office of Management and Budget. Copies will also be made available to other interested parties upon request. If you have any questions regarding this information, please call me at 275-5138.

Major contributors to this briefing report are listed in appendix I.

Sincerely yours,

BRIAN P. CROWLEY,
Senior Associate Director.

Mr. BOSCHWITZ. Mr. President, I rise today in support of this legislation to improve the commodity distribution programs. I had cosponsored similar legislation which was passed by the Senate in August. I am pleased that we will be able to complete work on this bill before the close of this year's session.

The purpose of this bill is to improve the distribution of commodities to schools for the School Lunch Program as well as improving the distribution of commodities for other nutrition programs. Basically, the Commodity Distribution Program has been run to maximize the agricultural purposes of the program without enough focus on the needs of the schools and other recipient agencies. Commodities arrive in huge quantities with very little notice, commodities arrive spoiled, and commodities arrive late in the school year that have to be stored all summer. This bill requires the Secretary of Agriculture to develop specifications to assure products of the quality, size, and form most useful to recipients. Commodities distributed not in good condition would be replaced.

This bill also provides for several improvements in the Special Supplemental Food Program for Women, Infants, and Children, commonly known as WIC. These provisions will allow States to serve more needy participants. I wholeheartedly commend these efforts to make the Federal benefit dollar go further.

One other provision regarding the WIC Program is of particular importance to me. Some States are accepting bids from formula companies to supply the infant formula for the entire WIC Program in the State. The problem brought to my attention was that of infant formula companies bidding for a statewide contract that do not have FDA product approval. Last summer I offered an amendment to the Senate bill specifying that infant formula companies competing for statewide bids be in compliance with the Infant Formula Act including registration and filings with the FDA. I am pleased to see that this provision was retained in H.R. 1340 as passed by the House of Representatives this week.

Again, I support this legislation improving the distribution of commodities and providing for improvements in the WIC Program and urge my colleagues to support this measure.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment.

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

The motion was agreed to.

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.

EXCLUSIONS FROM INCOME UNDER FOOD STAMP PROGRAM AND AFDC PROGRAM

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be discharged from further consideration of H.R. 3435; that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will read the report.

The legislative clerk read as follows:

A bill (H.R. 3435) to provide that certain charitable donations, and payments for blood contributed, shall be excluded from income for purposes of the Food Stamp Program and the AFDC Program.

Mr. LEAHY. Mr. President, on behalf of myself and my distinguished ranking member, Senator LUGAR, I ask for immediate consideration of H.R. 3435, which has been discharged from our committee by unanimous consent.

This bill, the Charitable Assistance and Food Bank Support Act of 1987, has bipartisan support in the House and Senate. This bill was introduced in the House by Mr. EMERSON and Mr. PANETTA and was passed out of committee by unanimous vote. The bill enjoys bipartisan support, and the support of the Department of Agriculture.

A number of charities have also been supportive of this legislation. The U.S. Catholic Conference has commended the bill as "a way to help low-income people maintain their dignity in their need to secure the financial resources necessary to ensure a healthy and adequate diet."

The basic notion behind this bill reflects the true Christmas spirit. At this special time of giving and caring, it is fitting that we make this small change in the Food Stamp Act to allow small charitable contributions which are given to poor people, particularly at holidays, not result in a reduction in food stamp benefits for those needy individuals and families.

Currently, section 5(d)(1) of the Food Stamp Act allows for the receipt of food and other like kind donations from charities, but requires that cash donations be counted as income and thus could reduce a needy family's or individual's food stamp benefits.

To address this problem, this legislation allows up to $300 in a 3-month period to be excluded from income calculations in the Food Stamp Program, if this amount represents cash donations based on need that are received from one or more charitable organizations. CBO estimates the cost of the charity disregard to be less than $500,000. The administration, I might add, has no objection to this bill.

This bill also includes a provision, supported by Congressman BILL EMERSON, which would authorize the Department of Agriculture to carry out at least one food bank demonstration project using section 32 commodities. A similar provision is found in H.R. 1340, which has recently been agreed to by the House.

