# SENATE—*Friday, March 17, 1989*

*(Legislative day of Tuesday, January 3, 1989)*

The Senate met at 8:45 a.m., on the expiration of the recess, and was called to order by the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado.

## PRAYER

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

Let us pray:

Eternal God, Father of us all, always present everywhere, thank Thee for the promise throughout Scripture of Your unceasing presence with us. As the Senate disperses for recess, may the promise to Joshua be real: *"* * * As I was with Moses, so I will be with thee: I will not fail thee nor forsake thee."*—Joshua 1:5.

Infinite God, keep us aware that Thou art ever before us, behind us, above us, beneath us, around us, and within us. Thank Thee, gracious Lord, for this incalculable security.

"The Lord bless thee and keep thee; the Lord make His face to shine upon thee; the Lord lift up His countenance upon thee and give thee His peace."

Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, March 17, 1989.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

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

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

## THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

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

## SCHEDULE

Mr. MITCHELL. Mr. President, this morning, after a brief period of morning business, at 9 a.m. I will move to proceed to H.R. 1231, the Eastern Airlines labor dispute legislation. The time for debate this morning on that motion will be equally divided until 10:30 a.m. between Senators KENNEDY and HATCH or their designees.

I intend to file a cloture motion on this motion, to proceed today. That will result in a cloture vote on Wednesday, April 5.

At 10:30 a.m. this morning the Senate will go into executive session to consider the nomination of Congressman RICHARD CHENEY to be Secretary of Defense.

It is also my hope that we will be able to move to and act on the nomination of Lawrence S. Eagleburger today. We are requesting approval on that and I will have an announcement with respect to that in the near future.

## RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and also reserve the time for the distinguished Republican leader.

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to exceed beyond the hour of 9 a.m. with Senators permitted to speak therein for 1 minute each.

## QUORUM CALL

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

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

The legislative clerk proceeded to call the roll.

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

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

The Senator form North Dakota is recognized.

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

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

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

The legislative clerk proceeded to call the roll.

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

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

## FRIENDS OF IRELAND ST. PATRICK'S DAY STATEMENT—1989

Mr. KENNEDY. Mr. President, for the past 8 years, the Friends of Ireland in Congress have joined together in an annual St. Patrick's Day statement on Northern Ireland.

Formed in 1981, the Friends of Ireland is a bipartisan group of Senators and Representatives dedicated to maintaining the close historical ties between the United States and Ireland, and developing a United States policy that promotes a just, lasting and peaceful settlement of the conflict in Northern Ireland—a tragedy that has cost over 2,700 lives in the past 19 years, and has brought economic devastation and political instability to the region.

The Friends of Ireland statement this year urges all sides to the conflict to reject the path of violence and work for a negotiated settlement that addresses the concerns and needs of both communities in Northern Ireland.

Mr. President, I believe that all our colleagues will be interested in this statement, and I ask unanimous consent that it may be printed in the RECORD.

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

ST. PATRICK'S DAY STATEMENT—FRIENDS OF IRELAND, U.S. SENATE AND HOUSE OF REPRESENTATIVES, MARCH 17, 1989

We join again this St. Patrick's Day to honor the people of Ireland, and renew our calls for peace, justice, fair employment, an end to discrimination, and a spirit of reconciliation in Northern Ireland. Our Nation has a unique and special relationship with both Ireland and Great Britain, and we must re-dedicate ourselves to assisting both of these nations in any efforts to achieve a just and lasting peace. Our new President, George Bush, will, we are sure, be as supportive of our efforts as was his predecessor, Ronald Reagan.

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

In the strongest possible terms, we condemn the violence and bloodshed in Northern Ireland. Absolutely and unequivocally, we abhor all attempts to achieve political goals in Northern Ireland through a campaign of hate and terror. We oppose all those in Ireland, the United States, or anywhere in the world who lend support to this terrorism, and we call on them to cease any political or financial support for violence.

We call first this year for renewed attempts by the British Government to guarantee fair and equal justice in Northern Ireland. There must be even-handed administration of justice, and impartial behavior by security forces, including the part-time members of the Ulster Defense Regiment. Knowing that violence begets violence—from whatever side of the conflict—we call on the British Government to work toward the creation of a public security force representative of all peoples in the community. Perceptions of fairness and compassion in the justice system will, we believe, lead to a decrease in violence.

The Friends of Ireland are strongly supportive of those who want to preserve and develop the Irish heritage, both cultural and linguistic. Therefore, we believe that it is important that Northern Ireland children continue to be given the opportunity to learn the Irish language, particularly in school. It is vitally important that these children be encouraged to achieve fluency in the language of their ancestors.

In addition, we call on the British Government to take all necessary steps to provide fair employment opportunities to all citizens of Northern Ireland, including a positive drive to encourage companies to invest in areas of high unemployment. No one should be denied the fundamental right to earn a fair, honest, decent living, free from religious discrimination and bigotry. We remain troubled by the high unemployment rates in Northern Ireland, and continue to express concern over the unacceptable discrepancy in unemployment rates between the majority and minority communities. Unemployment in some Catholic communities reaches as high as sixty percent.

We welcome the introduction into the British Parliament of legislation designed to promote fair employment in Northern Ireland. The British proposal takes important steps toward ending anti-Catholic discrimination, but it does not go far enough. Specific references to goals and timetables and mention of affirmative action principles are critical. We will closely monitor the implementation of these new initiatives.

In addition, we express our belief that United States companies operating in Northern Ireland should comply with fundamental standards of fairness and equal opportunity in employment. When the laws of the United States provide tax incentives for U.S. companies to operate overseas, we expect that they will not discriminate against any persons, regardless of their religious or political beliefs.

As members of the United States Congress, we renew our support for the historic Anglo-Irish Agreement signed in 1985. This unique agreement, in our view, provides the best hope for establishing a framework to end the strife and discord in Northern Ireland.

An integral part of the Agreement is the International Fund for Ireland, to which the United States has been a significant contributor. We dedicate ourselves to seeking continued funding of the Fund this year, in a way that insures that those who most need the Fund's assistance receive it. We hope that other nations will participate in the Fund as well. Finally, we urge the British Government to inform and consult with the Irish Government fully on these and any future issues relating to Northern Ireland, as required by the Anglo-Irish Agreement.

We welcome the legislation passed in the last Congress providing an opportunity for the people of Ireland to emigrate to the United States. We intend to pursue legislation in the current Congress to achieve fair and permanent reform of the U.S. immigration laws which discriminate unfairly against immigrants from Ireland and many other countries.

In conclusion, we re-iterate our desire for a peaceful end to the conflict in Northern Ireland. We look forward to working with President Bush in the years ahead in continuing the strong tradition established by President Reagan in working toward that goal. Finally, we call on all parties responsible for this conflict to lay aside their arms and to resolve their differences in a new spirit of reconciliation, peace, and cooperation. Our commitment to the unity of the Irish people will never waiver as we build on the foundation of recent years to achieve progress toward these aims.

## SECURING AMERICAN PROSPERITY

Mr. BENTSEN. Mr. President, as a member of the Senate democratic working group on economic competitiveness, Senator KERRY has developed a reputation among his colleagues as a perceptive champion of the needs of American business. His recent speech to the Boston Chamber of Commerce cogently outlines both the challenges to American prosperity and suggests ways we can act to keep the American economy strong.

Senator KERRY sees the connections: The way we lag behind our competitors in areas like systems development, automation, and education; the way the public and private sectors can work as partners to create the best-educated labor force and the most competitive industry in the world by the year 2000.

Senator KERRY is not the first American from Massachusetts to sound the alarm about a dangerous situation. He has done more than that, however. In this speech he also charts the road to safety—and does it most persuasively. I urge all my colleagues to read Senator KERRY's speech and ask unanimous consent that it be inserted in the RECORD.

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

SECURING AMERICAN PROSPERITY

I have been privileged to represent this great commonwealth in elected office for 6 years now—as Senator and Lieutenant Governor. In addition, I have been advocating issues of my generation for some 20 years.

Never in the course of any of those years have we faced a set of choices as compelling and as important to our future as we do today.

It is hard to impress the reality of that fact let alone the reality of the choices themselves. The body politic of this country has less patience today with ideas and certainly less patience with descriptions of public challenges, particularly given that the average person feels consumed by the daily personal challenges of just getting by.

But political leadership is not supposed to be satisfied with just getting by—and I am not. I was certainly not elected to merely go along with conventional thinking and besides, Massachusetts has too strong a tradition of independence to permit us to do so.

So it is that despite the fact that we are in the 76th consecutive month of growth, I believe we must counter several trends in order to guarantee our long-term competitive viability. And many of the decisions needed to counter these trends are of a critical nature, demanding clear and forceful leadership at the highest levels.

One of the problems we face is that the electorate has grown too used to expecting very little or even expecting grotesque failure from our political leadership. We have, all of us, been burned by lofty rhetoric which has promised too much, delivered too late, and cried wolf too often about crises which seem to have not materialized. It is safe to say that leadership has its own crisis of credibility, saved only by low expectations. Needless to say, we cannot prosper as the America we have always known and loved if expectations remain low.

So it is that I believe we face a failure of political leadership—legislative and executive. And I say this in nonpartisan fashion and I criticize my own party equally.

In fact many of the issues most important to growth over the next 20 years—tax policy that favors savings and investment over spending and consumption, economic policies that approach Government budgeting from a pay as you go standpoint, regulation of economic enterprise in the least intrusive manner consistent with protecting the public welfare, and much more—many of these are issues which my party has dealt with ineptly, inappropriately or not at all for too many years.

Of course, the opposition party, while perhaps doing a better job of explaining their concern on these issues, has done little regarding its promises on the deficit and enhancement of incentive—not to mention a host of choices important to future competition and to American families.

So I would plead today for a new bipartisanship that can build the compromise coalition necessary to release the entrepreneurial energy of this country into long term, job creating, productive enterprise.

Given our current set of choices I believe it honest to say that it will take all the resources, policy support and political courage we can summon to remain No. 1 and keep the American standard of living rising. We are quite literally in a new economic era—an entirely new marketplace. And people in positions of public leadership must translate into public policy the realities of this transition.

While some of my observations may sound an alarm, they are not warnings of current gloom or doom. They are just that—alarms—meant to set out a series of choices we confront and a group of issues we must think about. If we do think about these issues and make the choices, our future is unlimited.

It seems to me that ever since the industrial revolution, American businesses have been able to play by a set of rules that are

significantly outdated in this modern marketplace. We grew used to winning and winning easily because we had all the advantages on our side, and those advantages sometimes became easily masked as "skill" or even "genius."

We had better resources, better technology, better financial services, better transportation, better research and development, better education; and those betters produced a nation that could lead the world through World War I and World War II and through the cold war.

But in the aftermath of World War II something funny happened on the way to the marketplace. The Marshall plan, the occupation of Japan, and the rebuilding of whole nations created a new competitive force, which even today we are having difficulty coming to terms with.

No longer can we coast and win. No longer can we make bad business decisions, and bad public policy decisions, yet still win because of our vast array of advantages.

Instead, today we find ourselves facing rapacious business practices and aggressive public economic policy from nations that appear hungrier than we. Our students lag behind theirs, our savings are a fraction of what they save, our resources—depleted in some sectors and dependent on them in others, are no longer providing the same advantage. Public officials have failed to face up to these changes and translate this into public policy.

Clearly, it is essential that America come to terms with the rapidity with which the world is changing. We are all well aware of the aggressive competition from Japan and the Pacific rim. But as much as we might choke on the words, the fact is that Gorbachev's overtures to Korea, to Eastern Europe, indeed to the whole world, indicate an understanding of this economic transformation which we have been too willing to avoid. That is not to say the Soviet Union will transition easily or at all.

Frankly, if the people of this country were experiencing the kinds of problems that Soviet workers and consumers face every day, we too would see movement and political leadership of an extraordinary nature.

With the emergence of the European Common Market as a single force in 1992, the potential for yet another huge dislocation in markets, with its threats but more importantly opportunities exists.

It is also important to understand that the labor costs we face today are not to blame for this crisis. Manufacturing workers in Japan earn as much as their American counterparts—and in West Germany, they're earning substantially more.

The simple truth is, we're not as competitive as we once were, because we're not as productive as we once were. And we're not as productive as our rivals are right now. The truth is we are not producing many of the products the world wants, at the price and quality of our competitors.

I've had the privilege of serving as a member of the Democratic task force on competitiveness. For 1 year we gathered the views of experts on this confrontation with our future.

A few quick observations. While American productivity has been increasing recently, as it always does during a recovery, it has been increasing more slowly than in the past and more slowly than that of the nations against whom we compete.

According to the Department of Labor, in the 14 years since the first oil crisis, the productivity of U.S. manufacturers rose an average of only 1.4 percent a year. This compares to average productivity increases of 3.8 percent for West Germany, 4.5 percent for France, 5.6 percent for Japan, and 5.7 percent for Belgium. Even Britain, notorious for its industrial sluggishness, beat the United States, with gains averaging 2.8 percent.

Productivity, of course, is a direct result of savings and investment patterns in an economy and on both counts, we have done poorly in recent years.

Our personal savings rate is the lowest of any industrial nation by a factor of three, and it continues to drop. As a result, despite a host of tax incentives, and the necessity for retooling as a result of technological changes, our manufacturers are investing less in new equipment than ever before.

Real productive investment in the United States has declined from an average annual growth rate of 8.4 percent in the 1960's to barely 4 percent in the 1970's to only 2.2 percent in the 1980's. And not surprisingly, when compared to our trading partners, the level of the United States investment in plant, equipment, and inventories as a percent of GNP is significantly lower than in West Germany, Japan, Italy, and other industrial countries.

The shortcomings of U.S. manufacturers were highlighted in a recent Harvard Review study which found that:

In the past 5 years, Japan has outspent the United States by 2 to 1 in automation.

Systems development in Japan is accomplished in 1.25 to 1.75 years, but more than twice as long, 2.5 to 3 years, in the United States.

Fifty-five percent of the machine tools introduced in Japan in the last 5 years were computer numerically controlled, compared to only 18 percent of those installed in the United States.

So when we review these trends—GNP growth, employment, productivity, savings, and investment—you can't help but see disturbing signs. And these same ominous trends continue when we look at trends in basic research—an area where the United States has long considered itself preeminent—without peer.

U.S. companies today are getting fewer patents than they did 15 years ago while patents issued to foreigners are steadily increasing. Foreign corporations had a 45-percent increase in patents filed. Japan increased by 15 percent—we increased by 3 percent.

Civilian R&D expenditures in the United States as a percentage of GNP lag far behind Japan and West Germany.

In 1980, U.S. funds for military and nonmilitary R&D were split 50/50. Today, the military consumes 72 percent of the total Federal research dollar, leaving just 28 percent for all other research.

These are the powerful forces endangering American prosperity, and it is the business of all of us to face up to them. It is all of our business to shape our actions and move those forces, in order to remake our economy in the image of long-term prosperity.

The fact is, America grew more slowly in the 1980's than in any other decade since World War II. There was less investment than at any time since that war. Translation: There are fewer new businesses, fewer new inventions, fewer factories, and fewer skilled workers.

Meanwhile as a government, we spend $150 billion more a year than we collect in revenues. As a people, we consume $150 billion more a year than we produce.

And there's nothing mysterious about how we do that, we borrow the difference—more than $400 billion in the last 4 years—from those who still follow the old American ethics of producing more than they consume and saving the rest—from the Japanese, from the Germans, from the British, from the Canadians, from oil-producing nations, from almost every developed nation.

What do they do with the $400 billion? Our gracious lenders are using those dollars to take possession of our assets.

Foreign investors today own 10 percent of our manufacturing base: 13 million acres of American farmland: and from one-third to one-half of the prime commercial real estate in Los Angeles, Houston, and Washington, DC, and parts of Boston. We are busy selling off assets that took us 200 years to accrue—and we are doing so at a discount.

Here's a small calculation. In just the last 12 months, we sent $150 billion abroad through the trade deficit. At current stock prices, that would be enough for foreign investors to come back and buy all the common shares of GM, Ford, and Chrysler, plus Texaco, McDonald's, and Coca Cola—with enough left over to buy all the farmland in California and Ohio.

By many measures, Japan is already richer than we are. And Western Europe is just 3 years away from an historic economic consolidation that will make them the largest economic power in the world. Even the Soviet Union is facing the economic future, straight-on, for the first time since the October revolution.

So this moment, is indeed a most critical moment in our history. We have to compete not just against ourselves, but against others as resourceful and determined if not more so than we are.

I am absolutely confident of our capacity to do so once we decide to. But we must decide to and we must use common sense. Americans have a unique capacity to join hands in common enterprise when asked to. It's time we asked.

For as long as modern capitalism has been around, economic growth has depended on investing in the factors that drive economic productivity. So, cutting the budget deficit will not be enough. We have to also invest in the elements of growth—in upgrading the skills of our workers; in developing new technologies of production; in building new plants and equipment for growing businesses; and in constructing the roads, bridges, and other infrastructure that bind markets together.

For nearly two centuries, this kind of investment was our natural, national habit. Our parents invested their labor and savings to educate us; inventors invested their efforts and ingenuity to create new materials and machines; entrepreneurs invested the capital of their communities to build new enterprises.

It worked. Our gross national product doubled roughly every 30 years. And parents deeded to their children a country and economy richer and stronger than the one they had inherited.

Somehow, we lost track of the habits of prosperity. Consuming more than we produce; spending more than we earn; saving and investing less than we need and these new habits are what gave us in the 1980's the slowest growth of any decade since World War II—and the highest average unemployment rate and the slowest growth of personal incomes of any postwar decade. In the 1980's, the incomes of average American families inched ahead at

barely 1 percent a year, and the real wages of average workers stagnated. I believe that is a path of decline—in our world leadership, in our standard of living, and in our self-respect as a people.

So our task is really very clear: We must recover our heritage of prosperity by investing again in the factors of economic growth.

How do we do this? First, centuries of progress have taught us that technology does play a crucial role in economic growth. That's common sense, and it's confirmed by experts who trace as much as 70 percent of all productivity gains since World War II to technological advances. Nowhere have we learned the lesson better than here in Massachusetts.

Despite the fact that we taught the world what "high technology" means, last year we ran a $30 billion trade deficit in high-technology products with the countries of Asia, and over the last 2 years we actually ran a worldwide, high-technology trade deficit.

I do not believe this loss is attributed to a decline in American genius. The fault lies in our weakening commitment to support the development of the products of genius. Defense technologies with little commercial application absorb most of our Federal investment in research and development. And the private sector, driven by the compulsion for avoiding disappointing quarterly returns, has allowed its real investment in R&D to stagnate as well.

So it should be clear: We must recommit ourselves to investing in the research and development that will produce the technologies of the future. And that may mean breaking out of the ideological shackles that are outmoded. For example, if we want American companies to play an important role in high definition TV, we may have to loosen and reform the antitrust laws that prevent our technology companies from collaborating. We may need Government sanctioned consortia to compete with those of competitor countries and we may have to have Government R&D funds help to share some of the risk—and it may already be too late.

I believe we in Congress can assist in forming a Federal R&D strategy. Today, we support some 700 national labs, as well as thousands of projects by the National Science Foundation and by more than a dozen military and civilian offices and agencies. The truth is, no one has even taken a serious inventory of all federally financed research and development. It's time we take that inventory, eliminate duplication, focus our energies and set priorities that will promote our long-term economic growth.

Let me state unequivocally that moving ideas into the world marketplace is the business of business—not Government. But Government can help create a framework that encourages that move. Some of those things we have already done.

When I was Lieutenent Governor, I testified before Congress to push for the R&D tax credit. And when I first got to the Senate I immediately made its extension a priority. Last week Senators DANFORTH, BAUCUS, and I submitted legislation to make the credit stronger and permanent and I will continue to push for passage of our R&D initiative.

That is also why I wrote, together with Commerce Committee Chairman FRITZ HOLLINGS, The provision of the trade law creating new centers for manufacturing technology, modeled on our own State's centers of excellence. These centers will sponsor joint ventures among universities and businesses in order to develop promising new manufacturing processes. Already three such centers have been funded throughout the United States and they are already focusing on the competitiveness problems of small manufacturers. We need more commitment to this effort.

Another major drag on America's technology lead during the 1980's has been an overly restrictive and inefficiently administered export control regime.

Following the release of a National Academy of Science report in 1986—which found that this system unnecessarily cost us $8 billion a year in U.S. exports and contributed to a narrowing of our lead in critical technologies—I introduced, along with Senator CRANSTON, legislation to streamline the system. This legislation became a part of the trade bill, and is now being implemented, though far too slowly.

Another provision in the trade bill which I authored authorized federally funded development assistance funds to the People's Republic of China, to train Chinese Government and industry technicians in the United States on American equipment. (The training will be designed and administered by U.S. companies—not the Government.)

We simply have to do this, because other countries have been doing it for years, and the huge Chinese market is being snatched away.

Another program I helped develop with my colleague on the economic competitiveness task force, Senator JAY ROCKEFELLER—provides for the establishment of an office in Japan to seek out the best technical literature published in Japanese and to translate it and make it available to American companies, researchers, and students.

But we can do more—much more—to stoke the technological engine for growth. We should encourage more business collaborations for developing new products, such as the Semetch venture for semiconductors.

We should rethink Judge Green's absolute ban on the right of regional telephone companies to manufacture or even joint-venture with companies like DEC on the development of state-of-the-art network telecommunications products. Before the break-up of AT&T, the United States was a net exporter of Telecom products—now we have large and growing deficit in Telecom, and a diminishing capacity to innovate and remain competitive in this critical field.

Most imperative, we must create incentives for middle-income Americans to increase their savings. In 1986, I fought hard and voted to keep the full $2,000 IRA deduction in the Tax Code—we lost, on a close vote, and I think that this is one factor responsible for the continued decline in household saving. I believe we must return to full IRA's, but I would go further.

Many young people in the country have given up the hope of securing the one item for which people have always been willing to save—a home of their own. It is my hope we can increase savings and help this dream at the same time.

As a coauthor of the major housing legislation that will be introduced by Senators CRANSTON, D'AMATO, and myself later this week, I am working on a program that will "guarantee" the down payment on a home of a given type and value to be purchased a specific number of years in the future. This guarantee will be supported by future buyers participating in a monthly savings program with tax benefits as an incentive to do so.

I believe that if we can give people more hope of achieving homeownership, we can increase the savings we desperately need while simultaneously helping to deal with the problem of attracting skilled workers for our business in Massachusetts.

Second, I believe we must reinstitute a tax preference for income earned from investing in business, especially gains from investing in the new growth-oriented enterprises that create jobs.

While our deficit cannot now justify as broad-based a capital-gains incentive as we once had, we positively should be encouraging long-term investments that directly generate economic activity.

Accordingly I will be introducing a capital gains reduction with a reduced rate for investments made in the stock of a business with $100 million or less in outstanding stock—the stock held for at least a year and a second tier of very reduced rate on gains resulting from investment in companies of $10 million or less of outstanding stock.

It is vital that we attract capital away from debt oriented investment and put it into risk taking, start-up efforts which create new jobs and new wealth.

All of these investment strategies and capital formation tools are vital to our survival in the marketplace of the future. But they will mean nothing unless we have a work force that can take advantage of them.

There is one industry that is central to improving America's competitiveness without lowering our standard of living. We spend over 6 percent of the GNP, more than the entire Pentagon budget, in this industry. But this industry is failing and failing badly. It is not meeting, let alone beating the competition. That industry is American education. And, unless we fix it, the rest of what we have mentioned today won't make much difference.

As David Kearns, chairman and CEO of Xerox said recently, "Education is a bigger factor in productivity growth than increased capital, economies of scale or better allocation of resources."

There is no single proposal, no set of actions by the private sector or any unit of Government that will accomplish what must be our mission—the best prepared labor force in the world by the year 2000. Hundreds of decisions on contracts, on curricula, on budgets on organization, particularly at the community level, are what will really matter. If these decisions reflect our resolve to be the best we shall in our uniquely American way, succeed and reach our goal.

But, there are many specific actions that we all can take—each in our own sphere.

In Washington, we can fight to have increased funding for education items from chapter I to the WIC Program! But there are some new initiatives we can undertake as well.