Mr. President, Senator LUGAR and I offered an amendment to H.R. 3435, which strikes out one small provision of the House passed bill. This provision related to the sale of blood and its consideration under the Food Stamp Act.

Mr. President, I support H.R. 3435. This bill is in the holiday spirit. We are a generous people. This bill will allow and encourage the spirit of giving. It will also help, at least in one small way, the burden of the poor and the hungry of this country.

Thank you, Mr. President.

Mr. LUGAR. Mr. President, I rise today to offer support for the Charitable Assistance and Food Bank Act of 1987, H.R. 3435. This legislation makes changes in the Food Stamp Program as well as providing new opportunities for food bank demonstration projects.

The first provision would amend the Food Stamp Act so that small cash contributions from nonprofit organizations received by food stamp participants would not be counted as income in determining food stamp benefits. Many communities have nonprofit organizations which provide small cash contributions to needy families to purchase food, gifts, or other needed items.

This provision would allow low income families participating in the Food Stamp Program to receive up to $300 in nonrecurring cash contributions in a 3-month period from one or more nonprofit charitable organiza-

tions without decreasing their food stamp allotment.

Mr. President, I believe this bill is especially appropriate as we approach the holiday season when many traditionally offer assistance to the less fortunate in their communities. Current provisions in part penalize us for offering assistance to needy families at a time when they may need these small donations the most.

The other provision in the bill would provide for food bank demonstration projects using section 32 commodities. The House Agriculture Subcommittee on Domestic Marketing, Nutrition, and Consumer Relations held hearings earlier this year on food banks, and found that we should look for new ways to increase the impact and reach of our food bank programs.

This provision would provide the Department of Agriculture with a testing opportunity to find better ways to meet local needs in distributing surplus commodities already on hand. I believe the implementation of this provision will allow us to better serve local communities, while distributing surplus commodities more efficiently.

Mr. President, I urge my colleagues to join me and the distinguished chairman, Mr. LEAHY, in supporting this legislation.

AMENDMENT NO. 1374

(Purpose: To provide that certain charitable donations to persons in need shall be excluded from income for purposes of the Food Stamp Program)

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Senators LEAHY and LUGAR and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD) for Mr. LEAHY and Mr. LUGAR, proposes an amendment numbered 1374.

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:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1.

That this Act may be cited as the "Charitable Assistance and Food Bank Act of 1987".

SEC. 2. FOOD STAMP PROGRAM.

(a) Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) in clause (8) by inserting "cash donations based on need that are received from one or more private nonprofit charitable organizations, but not in excess of $300 in the aggregate in a quarter," after "or credits,";

(b)(1) EFFECTIVE DATE.—Except as provided in paragraph (2), the amendment made by this section shall become effective upon the date of enactment of this Act.

(2) APPLICATION OF AMENDMENT.—The amendment made by this section shall not apply with respect to allotments issued under the Food Stamp Act of 1977 to any household for any month beginning before the date of enactment of this Act.

SEC. 3. FOOD BANK DEMONSTRATION PROJECT.

(a) The Secretary of Agriculture shall carry out no less than one demonstration project to provide and redistribute agricultural commodities and food products thereof as authorized under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935, as amended (7 U.S.C. 612c), to needy individuals and families through community food banks. The Secretary may use a State agency or any other food distribution system for such provision or redistribution of section 32 agricultural commodities and food products through community food banks under a demonstration project.

(b) Each food bank participating in the demonstration projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and food products provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the project shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

(c) The Secretary shall determine the quantities, varieties, and types of agricultural commodities and food products to be made available under this section.

(d) This section shall be effective for the period beginning on the date of enactment of this Act and ending on December 31, 1990.

(e) The Secretary shall submit annual progress reports to Congress beginning on July 1, 1988, and a final report on July 1, 1990, regarding each demonstration project carried out under this section. Such reports shall include analyses and evaluations of the provision and redistribution of agricultural commodities and food products under the demonstration projects. In addition, the Secretary shall include in the final report any recommendations regarding improvements in the provision and redistribution of agricultural commodities and food products to community food banks and the feasibility of expanding such method of provisions and redistribution of agricultural commodities and food products to other community food banks.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment (No. 1374) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, the bill to be read a third time.