One, we must be certain that every child that enters our school system has a chance to succeed. Undoubtedly the most important investment in educational success is in early childhood. Head Start and other programs that provide nutrition, health screening, child development, and the like have been extraordinarily successful. However, fewer than 20 percent of the children that need these programs can now be served.

President Bush talked in the campaign about extending Head Start to all 4-year-olds. I've cosponsored legislation with Senator KENNEDY to do just that. It is in all our interests to see that the words and money carry the same message.

For the majority of kids attending public school in the next decade, research demon-

strates conclusively that if they have had preschool they are: About half as likely to have a teenage pregnancy; over a third less likely to be arrested; nearly half as likely to be on welfare; less than half as likely to suffer mental retardation; and nearly twice as likely to go on to higher education.

Our shortsightedness in funding preschool, unless corrected, will contribute enormously to a decline in U.S. competitiveness and to our standard of living.

Two, we must revalue teaching as a profession. You simply cannot expect to teach an increasingly more difficult to teach student body, an increasingly sophisticated curriculum, unless you can attract many more of the highest quality and best trained graduates of higher education to public elementary and secondary school teaching.

Go into any college and ask students, "Who plans to go into teaching?" Rarely does a hand get raised. No wonder we face a severe shortage of teachers. How in today's world can you ask people to see value in impoverishment? How can you say to a math or a science teacher, "Come to work for $18,000 and maybe one day you'll earn $30,000," when within months they can earn twice that in the private sector.

It is no wonder that the Carnegie task force on teaching found that only about 6 percent of college freshman have an interest in a teaching career (80 percent drop in the last 14 years) and that the SAT scores of those interested in teaching lagged substantially behind the SAT scores of classmates with other career interests. We have our work cut out for us.

We must attract quality teachers with quality pay and then demand that they perform.

But money is only a small part of the solution. In exchange for increased salaries teachers must also look to new strategies. We must enhance the professionalism of teachers, reduce the prescriptive interference, and let teachers do what they are professionally trained to do—teach. We need to decentralize responsibility and accountability if we are to attract and retain good teachers and help them give us the good schools and improved student achievement we all want.

Teachers and administrators in site after site around the country are demonstrating that school-based management works. This requires dedication, hard bargaining, lots of imagination, plenty of patience, but in the end the children benefit. I know that in Boston, there is an emerging consensus that such changes are due. We must get politics out of our schools and get education back in.

We must demand standards for curricula, attendance and testing which will guarantee that people are learning what they need to do. In Japan, students go to school for 240 days and longer hours. In Europe they cannot graduate unless they pass a standard test.

In America we go to school for 180 days and take no test. The Federal Government should extend a large carrot to local school districts and State boards of education by offering grants and scholarships to those who demonstrate objective educational success and meet higher standards.

The private sector must be motivated to lend its expertise and personnel—not on a haphazard basis, but on a wholesale scale, which recognizes its stake in this investment for the future.

I also believe that it is time to challenge America's young people with a teacher corps designed to recruit bright young people to the mission of making America's education the best in the world by the year 2000. The teachers corps would forgive student loans for its members and provide scholarships for "teacher training" for those who wished to join.

I will soon introduce legislation suggested to me by the Massachusetts High Technology Council that will provide college and graduate school students, loan forgiveness for science, math and engineering majors who commit to at least a partial career in teaching.

Three, I believe we must pay much more attention to those with limited skills who are currently in the labor force and will be for decades. We must make the concept of "lifelong education" more than just a cliche. Yet most businesses, particularly small and medium size businesses, don't have the resources or the expertise to do anything but the most specific functional training.

As chairman of the Urban and Minority Small Business Subcommittee, I am working on a plan that would assist and encourage small business to upgrade the basic and technical skills of their workers. It is critical that we equip noncollege educated workers to make a contribution to productivity that produces a much higher standard of living than what is in store for them without good training. There is no free lunch in tomorrow's work place.

So the challenges are many and they are difficult. But we have always been a resourceful people, capable of overcoming the greatest challenge.

Let me in closing make that point as clearly as I can—America can remain No. 1. As the freest people on the face of this planet, it's up to us to use our brains and summon the will to make the necessary choices to do so and we have yet to put the full energy of this Nation into this effort.

We know from our history that there's nothing we can't accomplish when we tap into our national pride. We must do so now in the effort to enhance our position of leadership into the next century.

As President Kennedy reminded us: "A journey of a thousand miles begins with a single step." It's time for us to take that step.

## EASTERN AIRLINES

Mr. KERRY. Mr. President, today we are considering legislation designed to get Eastern Airlines flying, to get workers back on the job and to get passengers to their destinations.

Mr. President, it is most regrettable that this legislation must also be designed to get the President to do what he can already do by law and should have done weeks ago. In fact, during the past 50 years the National Mediation Board has only recommended, as in the case before us, the appointment of an emergency board on 34 occasions. Over that long period, and under Republicans and Democrats alike, a President has never failed to take the advice of the Mediation Board and established the emergency panel in major labor disputes. Unfortunately, this President has broken with that precedent by rejecting the Board's advice to establish a cooling-off period during which negotiations to resolve this dispute can occur.

Mr. President, none of us will gain if stalemate continues and Eastern Airlines is destroyed. We need a healthy Eastern competing vigorously for business in order to keep the pressure on for efficiency and reasonably priced air fares for travelers. Obviously, the 31,000 Eastern employees, many of whom have helped to build up this airline, will suffer a personal and family tragedy as well as thousands of others whose jobs depend upon this airline.

Finally, Mr. President, let me make it clear exactly what this very limited legislation does. This proposal would simply direct an emergency board to make a settlement recommendation in 14 days, and give the parties 7 days to consider such a recommendation. Obviously the parties to this dispute need to be moved closer together and such a board just might be able to do so. This legislation does not impose a settlement on either labor or management.

Prior to this strike I urged the President to take the action we are now considering as legislation. His refusal to do so has seen the virtual grounding of Eastern and its filing for bankruptcy, the elimination of thousands of jobs, and an extraordinary cost to travelers who had planned important parts of their business or private lives around Eastern.

Mr. President, I urge my colleagues to support consideration of this important legislation and to join me in favoring establishment of the Emergency Board.

## TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, yesterday marked the fourth anniversary of the seizure of Terry Anderson by terrorists in Beirut. This is the 1,462d day of his captivity.

Yesterday in Le Monde, journalist and former hostage Jean-Paul Kauffmann expressed his thoughts on this situation.

> The truth is that the hostages in Lebanon today have become the damned of the West. Without hope of being saved, imprisoned in silence and darkness, deprived of the sight of the world of the living, forgotten, they no longer represent anything.* * * The most tragic thing is that this torment is administered as much from the outside by countries and people indifferent to their fate as on the inside by their captors.

I ask unanimous consent that articles from today's editions of the Washington Post, the New York Times, and from yesterday's Associated Press be reprinted in the RECORD.

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

[From the Washington Post, Mar. 17, 1989]

A CAPTIVE IN A TRAGIC LAND—ANDERSON IN 5TH YEAR AS HOSTAGE IN LEBANON

(By Nora Boustany)

BEIRUT, March 16.—It was a sunny morning in March four years ago today when American journalist Terry Anderson, shaking off suspicions that he was being observed and followed, decided to go ahead with his tennis game in a city where he felt he belonged.

But within minutes, gunmen intercepted his car, dragged him out and bundled him into a Mercedes with drawn curtains.

After covering the news of tragedies in Lebanon as The Associated Press bureau chief here, Anderson, now 41, became the news himself, as threatening statements from his pro-Iranian captors, the Islamic Jihad, shaped fears and expectations about his fate.

Today, he began his fifth year in captivity as the longest-held foreign hostage in Lebanon. Except for occasional messages, pictures and videocassettes distributed by his captors and containing appeals to the U.S. government and public, Anderson now rarely makes headlines, having become yet another nearly forgotten symbol of Lebanon's despair and chaos.

During his captivity, Anderson's father and a brother have died. A daughter, born shortly after his capture, has never seen him. Four other American hostages have been freed, as have all the French hostages.

One of the released Frenchmen, journalist Jean-Paul Kauffmann, freed last year after being held three years, made an impassioned plea today for rekindled public interest in the hostages, The Associated Press reported from Paris.

In the daily newspaper Le Monde, Kauffmann lamented that the hostages are no longer objects of mass compassion, no longer bargaining chips, no longer even political pawns.

"The truth is that the hostages in Lebanon today have become the damned of the West," he wrote. "Without hope of being saved, imprisoned in silence and darkness, deprived of the sight of the world of the living, forgotten, they no longer represent anything. . . .

"The most tragic thing is that this torment is administered as much from the outside by countries and people indifferent to their fate as on the inside by their captors."

Trapped in an unending game of conflicting interests involving Iran, Syria and local Lebanese groups that specialize in the business of hostage-taking, Anderson and the eight other Americans still held hostage have become the only constant factor—their captivity a kind of insurance policy for their captors.

Although prospects of their release seemed to improve with a cease-fire in the Persian Gulf war last summer, Tehran's crisis with the West over a book many Moslems consider blasphemous to Islam has dashed hopes that Anderson and other hostages will soon be freed.

The controversial book, "The Satanic Verses," by British author Salman Rushdie, led to a reversal of Iran's moves toward rapprochement with western powers. The row over the book, deemed deeply offensive by Moslems, overshadowed the significance of detente between Iran and the West and the importance of the liberation of foreign hostages.

The other Americans still held captive are Thomas Sutherland, kidnaped in June 1985; Frank Herbert Reed, Joseph James Cicippio and Edward Austin Tracy, kidnaped in 1986; Alann Steen, Jesse Jonathan Turner and Robert Polhill, held since 1987, and Marine Lt. Col. William Higgins, kidnaped in 1988. Other hostages include Terry Waite, a representative of the Church of England, seized in 1987.

The kidnaping of Anderson has had a devastating effect on first-hand western press coverage of Lebanon, driving most foreign journalists from the country. The virtual absence now of outside journalists in a country that once served as a window for understanding the forces at play in the Middle East has had grave implications for international understanding and press freedom in the region.

Anderson—and the others—have become casualties in a struggle against a kind of darkness that has set in. In a desperate country that is daily at war or on the brink of war, the cause of absent journalists is fading. Concern over blockades, airport closures, safety and the bare instincts of life and death now predominate.

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[From the Washington Post, Mar. 17, 1989]

THE LONG VIGIL OF THE HOSTAGES' FAMILY AND FRIENDS

(By Marjorie Williams)

It fell to Peggy Say, Terry A. Anderson's older sister, to find the emotional center. Over the four years of her brother's captivity in Lebanon, Say has often spoken tearfully or angrily, but yesterday she spoke with a tart exhaustion of how Anderson had beaten his head against the wall of his prison until blood ran down his face. "Today," she said, "we know that of the nine American hostages being held, one has gone mad, another has twice attempted suicide. Two attempted to escape and were beaten senseless."

Her account was based on the reports of recently released French hostages and described, respectively, Edward Austin Tracy, Thomas Sutherland, Frank Reed and Alann Steen.

Say was the second person to breach the ruminative tone at yesterday's "Human Rights Ceremony" in honor of Associated Press correspondent Anderson and all other hostages held in Lebanon. The first was Thomas L. Friedman, chief diplomatic correspondent of The New York Times, who said, "I have a confession to make: I rarely think about Terry Anderson." For when he does, he explained, "I am filled with such anger and bile to those who are holding him."

It was, finally, an explicit statement of the helplessness implicit in all the affectionate solemnity Anderson's colleagues lavish on him at this time every year.

As for the other journalists gathered in the Cannon House Office Building on the fourth anniversary of Anderson's kidnaping, they did what journalists always do in the face of events they can only chronicle. They recited particulars. Facts and figures:

There are nine Americans, three Britons, one Irishman and an Italian now being held in Lebanon, the printed program reminded the audience, listing the dates of their abductions.

Of the 66 foreigners kidnaped in Beirut since 1984, Cable News Network anchor Bernard Shaw noted, 28 have been journalists.

Washington Post Associate Editor David Ignatius, a former Middle East correspondent for The Wall Street Journal, noted that Anderson had filed 126 bylines for AP between his arrival in Lebanon in 1982 and his kidnaping in 1985.

Present in the audience, "NBC Nightly News" anchor Tom Brokaw said, were 16 members of the families of Anderson and other hostages.

Among the speakers was the Rev. Lawrence Martin Jenco, Anderson's roommate in captivity until July 26, 1986, who came to "body-lobby," as he put it, and lead a prayer.

Lebanese Ambassador Abdallah Bouhabib said of all the Western hostages, "I feel very strongly they were serving the cause of peace, in both Lebanon and the region" when they were taken hostage. "We pray that all hostages, as well as my country, will be free soon."

In the audience were Peter Burleigh, deputy assistant secretary of state for Near Eastern affairs; Sen. Daniel P. Moynihan (D-N.Y.), a member of the Senate Foreign Relations Committee; and Don Mell, who was a 22-year-old AP photographer in Beirut when Anderson was snatched before his eyes "at 8:19 exactly" on a Saturday morning, after their regular tennis game. The ceremony was cosponsored by No Greater Love, a humanitarian organization, and the Journalists Committee to Free Terry Anderson.

It is Anderson's ordeal that brings journalists out in force for these ceremonies; it is therefore Anderson whom the hostage families, in their hard-won pragmatism, have learned to put forward. They gathered—before at least 10 camera crews—in the hope that they might move the hostages' captors to mercy, might push the U.S. government to action, might touch the hostages themselves with hope.

Said Ambassador L. Bruce Laingen, who as chargé d'affaires to Iran was one of the American hostages held for 444 days in the U.S. embassy in Tehran, "Today we say to those who hold them in Beirut: We have heard your message. You have made your point long, long ago . . . Surely it's time in Lebanon, and in the Middle East as a whole, for an act of peace and brotherhood."

Echoed Friedman, "Surely there is nothing that has damaged the Arab and Islamic cause more than the way it has been personalized, to Americans, by the holding of Terry and others in Beirut."

At the end, uniformed students from St. Thomas More School in Arlington—all of them 12 years old, like Lebanon's war—walked to the front of the room to present black-and-white photographs of the nine Americans, three Britons, one Irishman and one Italian as Shaw read the roll. Anderson's picture was carried by the only 12-year-old from out of town—his first cousin once removed, Eric Anderson, who with parents Tom and Sue came down from Long Island for the occasion.

"We've come to the end of this small but moving ceremony," intoned Brokaw, helpless to stop anchoring.

"I think this sort of thing really shows the limits of [the media's] power," said Mell, helpless to forget the powerlessness of his forced witness to Anderson's abduction. "Or the linits of how we use our power."

"I'm disappointed with the press a little bit," said Tom Anderson, helpless to hide his anger. At home, he said, he is keeping the remnants of a bottle of expensive cognac Terry brought on a visit four years ago; he is keeping it for a celebration, when ever, and every night he lights a candle for his cousin in his front window. "We see the press just once a year, and everybody puts on a big show and writes articles," he said with gentle dudgeon. "And he's over there

365 days a year. I mean, he's one of your own, for God's sake!"

The ceremony was lovely, he said. But when asked how many of these ceremonies he has attended in four years, he denied himself the consolation of particulars: "I couldn't count 'em for you."

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[From the New York Times, Mar. 17, 1989]

TERRY ANDERSON'S JAILER IS . . .

(By Don Mell)

The last time I saw my friend Terry Anderson, chief Middle East correspondent for The Associated Press, was March 16, 1985. We had just finished an early morning game of tennis and Terry was dropping me off in front of my apartment.

We were chatting when suddenly a green Mercedes pulled up in front of us. I had seen the car passing by twice at the courts. It had a sinister look, but I didn't think much of it at the time. You get used to seeing things like this in Beirut.

Three bearded gunmen jumped out of the car. They approached slowly at first, then like cats going for the kill. "I don't like this," I yelled to Terry. "Get out of here." I thought they were after me.

The first gunman leveled his 9-millimeter pistol at my forehead. I started to back away as the others raced up to Terry's car. One dragged Terry out of the car and into the street holding him in a bear hug. I was frozen in terror. This wasn't part of the deal. Kidnappings happened to "other" people, not journalists. We were telling these people's story to the world.

I wanted to rescue Terry, but I couldn't. I just stood there on a street so familiar to me, staring at a black pistol. Not a word was spoken.

At that moment Terry's eyes met mine. They said, "Don, do something." Mine said, "Terry, I can't." Terry had the look of a man who knew he was doomed.

The gunmen pushed Terry into the Mercedes. They sped toward the ruins of Beirut's green line, the line dividing East and West Beirut, and into hell.

Four years later, Terry Anderson is still a hostage.

He spends most of his time in a small room chained to his bed. As he gets thinner his shackles are tightened. He has not seen daylight since his abduction. He is allowed 12 minutes, once a day, in the bathroom—no more, no less.

Terry Anderson and his fellow captives (there are eight other Americans among the 15) have simply slipped into obscurity.

Terry Anderson has been forgotten by his country and abandoned by his profession. His frustration has driven him to beat his head against the wall of his cell until blood pours down his face.

At the same time that threats against Salman Rushdie are condemned, no mention is made of Terry Anderson and his ordeal, least of all by those who should be most concerned: journalists, writers and intellectuals. There are exceptions but, as a rule, these people—and the institutions they represent—just aren't interested.

Is Terry Anderson under any less a death threat than Mr. Rushdie? While a price has been put on Mr. Rushdie's head, Terry Anderson lives out another day on borrowed time, constantly under the threat of immediate execution. Another hostage, William Buckley, was allowed to die barely an arm's length from him.

Is the incarceration of a journalist for 1,462 days any less a violation of the principles of freedom of thought and expression than a threat against an author for his work?

The front line against this sort of terrorism is not at Barnes and Noble on Fifth Avenue in New York or with book publishers in Britain. It lies in the Abdul Azziz barracks in south Beirut in a filthy, rat-infested basement where Terry Anderson is kept prisoner—his pen silenced.

When the subject of the Beirut hostages comes up, those who do nothing hide behind a veil of not knowing who holds the hostages or why, and claim they do not know to whom to protest.

There is no phone number, no address, no one to deal with, they say. Well, if there's no one to deal with, then with whom did Oliver North deal to secure the release of some of Terry's earlier cell mates?

Terry Anderson is being held captive by a man named Imad Mughniyah. Mr. Mughniyah is no stranger to Americans when it comes to terrorism. He played a major role in the 1985 hijacking of TWA Flight 847 from Athens to Rome. He also helped hijack a Kuwaiti plane last year. He has been indicted by the U.S. Government for his role in the TWA affair, but the indictment has been sealed and kept from the public.

What does he hope to gain? His brother in law made the bomb that blew up the American Embassy in Kuwait in 1983. The Kuwaitis captured him and he is now sentenced to die. Mr. Mughniyah kidnapped Terry Anderson in hopes of gaining freedom for his relative.

Mr. Mughniyah calls his organization Islamic Jihad, or Islamic Holy War. It is part of Hezbollah, a fundamentalist Shiite organization armed, financed and supported by elements in Iran. It is an organization that is barely tolerated by Syria, whose troops patrol much of the area where the hostages are being held. Nevertheless, the Syrians have never dared move against these fundamentalists. They want to avoid upsetting their tenuous alliance with Iran and they are afraid that any moves against the terrorists might result in harm to the hostages.

It would be simple to just point a finger at Iran as the guilty party, but this is not a simple situation. There are plenty of people in the Iranian leadership who see the hostage situation as a detriment to Iran's interests. Unfortunately, however, those forces in Iran who influence the hostage takers of Beirut have the upper hand in Teheran at the moment. The hostage affair is very much part of the domestic political intrigue in Teheran.

Nevertheless, until freedom is secured for Terry Anderson and his fellow captives, it is inexcusable that their lives should be swept under the rug.

I challenge those who profess to be the keepers of the freedoms that Terry Anderson represents to stand up and speak out resolutely and in solidarity with his plight. It is unconscionable that this man has been allowed to suffer for so long. For Terry Anderson, silence equals shame.

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[From the Associated Press, Mar. 16, 1989]

OBSERVANCES MARK FOURTH ANNIVERSARY OF ANDERSON'S CAPTIVITY

(By Joan Mower)

WASHINGTON.—Terry Anderson began his fifth year as a hostage in Lebanon Thursday with the Bush administration calling his detention a "criminal act which serves no cause" and joining his relatives and fellow journalists in demanding his release.

"Enough is enough. . . . This cannot continue," Peggy Say, Anderson's sister, told a ceremony attended by members of Congress, Anderson's colleagues and relatives of the hostages. Her brother, she said, is "tired of being caged like an animal."

"Our hearts cry out in protest" over Anderson's plight, said Louis D. Boccardi, president of The Associated Press, Anderson's employer.

"It's time for those holding Terry Anderson to release him and to end the unconscionable suffering of an innocent man. Each of us in our own special way should mark this day with contemplation and prayer for Terry's release," Boccardi said in a statement transmitted to the AP's staff.

President Bush, through his spokesman, expressed sympathy for Anderson's family and for those of the eight other American hostages held in Lebanon as State Department officials said they "have not forgotten the hostages."

"The President certainly is concerned about the hostages," said Marlin Fitzwater, Bush's spokesman, who was in Houston with the President. "He is aware of Terry Anderson's captivity being four years now."

"Marking these anniversaries is difficult for the families," but they serve to remind all Americans that their countrymen are held in Lebanon, he said.

The administration pledged to continue working for the release of Anderson, the longest held of the American hostages, but officials repeated their policy of not cutting deals with pro-Iranian Moslem Shiites believed to be holding the hostages.

"We continue to hold the kidnappers responsible for the safety and well-being of the hostages," said State Department spokesman Charles Redman. "Their continued detention is a criminal act which serves no cause."

He said the captors should release the hostages "immediately and unconditionally" in accordance with "universal humanitarian obligations."

"We call on all countries with influence over the hostages, such as Iran, to use that influence to obtain freedom for all the hostages," Redman said, adding that the administration is working with the United Nations and other governments to achieve freedom for the eight.

Journalists' unions worldwide used the occasion to demand more intensive diplomatic efforts to free all 15 foreign hostages held in Lebanon.

At the European Parliament meeting in Strasbourg, France, the International Federation of Journalists urged the diplomatic community not to forsake the hostages.

The parliament adopted a resolution demanding the immediate release of the hostages and calling on the 12-member European Economic Community to inform Middle East governments known to "have influence" on the kidnappers that good relations with Europe "depends on the release of the hostages."

The Committee to Protect Journalists, a New York-based group, called on Bush to use "every means at his disposal to bring Terry Anderson home."

At the anniversary ceremony in a House office building, Tom Brokaw, of NBC News, said Anderson has not been forgotten by his colleagues during the four years he has lived in a small, dingy room often without light. The ceremony was co-sponsored by No Greater Love, a humanitarian organization, and the Journalists Committee to Free Terry Anderson.

"We can't turn our backs when people are denied human rights," Brokaw said.

Colleagues who knew and worked with Anderson, 41, talked of his dedication to his job, his desire to tell the story of the war-torn nation and his willingness to take risks. Anderson, a native of Lorain, Ohio, grew up in Batavia, N.Y.

"He has paid an awful price these last four years," said David Ignatius, an associate editor of The Washington Post.

Thomas Friedman, diplomatic correspondent for The New York Times, said he is filled with "anger and bile" when he thinks of Anderson's state. Speaking to Anderson's Moslem Shiite kidnappers, Friedman said, "The only way your story is ever going to be told again is if our comrades are free."

The Rev. Lawrence Martin Jenco, a former hostage held for a time with Anderson, said that before his own release on July 26, 1986, he promised the journalist "that I would never forget him, that others would never forget him."

Attending the ceremony were Sen. Daniel P. Moynihan, D-N.Y., a member of the Senate Foreign Relations Committee, and a handful of representatives, including Cliff Stearns, R-Fla.; Nick Joe Rahall, D-W.Va; Thomas Foglietta, D-Pa., and Mary Rose Oakar, D-Ohio. Also in attendance were Lebanese Ambassador Abdallah Bouhabib and Peter Burleigh, the deputy assistant secretary of state for Near East affairs.

Moynihan introduced a resolution in the Senate condemning hostage-taking.

In other developments, the Rhode Island Senate voted unanimously to proclaim Thursday as National Hostage Remembrance Day.