The bill (H.R. 3435), as amended, was passed.

Mr. BYRD. Mr. President, I ask unanimous consent that a motion to reconsider be laid on the table.

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

Mr. BYRD. Mr. President, I thank the distinguished Presiding Officer (Mr. GLENN), who traveled a long way at my request from his home this evening to come in and perform the duties of the Chair, which he has done in a splendid way.

The PRESIDING OFFICER. The Chair thanks the distinguished majority leader.

RECESS UNTIL TOMORROW AT 6 P.M.

Mr. BYRD. Mr. President, if there be no further business, I move, in accordance with the order previously entered, that the Senate stand in recess until 6 p.m., tomorrow.

The motion was agreed to, and the Senate, at 11:30 p.m., recessed until Sunday, December 20, 1987, at 6 p.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate after the recess of the Senate on December 18, 1987, under authority of the order of the Senate of February 3, 1987:

THE JUDICIARY

DAVID M. EBEL, OF COLORADO, TO BE U.S. CIRCUIT JUDGE FOR THE 10TH CIRCUIT, VICE WILLIAM E. DOYLE, RETIRED.

VAUGHN R. WALKER, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA, VICE SPENCER M. WILLIAMS, RETIRED.

JACK T. CAMP, JR., OF GEORGIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA, VICE CHARLES A. MOYE, JR., RETIRING.

KIMBA M. WOOD, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE CONSTANCE BAKER MOTLEY, RETIRED.

LOWELL A. REED, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE ANTHONY J. SCIRICA, ELEVATED.

ALFRED C. SCHMUTZER, JR., OF TENNESSEE, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TENNESSEE, VICE ROBERT L. TAYLOR, RETIRED.

IN THE COAST GUARD

THE FOLLOWING OFFICERS OF THE U.S. COAST GUARD FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL:

THOMAS T. MATTESON	ROBERT T. NELSON
RICHARD I. RYBACKI	MARSHALL E. GILBERT
MARTIN H. DANIELL, JR.	

THE FOLLOWING OFFICERS OF THE U.S. COAST GUARD FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (LOWER HALF):

RONALD M. POLANT	RICHARD A. APPELBAUM
WILLIAM P. LEAHY, JR.	ARTHUR E. HENN
JOEL D. SIPES	

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, 8373, AND 8374, TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. THOMAS R. ELLIOTT, JR., xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.

BRIG. GEN. TIMOTHY T. FLAHERTY, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.

BRIG. GEN. JOHN R. LAYMAN, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.

To be brigadier general

COL. PAUL L. CARROLL, JR., xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. EDWARD R. CLARK, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. JOE H. ENGLE, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. MICHAEL S. HALL, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. WALLACE D. HEGG, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. RICHARD J. IDZKOWSKI, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. PHILIP G. KILLEY, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. STEPHEN M. KORCHECK, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. CHARLES R. LINZ, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. RALPH J. MELANCON, SR., xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. WILLIAM D. NEVILLE, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. DONALD J. RYAN, xxx-xx-xxxx FG, AIR NATIONAL GUARD.
COL. JAMES H. TUTEN, xxx-xx-xxxx FG, AIR NATIONAL GUARD.
COL. THOMAS R. WEBB, xxx-xx-xxxx FG, AIR NATIONAL GUARD.
COL. JAMES T. WHITEHEAD, JR., xxx-xx-xxxx FG, AIR NATIONAL GUARD.

Executive nominations received by the Senate December 19, 1987:

DEPARTMENT OF DEFENSE

J. DANIEL HOWARD, OF TENNESSEE, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE ROBERT B. SIMS, RESIGNED.

DEPARTMENT OF ENERGY

C. ANSON FRANKLIN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (CONGRESSIONAL, INTERGOVERNMENTAL AND PUBLIC AFFAIRS), VICE A. DAVID ROSSIN, RESIGNED.