In London, relatives of two British hostages, television journalist John McCarthy and Anglican envoy Terry Waite, held private talks with Sir Geoffrey Howe, the foreign secretary.

Officials say different factions hold the nine American hostages who have been seized in Lebanon, but they are elements of the umbrella group Hezbollah, over which Iran exhibits control.

The other American hostages are:

Thomas Sutherland, dean of agriculture at the American University of Beirut, held since June 9, 1985.

Frank Herbert Reed, director of the Lebanon International School in Beirut, held since Sept. 12, 1986.

Joseph James Cicippio, acting comptroller of the American University of Beirut, held since Sept. 12, 1986.

Edward Austin Tracy, author, held since Oct. 21, 1986.

Jesse Jonathan Turner, visiting professor of mathematics and computer science at Beirut University College, held since Jan. 24, 1987.

Robert Polhill, assistant professor of business at Beirut University College, held since Jan. 24, 1987.

Alann Steen, journalism professor at Beirut University College, held since Jan. 24, 1987.

Marine Lt. Col. William R. Higgins, head of a 75-man observer group attached to the U.N. Interim Force in Lebanon, held since Feb. 17, 1988.

## STRATEGIES FOR FIGHTING DRUG ABUSE

Mr. MOYNIHAN. Mr. President, some things work and some things do not. When we drafted last year's Anti-Drug Abuse Act of 1988 we recognized this and sought an antidrug strategy that would be effective.

Frank Hall, the chief of the New York City Police Department's Narcotics Division is retiring after 36 years on the force. He knows what works. Last year, the 1,300 officers he commanded made 90,000 arrests in a city where 83 percent of arrestees test positive for cocaine. Yet, in a March 12, 1989, interview with the New York Times Chief Hall said: "There has been entirely too much emphasis on enforcement as the solution to the drug problem."

Mr. President, before the Senate took up the task last year of devising a new strategy for fighting drug abuse, the Federal effort in combating drugs had emphasized reducing supply. In 1987, 73 percent of the Federal anti-drug budget was devoted to drug interdiction, eradication, and law enforcement. The public supported that emphasis. The respondents to a New York Times/CBS News poll published on April 10, 1988, said that reducing the supply of illegal drugs was more important than stopping their use by a 50- to 35-percent margin.

But that strategy had produced remarkably little in the way of success. Both drug use, and the supply of drugs entering the country were on the rise. In search of an answer, we consulted what little research existed on the subject. We learned what we could. And we concluded, perhaps to the surprise of many, that a change in priorities was in order.

On June 29, 1988, the Democratic Working Group on Substance Abuse, comprising 15 Democratic Senators, issued a concept paper entitled "Epidemics." It stated:

> As long as demand for drugs persists, smugglers and domestic producers will find ways to supply it.

The first thing we had learned was that the supply of drugs is unlimited. The concept paper revealed that 96 square miles of coca in Bolivia, just 14 percent of the worldwide crop, could supply the United States with cocaine for a year; 16 square miles of poppy in Pakistan, just 2 percent of the worldwide crop, could supply the United States with heroin. Both crops grow in isolated corners of countries where governmental authority is weak, if it exists at all. Both the world's largest producer of coca, Peru, and the world's largest producer of opium, Burma, are embroiled in insurgencies which stimulate their drug economies and make enforcement indistinguishable from counterinsurgency efforts.

We had also learned to observe drug trafficking as an economic activity. It is, surely, a criminal activity, but it is ultimately done for the purpose of making money. We discovered that the price of cocaine upon landing in Florida is but one-tenth of its eventual street price in New York, and that to double its landed price through interdiction would add only 10 percent to the street price. Moreover, the concept paper stated, "users, and especially addicts, do not decrease their consumption of drugs as fast as the price increases." It is elemental that if a product costs $1 on one side of a fence and $1,000 on the other side someone will find some way to bring it across. That there is a demand and that suppliers from abroad will bring drugs into the United States until that demand is met.

The concept paper came to what we regarded a sound conclusion:

> A useful distinction can be made between strategies directed to the demand for drugs and the supply of them * * * We conclude that resources in this package should be divided 60% for demand reduction and 40% for supply reduction.

And the bipartisan bill which followed and which passed the Senate on October 14 retained a 60-40 ratio between spending on demand reduction and spending on supply.

Frank Hall understood this all along. "Look at the South Florida Task Force," he says. "An enourmous amount of money was spent. Now ask me what impact that had on the availability of cocaine in New York, and my answer is: None, zero." And if we could keep cocaine out of this country, Chief Hall argues that synthetic drugs would take their place. "That's one of the reasons I've never been a big fan of interdiction," Hall says. "Let's imagine for a minute that we could stop all drugs coming into the United States. * * * Synthetic drugs would take over within 2 months." Just as domestic marijuana has replaced every pound of foreign marijuana interdicted by our law enforcement agencies. Just as domestic industries always profit when they are protected from foreign competition.

I believe most of us recognize this. Yet we continue to seek ways to expand interdiction and eradication, at the expense of treatment, local law enforcement, and prevention. We may even acquiesce to the singular delusion that large scale aerial coca eradication in South America will reduce drug use in the United States. Mind, it will divert our attention. It will divert blame. But it will not divert cocaine from our cities. And it will weaken, rather than strengthen, the authority of the Peruvian and Bolivian Governments in the Andes.

Mr. President, money spent in the Gulf of Mexico will not help drug addicts in New York, or Chicago, or Los Angeles get off drugs. Money spent on treatment and prevention will. A 10-percent success rate in treatment is meaningful in a way that a 10-percent success rate in interdiction is not. Money spent in Peru will not convince drug dealers to stop murdering one an-

other over turf. Money spent to put police officers on our streets will. Our spending priorities must follow from what we know to be true. That they do not now represents an unacceptable failure.

Mr. President, I ask, unanimous consent that an interview with Chief Frank Hall that appeared in Sunday's 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, Mar. 12, 1989]

REPORT FROM THE FIELD ON AN ENDLESS WAR

Since May 1985, when Francis C. Hall was named commander of the Police Department's 1,300-member narcotics division, drug arrests in New York City have risen steeply, to 3 of every 10 arrests, and the number of armed attacks on police officers has risen to unheard of levels.

"Drug suspects don't surrender any more," the assistant chief said. "They fight, they grab you, and a lot of them will kill you if they can."

Last week Chief Hall retired after 36 years on the force; he is to meet in Washington soon with William J. Bennett, head of the new Office of National Drug Control Policy, who is looking for deputies.

Last Wednesday, a few hours before he left his office in lower Manhattan for the last time, Chief Hall talked with David E. Pitt, a New York Times reporter, about the war on drugs.

Question. What kind of role do you think you might be able to play in Washington?

Answer. What really interests me is strategy and prevention. There's been entirely too much emphasis on enforcement as the solution to the drug problem. Enforcement has a very, very important part to play in the picture, but that's only because we're really the only game in town at the moment.

Q. That seems to be the public's impression.

A. You can't blame the public for that. But no intelligent person would ever suggest that the police should eliminate murders or robberies or burglaries. Yet people expect us to eliminate drugs. Some of them use expressions like drug-free zones, drug-free communities. Unrealistic! Totally unrealistic. It's certainly not going to happen in my lifetime.

I like to remind people that the war on drugs was first declared by Teddy Roosevelt in 1907. And here it is 1989—that's 82 years. If we're still fighting a war after that long, you would think that prudent people would take a step back and look at whether we're fighting the right enemy.

There have been peaks and valleys. In the 1960's it was heroin and marijuana and LSD. But the past three years have been something else again. I've been around a long time; not much surprises me or shocks me any more. But crack is really devastating.

Q. Do you think that any of the new tools, like property forfeiture or saturation arrests, have significantly improved drug enforcement?

A. I know of no tool that's any kind of magic wand. Forfeiture is a very valuable way to go because you can whack traffickers in their assets.

You can't be too grandiose, you know. You pick an area that has a deeply entrenched drug problem, such as the Pressure Point One area on the Lower East Side, and you say, "Let's see if we can sanitize it. And after we sanitize it, let's see if we can maintain it." Well, it's been five years now, and if you walk through Pressure Point One, you don't see blatant street sales of drugs.

Now, we certainly have not, by any stretch of the imagination, eliminated drugs in that area. But it appears to be cleaner than it was. And appearances are very important when it comes to narcotics enforcement. It's a quality-of-life issue.

Q. You have likened police narcotics work to the job of the Sanitation Department, which picks up garbage day after day, knowing that every morning there's going to be more of it.

A. What is the alternative? You know the kind of recommendations I get? I get these every day. Things like, "Why don't the police start whacking the drug dealers around? Why don't you do what they do in China to drug traffickers? "

Well, summary executions would be very effective. But we have impediments—they're called the Constitution and due process. And we have a responsibility to uphold the Constitution.

You know what's interesting, when I look back on my 36 years in this job? That the police have become the civil libertarians of the 80's. The police! If you were to listen in on these high-level conferences that I've sat in on every day, you'd hear, starting with the Police Commissioner: "We don't step over the line." Because the first time you do step over it, you're going to have a problem. We saw it in Queens with those cops who were using stun guns to question suspects. Easy to understand: frustrated cops, locking up these same mutts day in and day out. Some of them lose control—and you know the rest of the story.

Q. What's your assessment of the country's overall commitment to fighting drugs, especially in view of complaints that there's not nearly enough money to do the job?

A. Look at the South Florida Task Force; an enormous amount of money was spent. Now ask me what impact that had on the availability of cocaine in New York, and my answer is: none, zero.

Yet they made some massive seizures. They've had some great press conferences. They've patted a lot of people on the back. But these press conferences don't represent success. They represent failure.

WHY THE DEMAND?

Here I am looking at 5,000 pounds of cocaine [from a single recent seizure in New York City]. All right, we did a good job, but it represents failure. Who the hell wants all of this cocaine? Why is it there are so many people in this country who want drugs? That's the issue that has to be addressed. Who do these people want drugs?

Years ago in the 60's, if you made, say, a 30- or 40-kilo seizure of heroin, there would be a period of time when it was difficult to buy heroin. You don't see that any more.

There is so much cocaine in New York today, it is beyond measure. Beyond measure. When I look at 5,000 pounds, I say to myself, how many more of these stash houses are there around here?

Q. Well, how do you stave off total despair?

A. You have to put things in perspective. Take cancer. Scientists have been working on a cure as long as I can remember. They have not cured cancer. They have made some progress. There are certain cancers they have cured, others they have put into remission.

And that's what we do. We can put areas of the city into temporary remission by a commitment of law-enforcement people. But we shouldn't kid anybody that we've cured anything. Now, no one's going to criticize the medical profession: "Holy cow, you've been at this 50 years now, when are you guys going to come up with a cure?" And I don't see any cure for the drug problem on the horizon, either.

Q. How serious a threat are the synthetic drugs and the designer drugs?

A. Synthetic drugs are a potential threat beyond most people's imagination. They're cheaper to make than botanical drugs, and more potent; the experience in California with "ectasy" is absolutely frightening. They're here now—amateur chemists can duplicate the properties of most drugs in labs at home. We haven't seen them to any significant extent in New York because we have so much of the other drugs.

That's one of the reasons I've never been a big fan of interdiction. Let's imagine for a minute that we could stop all drugs coming into the United States—all heroin, all cocaine. Synthetic drugs would take over within two months.

So we really have to stop and say, "Holy cow, is the problem really in Colombia?" Well, no, the problem is here.

And no one really knows anything about drug education. Education tends to work with the more affluent. I think that in the past few years, you've probably seen some decline in illegal drug use among the middle class and the upper classes. In the entertainment business, cocaine use is now a no-no. That's encouraging. But when you get into the inner cities, it's a serious problem.

Q. If there is, as you seem to be suggesting, a correlation between drug use and poverty, what difference is education going to make?

A. It's a damn good question, and I don't have the answer. I hope someone can come up with it, because I know of nothing more important to this country right now than reducing drug use in the inner cities. The social problems associated with drugs are mind-boggling—crack babies, babies born with AIDS. The death rate in Harlem among infants is as high as it gets in third world countries. It's outrageous, a national disgrace.

It never really occurs to me that I need anything to get high. I have other things in life.

But if you're some kid who lives in the South Bronx, or Harlem, or Bed-Stuy, particularly when they can watch television and see an awful lot of affluence that they don't share in—if you want to feel good, crack will make you feel good. It'll do terrible things to you, too, but these kids don't have the insight to realize that. When you take a puff out of that crack pipe, you feel good for maybe 10 or 15 minutes. So when you come down, it's only natural to want to feel good again.

But here I'm talking about the user, not the guy who sells the drugs. The average person doesn't realize the viciousness of people involved in trafficking, and the total lack of fear they have of law enforcement. My biggest fear in leaving is that I'm going to see more cops shot, and I'm concerned not only as a retired chief, I'm concerned as the father of two cops.

If you recall LSD, it did wacky things to people. But it seemed to peter out in about two years. The thing about crack is how sus-

tained it's been and how active the entrepreneurs who sell it are. You know, you can buy an ounce of cocaine for $900—twice the value of gold—and in a few hours convert it into 437 vials of crack.

Q. It's kind of a nightmare form of free enterprise.

A. Yes, a cottage industry, free enterprise gone mad. And now they're all organized, with so many different groups involved in it—Jamaicans, Hispanics, blacks, Palestinians. We had a major case in Brooklyn involving Israelis. Among all of them, the common denominator is profit. I know of nothing you can sell where you can make a greater profit than drugs—if you survive.

Narcotics enforcement is like the Vietnam War to this extent: If you recall, in Vietnam we kept pouring in resources. I think when we finally decided that the war was lost, we had better than half a million people in Vietnam. We had body counts in Vietnam; we used to measure our success by how many Viet Cong we killed. We measure our success here by how many arrests we make—90,000 last year. That's our body count.

But there comes a point when you have to say, what is the optimum number of people we should have directly involved in narcotics enforcement? We may have reached it. If we continue to pour in resources, it may not make things much better.

Unless people who are arrested for selling drugs receive some meaningful punishment, you are going to encourage other people to sell drugs. Kids are not stupid. They see a guy in their neighborhood who's earning upward of $500 a day selling drugs, and they see the cops grab him. And then they see him back on the street tomorrow. There really is no deterrent there. They'll think, why shouldn't I do it? He drives a Mercedes, he wears that nice jewelry.

Q. What do you mean meaningful punishment? Do you think the death penalty would make any difference?

A. No. I don't. I am not philosophically opposed to the death penalty. I don't believe in draconian punishment because it's rarely imposed, and when it is, it takes too long to impose it.

I think we have to give serious thought to a totally different form of incarceration. The individual-cell prisons cannot accommodate as many people as I think should be accommodated. You have to get to the camp-type prisons.

Overall, there has to be a reduction in the demand for drugs, and enhancement on the risks in using and selling them.

## ARCTIC NATIONAL WILDLIFE REFUGE

Mr. BAUCUS. Mr. President, as the new chairman of the Environmental Protection Subcommittee, I am today announcing my intentions concerning consideration of the future management of the Arctic National Wildlife Refuge's coastal plain.

I and other members of the subcommittee have a strong interest in the U.S. Fish and Wildlife Service's management of units within the National Wildlife Refuge System, inlcuding the Arctic National Wildlife Refuge.

Consequently, the subcommittee will consider and conduct hearings in the months ahead on two major items that have been referred to the Committee on Environment and Public Works relating to this subject.

First, the committee has before it the communication from the Secretary of the Interior transmitting the final legislative environmental impact statement [LEIS] on the coastal plain, pursuant to title X of the Alaska National Interest Lands Conservation Act.

The subcommittee will review this document to determine whether it is adequate and satisfies the legal requirements of the National Environmental Policy Act.

Last year, under Senator MITCHELL, the subcommittee initiated review of Interior Secretary Hodel's LEIS and his recommendation to make the entire 1.5 million-acre Arctic Refuge coastal plain available for oil and gas leasing.

This year I intend to explore more fully the following questions about the LEIS, which in my opinion have yet to be answered adequately by the Department of the Interior and the Environmental Protection Agency:

Have the impacts to fisheries and wildlife from oil exploration, development, and production been considered fully and properly?

Are the report and the recommended development consistent with our international treaty obligations with respect to caribou, polar bears, and migratory birds?

Have the effects on air and water quality and the supply of fresh water resources been assessed thoroughly?

Have the effects of oil and gas development in the Arctic Refuge's coastal plain been examined critically in terms of the cumulative impacts of such development in the Arctic region?

Has a complete review of the coastal plain's wilderness and recreational potential been conducted and assessed fairly?

Has adequate consideration been given to alternatives to leasing the coastal plain's oil and gas resources at this time?

Was there adequate evaluation of alternatives that would defer development of the coastal plain pending pursuit of other possibilities such as development of other potential sources of oil, development of other sources of energy, and improved energy conservation?

I believe that under the National Environmental Policy Act and title X of the Alaska Lands Act, these questions must be answered as thoroughly and definitively as possible before any decisions are made by Congress with respect to changing the present management of the coastal plain.

A second item before the committee concerning the future management of the Arctic National Wildlife Refuge is the bill (S. 39) by Senators ROTH, BRADLEY, CHAFEE, DURENBERGER, LIEBERMAN, and others to designate the refuge's coastal plain as wilderness. This legislation has not been considered previously in any depth and we will want to do so this year.

I and other subcommittee members also will want to review and discuss a number of new developments, such as the recently released draft report by EPA staff on management of oil and gas wastes on Alaska's North Slope, which bear on any decision about development of the Arctic National Wildlife Refuge.

Finally, it is my intention that the subcommittee schedule allow members of the committee, who have not had an opportunity so far, to visit the coastal plain and other areas of the North Slope prior to any action on pending legislation.

I am aware that our colleagues on the Committee on Energy and Natural Resources are in the process of marking up legislation that would affect the fisheries and wildlife of the Arctic Refuge's coastal plain.

Because the Environment and Public Works Committee clearly has interest and jurisdiction in these matters, I hope that our respective committees will cooperate to the extent possible in the consideration of any legislation on this subject.

## THE RETIREMENT OF LT. COL. ROBERT (BO) BLUDWORTH

Mr. HOLLINGS. Mr. President, one of the most capable soldiers in the U.S. Army, Lt. Col. Bo Bludworth, is retiring at the end of this month after a very distinguished career of 22 years in the service. Bo Bludworth has served for 5 years in Army Senate liaison. During this time, each of my colleague's knowledge of the Army—and of our military policy—has been advanced by Bo's professionalism, his keen understanding of facts, and his extraordinary ability to give concise and honest answers to the most complex questions. And we all know that he is never without an answer.

Colonel Bludworth served in Vietnam as a helicopter and ground platoon leader. He has held various personnel staff positions, both in the United States and overseas. Among his decorations are the Silver Star, Distinguished Flying Cross, Bronze Star, Air Medal, Army Commendation Medal for Valor, and Combat Infantryman's Badge.

During his service to the Senate, Bo has planned and escorted delegations on more than 75 major fact-finding missions. I have traveled several times with him, and it was during these trips that I recognized the asset he is to the Army.

He has been an effective representative and spokesman for our military, and the Army is losing a dedicated of-

ficer. As he starts his new career, my best wishes go to Bo and his charming wife, Sheila, and their children, James, Stephanie, and Todd. I am fully confident that Bo's career in private enterprise will match his military service record.

## WELCOME, INDIANAPOLIS SYMPHONY ORCHESTRA

Mr. COATS. Mr. President, on April 5 the renowned Indianapolis Symphony Orchestra, under the direction of Raymond Leppard, will appear at the Kennedy Center for the Performing Arts in a concert of English, French, and German symphonic works featuring European opera star Marianne Rorholm in her United States debut, and sponsored by Ameritech and Indiana Bell.

The Indianapolis Symphony Orchestra continues its 60-year tradition of musical excellence under Raymond Leppard, now in his second season as music director. Since its founding in 1930 by Ferdinand Schafer, the orchestra has grown and developed into one of the finest symphonic ensembles in the country under the leadership of past music directors Fabien Sevitzky (1935-55), Izler Solomon (1956-75) and John Nelson (1976-87). Maestro Leppard is regarded as one of the most versatile and sought-after conductors on the international music scene and has appeared with most of the world's major orchestras. For his contributions to music as conductor, composer and author Mr. Leppard has been honored with the title of Commander of the Order of the British Empire.

Over the years the ISO has gained a well-deserved reputation across this Nation and abroad as an organization of the highest musical caliber, as well as America's symphonic "Goodwill Ambassador." During the fifties and early sixties one concert each season was designated as a musical salute to a foreign city. In cooperation with the Voice of America, the annual salutes were tape recorded and flown to the celebrated country for broadcast there, and that country, in turn, sent a recorded salute concert by a national orchestra for broadcast in Indianapolis. As a consequence, in 1962 the ISO received a special greeting from former President John F. Kennedy, and was awarded a Distinguished Service Citation from the U.S. Information Agency in recognition of "exceptional services on behalf of this Nation."

The Indianapolis Symphony Orchestra is a very popular institution in Indiana and a very busy orchestra, with many competing demands on its heavy year-around schedule. Its current season includes 18 weeks of classical series concerts featuring internationally famous guest artists and 8 weeks of pops concerts with stars from the world of popular entertainment. The orchestra offers many other series of concerts each week throughout the year for Indiana concert goers. The orchestra draws enthusiastic audiences to free concerts in the city parks, summer pops concerts in the Circle Theater and its highly acclaimed "Symphony on the Prairie" summer series on the grounds of Conner Prairie north of Indianapolis. Several performances each year feature the 150-voice Indianapolis Symphonic Choir in choral music concerts and productions with the Indianapolis Opera Company and Indianapolis Ballet Theater.

The ISO also presents many educational programs designed for young people and public schoolchildren, as well as an annual young musicians contest and the statewide young people's art contest.

Support from volunteers in the community is essential to the orchestra's success. The board of directors of the Indiana State Symphony Society, the orchestra's governing body, is made up of 62 prominent local citizens who give generously of their time to set policies and monitor the operation of the orchestra. The 3,000-member symphony women's committee is not only the largest organization of its kind in the country, but one of the most active as well.

Hoosiers give generously in support of the arts, and the ISO has been a worthy recipient of their largesse. The 1987-88 annual fund and other special gifts generated more than $1.3 million for the orchestra's operating income, contributed by more than 5,600 individuals and over 200 corporations. The ISO's 5-year endowment campaign, "Prelude to Greatness," ended successfully in August 1988, when it exceeded its $14.75 million goal.

The concert on April 5 will mark the Indianapolis Symphony Orchestra's third appearance in Washington, DC. In previous concert tours the orchestra has received uniformly rave notices. For instance, critic Harold Schonberg wrote in the New York Times that "the orchestra's string section is one of the best anywhere." The New Yorker magazine called the ISO "simply one of the most magnificent orchestras in the country."

On both prior visits to Washington, DC, in 1978 and 1980 the ISO, then under the direction of John Nelson, received uniformly rave reviews. Paul Hume of the Washington Post wrote of the 1978 performance in the Kennedy Center: "Nelson conducted an account of the Berlioz Requiem that was absolutely magnificent. * * * Indianapolis did itself proud indeed." Back home in Indiana, the Indianapolis News gave front page headlines to its Washington correspondents with "ISO Scores D.C. Triumph." After the orchestra's 1980 Kennedy Center appearance, Joseph McLellan, writing in the Washington Post, called the performance triumphant in spirit, adding that "conductor John Nelson's solid grasp of the score and unwavering drive pushed the orchestra into an interpretation that was consistently satisfying and, at its best, inspired." He noted that the conductor "kept his eye—and the orchestra's—on projecting the music to the audience, which responded with a standing ovation."

On April 5 the Indianapolis Symphony will perform works by Elgar, Chausson, Canteloube, and Beethoven, a repertoire chosen by Maestro Leppard to showcase the orchestra's range and flexibility in programming. The concert should be thrilling and another triumph for one of America's outstanding orchestras.

We Hoosiers are justly proud of the Indianapolis Symphony Orchestra. Marcia and I are looking forward to attending this musical event, and I invite my colleagues, their staffs and their families to come out to the Kennedy Center to join us for an evening with the Indianapolis Symphony Orchestra.

Mr. President, I am pleased to take this occasion to extend my warm welcome and the greetings of the Congress and the people of the Nation's Capital to Maestro Leppard and the members of the Indianapolis Symphony Orchestra.