THE JUDICIARY

EMMETT RIPLEY COX, OF ALABAMA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE 11TH CIRCUIT, VICE JOHN C. GODBOLD, RETIRED.
PAUL R. MICHEL, OF VIRGINIA, TO BE U.S. CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT VICE PHILLIP B. BALDWIN, RETIRED.
STEPHEN M. REASONER, OF ARKANSAS, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF ARKANSAS, VICE WILLIAM RAY OVERTON, DECEASED.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 19, 1987:

TENNESSEE VALLEY AUTHORITY

MARVIN T. RUNYON, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR THE TERM EXPIRING MAY 18, 1996.

MISSISSIPPI RIVER COMMISSION

REAR ADMIRAL WESLEY V. HULL, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, TO BE A MEMBER OF THE MISSISSIPPI RIVER COMMISSION.

FEDERAL EMERGENCY MANAGEMENT AGENCY

GRANT C. PETERSON, OF WASHINGTON, TO BE AN ASSOCIATE DIRECTOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

ENVIRONMENTAL PROTECTION AGENCY

LINDA J. FISHER, OF OHIO, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

EXECUTIVE OFFICE OF THE PRESIDENT

MARJORIE B. KAMPELMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE ADVISORY BOARD FOR RADIO BROADCASTING TO CUBA FOR A TERM OF 1 YEAR.

BOARD FOR INTERNATIONAL BROADCASTING

MALCOLM FORBES, JR., OF NEW JERSEY, TO BE A MEMBER OF THE BOARD FOR INTERNATIONAL BROADCASTING FOR A TERM EXPIRING APRIL 28, 1989.
KENNETH Y. TOMLINSON, OF NEW YORK, TO BE A MEMBER OF THE BOARD FOR INTERNATIONAL BROADCASTING FOR A TERM EXPIRING APRIL 28, 1990.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

PETER H. DAILEY, OF CALIFORNIA, TO BE A MEMBER OF THE GENERAL ADVISORY COMMITTEE OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY.
MARTIN ANDERSON, OF CALIFORNIA, TO BE A MEMBER OF THE GENERAL ADVISORY COMMITTEE OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY.
JAMES T. HACKETT, OF VIRGINIA, TO BE A MEMBER OF THE GENERAL ADVISORY COMMITTEE OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY.
RICHARD SALISBURY WILLIAMSON, OF ILLINOIS, TO BE A MEMBER OF THE GENERAL ADVISORY COMMITTEE OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY.
JACK R. LOUSMA, OF MICHIGAN, TO BE A MEMBER OF THE GENERAL ADVISORY COMMITTEE OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY.
MARJORIE S. HOLT, OF MARYLAND, TO BE A MEMBER OF THE GENERAL ADVISORY COMMITTEE OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY.
WILLIAM SCHNEIDER, JR., OF NEW YORK, TO BE A MEMBER OF THE GENERAL ADVISORY COMMITTEE OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY.
KATHLEEN C. BAILEY, OF CALIFORNIA, TO BE AN ASSISTANT DIRECTOR OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY.

DEPARTMENT OF DEFENSE

THOMAS F. FAUGHT, JR., OF PENNSYLVANIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY.
T. BURTON SMITH, JR., OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING MAY 1, 1993.

DEPARTMENT OF COMMERCE

MELVIN N.A. PETERSON, OF CALIFORNIA, TO BE CHIEF SCIENTIST OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.
THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

JERRY E. SMITH, OF TEXAS, TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT.
RODNEY S. WEBB, OF NORTH DAKOTA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NORTH DAKOTA.
KENNETH CONBOY, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING MERRILL J. SCHWEITZER, JR., AND ENDING ROBERT P. O'CONNOR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 30, 1987.
COAST GUARD NOMINATIONS BEGINNING THOMAS J. COE, AND ENDING ROBERT C. PARKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 30, 1987.
COAST GUARD NOMINATIONS BEGINNING DONALD P. WILLS, AND ENDING ROBERT P. SHEAVES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 17, 1987.
COAST GUARD NOMINATIONS BEGINNING ARNOLD D. ABE, AND ENDING GEORGE M. ZEITLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 17, 1987.