## HYDROGEN LEGISLATION: A BILL FOR ALL INTERESTS

Mr. MATSUNAGA. Mr. President, I rise to introduce, together with my senior colleague from Hawaii, Senator INOUYE, the junior Senator from Colorado, Senator WIRTH, the senior Senator from Rhode Island, Senator PELL, and the junior Senator from Connecticut, Senator LIEBERMAN, legislation which advances a multitude of causes.

Seldom can a single bill be said to address the gamut of legislative issues, both environmental and economic, facing a new Congress and a new administration. After all, what common thread exists between global climatic change and those activities spawning greenhouse gases, on the one hand, and the U.S. trade deficit and American competitiveness in world markets, on the other?

Energy is the thread, Mr. President, and a national program for hydrogen research and development is the measure that touches all the aforementioned bases.

The form of energy we use is at the heart of virtually all environmental issues. The location of our energy sources is at the crux of our trade imbalance. And in no area of economic endeavor is overseas competition more keenly felt than in the quest for new energy technologies.

For all these reasons I am once more introducing the National Hydrogen

Research and Development Program Act, legislation I first offered in the 97th Congress and have urged ever since. Mine has not been a lone voice on this subject, Mr. President. Throughout his career in this Chamber former Senator Dan Evans cosponsored and strongly advocated my hydrogen legislation. In this connection, it is significant that Senator Evans has been the only professional engineer to serve in the Senate in recent memory, save for Mike Mansfield, who was a mining engineer, and the late Stewart Symington, who was self-taught in mechanical and electrical engineering. If they were still with us, I am certain that both would be cosponsors, Mr. President. Moreover, the principal sponsor of companion legislation in the House, Representative GEORGE BROWN of California, is one of the very few scientists serving in that body.

Mr. President, hydrogen is one of the most abundant elements in the universe, with water, a primary source of hydrogen, covering three-fourth of the Earth. Indeed, hydrogen plays a role in such varied, everyday products as peanut butter, vitamin C, and aspirin, not to mention such larger products as clear plate glass windows.

As a transportation fuel, hydrogen's environmental benefits are particularly apparent, as was evident by its inclusion in the national energy policy legislation offered by Senator WIRTH in the last Congress to address the concerns over global warming, acid rain and the greenhouse effect and introduced again this year. Moreover, hydrogen can be transported more efficiently and at less cost than electricity over long distances.

While hydrogen has definite environmental advantages over fossil fuels, because the product of hydrogen combustion with air is essentially water vapor, it also offers benefits in the utilization of numerous energy alternatives—ranging from coal and natural gas, to nuclear as well as to solar and the renewables. Injected into declining natural gas fields, hydrogen can serve as an enhancer, stretching out the life of dwindling supplies.

For those concerned with the interests of the coal industry, hydrogen also figures in an attractive scenario. If coal-gased reactors were to be built at the seashore, they could eject carbon dioxide into the sea instead of into the air, and transmit energy in the form of hydrogen from coal. It is claimed that this could give us perhaps another half century of coal availability without adding anything to the world greenhouse effect.

For those interested in advancing nuclear power, hydrogen can be seen as a vehicle for hurdling the safety barrier. Because energy is cheap to transport long distances with hydrogen as the storage medium and after 300 to 400 miles, increasingly cheaper than to transmit through electric wires, nuclear reeactors could be located at greater distances from populated areas, even mounted on sea borne rigs.

Hydrogen's appeal to solar proponents is apparent since it is environmentally benign; indeed, it can act in behalf of environmental enhancement. For example, hydrogen has a key role in the process of nitrogen fixation whereby agricultural soils are replenished periodically. Also, there is the search for a replacement for the fully halogenated halocarbons used in refrigerants, solvents, and the like that have been found to be the culprit in the erosion of the ozone layer. One criteria in the search for a replacement is that it should be capable of introducing hydrogen into its chemical bond.

Furthermore, the renewables represent the most promising source for hydrogen's production in terms of energy expended in the process. Finally, hydrogen is key to assuring continuity of supply for solar power by providing a ready storage medium whether overnight or until the clouds scatter in the sky.

If it were not for our dependence upon imported foreign oil, our trade balance would not reflect a deficit but rather a surplus. Hydrogen, then, offers a key to achieving energy security. Moreover, our national objective of designing and operating transatmospheric aerospace craft, such as the "Orient Express," is dependent upon the development of hydrogen fuel. For all these reasons, this legislation is absolutely essential, Mr. President, and must be acted upon in this new Congress.

For years now on this floor I have been citing the hydrogen work of other countries as evidence of how we have fallen behind in a field of research that we ourselves pioneered. Last spring Soviet television announced the triumph of an ordinary airplane flight using hydrogen fuel for the first time and showed the plane in the air with its jet stream of condensing steam instead of the usual kerosene smoke. Since then West Germany has commenced sea tests of a hydrogen fuel cell powered submarine with a range said to be "several times" that of a conventional diesel-electric powered submarine.

Soviet success in hydrogen isn't confined to the skies, Mr. President; they also are moving on the ground and have announced plans to turn out 100 hydrogen fuel cell powered vans. Recently, the Soviets joined forces with the Hungarian bus manufacturer Ikarus to adapt a 6,500 kilogram vehicle to a 40 kilowatt hydrogen-air fuel cell bus. A number of 12 passenger vehicles are being operated in Moscow with this technology on a hybrid basis with gasoline and there have been reports of at least five automobiles and three taxis operating exclusively on hydrogen in Moscow and Kharkov over the past year.

Elsewhere in Europe, the municipal government of Hamburg, West Germany is considering converting the city's 823 buses to hydrogen while in Italy the city of Milan, which operates 2,000 buses, is also weighing such an idea as well.

Recently there was the startling announcement by the European Economic Community and the provincial government of Quebec of a joint feasibility study on the establishment of $500 million hydrogen energy project involving transatlantic energy shipments from Canada to Europe. The 2-year, $4 million study could lead to the construction of a liquid hydrogen plant in the 100 megawatt range on the St. Lawrence Seaway with its output shipped to Europe in either liquid cryogenic form as ammonia or as a form of liquid hydride. There it would be used as fuel for transport, for testing advanced aerospace engines and for district heating purposes, among others. Shipments would be made aboard a 20,000 ton gas tanker yet to be built but designed for at least 15 round trips a year. There is great interest in this undertaking among West German industrialists who forsee hydrogen fuels rapidly becoming cost competitive with fossil fuels as the cost of pollution becomes fully reflected in the price of energy.

Mr. President, in the race for a hydrogen economy the rest of the world is already out of the starting gate while we in the United States are hardly pawing the ground. This technology is too important to get away from us. The United States must get serious about hydrogen research and development. My bill signals this intention. The legislation I am offering today calls for two 5-year development programs: one of $55 million for research and development in hydrogen production and use and the other of $100 million for hydrogen fueled aircraft R&D. I welcome the support of my colleagues in cosponsoring this vital legislation whose time is now at hand this year and I urge its speedy adoption.

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

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

S. 639

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

TITLE I—HYDROGEN PRODUCTION AND USE

FINDINGS AND PURPOSE

SEC. 101. (a) The Congress finds that—

(1) due to the limited quantities of naturally occurring petroleum-based fuels, viable alternative fuels and feedstocks must be developed;

(2) with a growing concern over the many environmental problems affecting the planet, priority should be given to the development of alternative fuels with universal availability that have virtually no harmful environmental impacts;

(3) hydrogen is one of the most abundant elements in the Universe, with water, a primary source of hydrogen, covering three-fourths of the Earth;

(4) hydrogen appears promising as either an alternative or as an extender to finite fossil fuels capable of modifying their environmental impacts;

(5) hydrogen can be transported more efficiently and at less cost than electricity over long distances;

(6) renewable energy resources are potential energy sources that can be used to convert hydrogen from its naturally occurring states into high quality fuel, feedstock, and energy storage media; and

(7) it is in the national interest to accelerate efforts to develop a domestic capability to economically produce hydrogen in quantities which will make a significant contribution toward reducing the Nation's dependence on conventional fuels.

(b) The purpose of this title is to—

(1) direct the Secretary of Energy to prepare and implement a comprehensive 5-year plan and program to accelerate research and development activities leading to the realization of a domestic capability to produce, distribute, and use hydrogen economically within the shortest time practicable;

(2) direct the Secretary of Energy to implement a technology assessment and information transfer program among the Federal agencies and aerospace, transportation, energy, and other market-driven entities; and

(3) develop renewable energy resources as primary energy sources to be used in the production of hydrogen.

COMPREHENSIVE MANAGEMENT PLAN

SEC. 102. (a) The Secretary shall prepare a comprehensive 5-year program management plan for research and development activities which shall be conducted over a period of no less than 5 years and shall be consistent with the provisions of sections 103 and 104. In the preparation of such plan, the Secretary shall consult with the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, the Hydrogen Technical Advisory Panel established under section 106, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate. Such plan shall be structured to permit the realization of a domestic hydrogen production capability within the shortest time practicable.

(b) The Secretary shall transmit the comprehensive program management plan to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within 6 months after the date of the enactment of this Act. The plan shall include—

(1) the research and development priorities and goals to be achieved by the program;

(2) the program elements, management structure, and activities, including program responsibilities of individual agencies and individual institutional elements;

(3) the program strategies including technical milestones to be achieved toward specific goals during each fiscal year for all major activities and projects;

(4) the estimated costs of individual program items, including current as well as proposed funding levels for each of the 5 years of the plan for each of the participating agencies;

(5) a description of the methodology of coordination and technology transfer; and

(6) the proposed participation by industry and academia in the planning and implementation of the program.

(c) Concurrently with the submission of the President's annual budget to the Congress for each year after the year in which the comprehensive 5-year plan is initially transmitted under subsection (b), the Secretary shall transmit to the Congress a detailed description of the current comprehensive plan, setting forth appropriate modifications which may be necessary to revise the plan as well as comments on and recommendations for improvements in the comprehensive program management plan made by the Hydrogen Technical Advisory Panel established under section 106.

RESEARCH AND DEVELOPMENT

SEC. 103. (a) The Secretary shall establish, within the Department of Energy, a research and development program, consistent with the comprehensive 5-year program management plan under section 102, to ensure the development of a domestic hydrogen fuel production capability within the shortest time practicable.

(b)(1) The Secretary shall initiate research or accelerate existing research in areas which may contribute to the development of hydrogen production and use.

(2) Areas researched shall include production, liquefaction, transmission, distribution, storage, and use including use in surface transportation. Particular attention shall be given to developing an understanding and resolution of all potential problems of introducing hydrogen production and use into the marketplace.

(c) The Secretary shall give priority to those production techniques that use renewable energy resources as their primary energy source.

(d) The Secretary shall, for the purpose of performing his responsibilities pursuant to this title, solicit proposals for and evaluate any reasonable new or improved technology, a description of which is submitted to the Secretary in writing, which could lead or contribute to the development of economic hydrogen production storage and utilization technologies.

(e) The Secretary shall conduct evaluations, arrange for tests and demonstrations, and disseminate to developers information, data, and materials necessary to support efforts undertaken pursuant to this section, consistent with section 105.

DEMONSTRATIONS AND PLAN

SEC. 104. (a)(1) The Secretary shall conduct demonstrations of promising hydrogen economic technologies, preferably in self-contained locations, so that technical and nontechnical parameters can be evaluated to best determine commercial applicability of the technology.

(2) Concurrently with activities conducted pursuant to section 103, the Secretary shall conduct small-scale demonstrations of hydrogen technology at self-contained sites.

(b) The Secretary shall, in consultation with the Secretary of Transportation, the Administrator of the National Aeronautics and Space Administration, and the Hydrogen Technical Advisory Panel established under section 106, prepare a comprehensive large-scale hydrogen demonstration plan with respect to demonstrations carried out pursuant to subsection (a)(1). Such plan shall include—

(1) a description of the necessary research and development activities that must be completed before initiation of a large-scale hydrogen production and storage demonstration program;

(2) an assessment of the appropriateness of a large-scale demonstration immediately upon completion of the necessary research and development activities; and

(3) an implementation schedule with associated budget and program management resource requirements.

TECHNOLOGY TRANSFER PROGRAM

SEC. 105. (a) The Secretary shall implement a program designed to accelerate wider application of hydrogen production, storage, utilization and other technologies available in the near term as a result of aerospace experience as well as other research progress. The Secretary shall direct the program with the advice and assistance of a panel of industry, academia, government and other hydrogen-related interests with the intent to disseminate relatively near-term business and research opportunities that can lead to a long-term increase in hydrogen production, and utilization. The objective in seeking this advice is to increase participation of private industry in the demonstration of near commercial applications.

(b) The Secretary, in carrying out the program authorized by subsection (a), shall—

(1) undertake an inventory and assessment of hydrogen technologies and their commercial capability to economically produce, store or utilize hydrogen in aerospace, transportation, electric utilities, petrochemical, chemical, merchant hydrogen, and other industrial sectors; and

(2) develop a National Aeronautics Space Administration, Department of Energy, and industry information exchange program to improve technology transfer for—

(A) application of aerospace experience by industry;

(B) application of research progress by industry and aerospace;

(C) application of commercial capability of industry by aerospace; and

(D) expression of industrial needs to research organizations.

The information exchange program may consist of workshops, publications, conferences, and a data base for the use by the public and private sectors.

COORDINATION AND CONSULTATION

SEC. 106. (a) The Secretary shall have overall management responsibility for carrying out programs under this title. In carrying out such programs, the Secretary, consistent with such overall management responsibility—

(1) shall use the expertise of the National Aeronautics and Space Administration and the Department of Transportation; and

(2) may use the expertise of any other Federal agency in accordance with subsection (b) in carrying out any activities under this title, to the extent that the Secretary determines that any such agency has capabilities which would allow such agency to contribute to the purpose of this title.

(b) The Secretary may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of

the Executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Secretary deems necessary to carry out any duty under this title.

(c) The Secretary shall consult with the Administrator of the National Aeronautics and Space Administration, the Administrator of the Environmental Protection Agency, the Secretary of Transportation, and the Hydrogen Technical Advisory Panel established under section 106 in carrying out his authorities pursuant to this title.

TECHNICAL PANEL

SEC. 107. (a) There is hereby established a technical panel of the Energy Research Advisory Board, to be known as the Hydrogen Technical Advisory Panel, to advise the Secretary on the programs under this title.

(b)(1) The technical panel shall be appointed by the Secretary and shall be comprised of such representatives from domestic industry, universities, professional societies, Government laboratories, financial, environmental, and other organizations as the Secretary, in consultation with the Chairman of the Energy Research Advisory Board, deems appropriate based on his assessment of the technical and other qualifications of such representatives. Appointments to the technical panel shall be made within 90 days after the enactment of this Act. The technical panel shall have a chairman, who shall be elected by the members from among their number.

(2) Members of the technical panel need not be members of the full Energy Research Advisory Board.

(c) The activities of the technical panel shall be in compliance with any laws and regulations guiding the activities of technical and fact-finding groups reporting to the Energy Research Advisory Board.

(d) The heads of the departments, agencies, and instrumentalities of the Executive branch of the Federal Government shall cooperate with the technical panel in carrying out the requirements of this section and shall furnish to the technical panel such information as the technical panel deems necessary to carry out this section.

(e) The technical panel shall review and make any necessary recommendations on the following items, among others—

(1) the implementation and conduct of programs under this title; and

(2) the economic, technological, and environmental consequences of the deployment of hydrogen production and use systems.

(f) The technical panel shall prepare and submit annually to the Energy Research Advisory Board a written report of its findings and recommendations with regards to the programs under this title. The report shall include—

(1) a summary of the technical panel's activities for the preceding year;

(2) an assessment and evaluation of the status of the programs; and

(3) comments on and recommendations for improvements in the comprehensive 5-year program management plan required under section 102.

(g) After consideration of the technical panel report and within 30 days after its receipt, the Energy Research Advisory Board shall submit the report, together with any comments which the Board deems appropriate, to the Secretary.

(h) The Secretary shall provide such staff, funds, and other support as may be necessary to enable the technical panel to carry out the functions described in this section.

DEFINITIONS

SEC. 108. As used in this title—

(1) the term "Secretary" means the Secretary of Energy; and

(2) the term "capability" means proven technical ability.

AUTHORIZATION OF APPROPRIATIONS

SEC. 109. There is hereby authorized to be appropriated to carry out the purpose of this title (in addition to any amounts made available for such purpose pursuant to other Acts)—

(1) $3,000,000 for the fiscal year beginning October 1, 1989;

(2) $7,000,000 for the fiscal year beginning October 1, 1990;

(3) $10,000,000 for the fiscal year beginning October 1, 1991;

(4) $15,000,000 for the fiscal year beginning October 1, 1992; and

(5) $20,000,000 for the fiscal year beginning October 1, 1993.

## TITLE II—HYDROGEN-FUELED AIRCRAFT RESEARCH AND DEVELOPMENT

FINDINGS AND PURPOSE

SEC. 201. (a) The Congress finds that—

(1) long-term future decreases in petroleum-base fuel availability will seriously impair the operation of the world's air transport fleets;

(2) hydrogen appears to be an attractive alternative to petroleum in the long term to fuel commercial aircraft;

(3) it is therefore in the national interest to accelerate efforts to develop a domestic hydrogen-fueled supersonic and subsonic aircraft capability; and

(4) the use of liquid hydrogen as a commercial air transport fuel has sufficient long-term promise to justify a substantial research, development, and demonstration program.

(b) The purpose of this title is to—

(1) direct the Administrator of the National Aeronautics and Space Administration to prepare and implement a comprehensive 5-year plan and program for the conduct of research, development, and demonstration activities leading to the realization of a domestic hydrogen-fueled aircraft capability within the shortest time practicable;

(2) establish as a goal broad multinational participation in the program; and

(3) provide a basis for public, industry, and certifying agency acceptance of hydrogen-fueled aircraft as a mode of commercial air transport.

COMPREHENSIVE MANAGEMENT PLAN

SEC. 202. (a) The Administrator shall prepare a comprehensive 5-year program management plan for research, development, and demonstration activities consistent with the provisions of sections 203, 204, and 205. In the preparation of such plan, the Administrator shall consult with the Secretary of Energy, the Secretary of Transportation, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate. Such plan shall be structured to permit the realization of a domestic hydrogen-fueled aircraft capability within the shortest time practicable.

(b) The Administrator shall transmit the comprehensive 5-year program management plan to the Committee on Science, Space, and Technology of the House of Representatives and the Committees on Commerce, Science, and Transportation and Energy and Natural Resources of the Senate within 6 months after the date of the enactment of this Act. The plan shall include—

(1) the research and development priorities and goals to be achieved by the program;

(2) the program elements, management structure, and activities, including program responsibilities of individual agencies and individual institutional elements;

(3) the program strategies including detailed technical milestones to be achieved toward specific goals during each fiscal year for all major activities and projects;

(4) the estimated costs of individual program items, including current as well as proposed funding levels for each of the 5 years of the plan for each of the participating agencies;

(5) a description of the methodology of coordination and technology transfer; and

(6) the proposed participation by industry and academia in the planning and implementation of the program.

(c) Concurrently with the submission of the President's annual budget to the Congress for each year after the year in which the comprehensive 5-year plan is initially transmitted under subsection (b), the Administrator shall transmit to the Congress a detailed description of the current comprehensive plan, setting forth appropriate modifications which may be necessary to revise the plan as well as comments on and recommendations for improvements in the comprehensive program management plan made by the Hydrogen-Fueled Aircraft Advisory Committee established under section 207.

RESEARCH AND DEVELOPMENT

SEC. 203. (a) The Administrator shall establish, within the National Aeronautics and Space Administration, a research and development program consistent with the comprehensive 5-year program management plan under section 202 to ensure the development of a domestic hydrogen-fueled aircraft capability within the shortest time practicable.

(b) The Administrator shall initiate research or accelerate existing research in areas which may contribute to the development of a hydrogen-fueled aircraft capability.

(c) In conducting the program pursuant to this section, the Administrator shall encourage the establishment of domestic industrial capabilities to supply hydrogen-fueled aircraft systems or subsystems to the commercial marketplace.

(d) The Administrator shall, for the purpose of performing his responsibilities pursuant to this Act, solicit proposals for and evaluate any reasonable new or improved technology, a description of which is submitted to the Administrator in writing, which could lead or contribute to the development of hydrogen-fueled aircraft technology.

(e) The Administrator shall conduct evaluations, arrange for tests and demonstrations and disseminate to developers information, data, and materials necessary to support efforts undertaken pursuant to this section.

FLIGHT DEMONSTRATION

SEC. 204. (a) Concurrent with the activities carried out pursuant to section 203, the Administrator shall, in consultation with the Secretary of Transportation, the Secretary of Energy, and the Hydrogen-Fueled Aircraft Advisory Committee established under section 207, prepare a comprehensive flight demonstration plan, the implementation of

which shall provide confirmation of the technical feasibility, economic viability, and safety of liquid hydrogen as a fuel for commercial transport aircraft. The comprehensive flight plan shall include—

(1) a description of the necessary research and development activities that must be completed before initiation of a flight demonstration program;

(2) the selection of a domestic site where demonstration activities can lead to early commercialization of the concept;

(3) an assessment of a preliminary flight demonstration to occur concurrently with the later stages of research and development activities; and

(4) an implementation schedule with associated budget and program management resource requirements.

(b) The Administrator shall transmit such comprehensive flight demonstration plan to the Congress within 2 years after the date of the enactment of this Act.

HYDROGEN PRODUCTION AND GROUND FACILITIES

SEC. 205. (a) The Administrator, in consultation with the Secretary of Transportation and the Secretary of Energy, shall define the systems, subsystems, or components associated with the production, transportation, storage, and handling of liquid hydrogen that are specifically required for and unique to the use of such fuel for commercial aircraft application.

(b) The Administrator shall structure the research and development program pursuant to section 203 to allow the development of the systems, subsystems, or components defined pursuant to subsection (a) of this section.

(c) The research and development program for hydrogen production, transportation, and storage systems, subsystems, and components which are suitable for inclusion as part of a fully integrated hydrogen-fueled aircraft system, but which are not being specifically developed for such application shall be the responsibility of the Secretary of Energy. Such activities shall be included as part of the program established pursuant to title I of this Act, and shall be so conducted as to ensure compliance with hydrogen-fueled aircraft system constraints.

COORDINATION AND CONSULTATION

SEC. 206. (a) The Administrator shall have overall management responsibility for carrying out the program under this title. In carrying out such program, the Administrator, consistent with such overall management responsibility—

(1) shall utilize the expertise of the Departments of Transportation and Energy to the extent deemed appropriate by the Administrator, and

(2) may utilize the expertise of any other Federal agency in accordance with subsection (b) in carrying out any activities under this title, to the extent that the Administrator determines that any such agency has capabilities which would allow such agency to contribute to the purposes of this title.

(b) The Administrator may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of the Executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Administrator deems necessary to carry out any duty under this title.

(c) The Administrator shall consult with the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of Transportation, and the Hydrogen-Fueled Aircraft Advisory Committee established under section 207 in carrying out his authorities pursuant to this title.

ADVISORY COMMITTEE

SEC. 207. (a) there is hereby established a Hydrogen-Fueled Aircraft Advisory Committee, which shall advise the Administrator on the program under this title.

(b) The Committee shall be appointed by the Administrator and shall be comprised of at least 7 members from industrial, academic, financial, environmental, and legal organizations and such other entities as the Administrator deems appropriate. Appointments to the Committee shall be made within 90 days after the enactment of this Act. The Committee shall have a chairman, who shall be elected by the members from among their number.

(c) the heads of the departments, agencies, and instrumentalities of the Executive branch of the Federal Government shall cooperate with the Committee in carrying out the requirements of this section and shall furnish to the Committee such information as the Committee deems necessary to carry out this section.

(d) The Committee shall meet at least 4 times annually, notwithstanding subsections (e) and (f) of section 10 of Public Law 92-463.

(e) The Committee shall review and make any necessary recommendations on the following items, among others—

(1) the implementation and conduct of the program under this title; and

(2) the economic, technological, and environmental consequences of developing a hydrogen-fueled aircraft capability.

(f) The Committee shall prepare and submit annually to the Administrator a written report of its findings and recommendations with regard to the program under this title. The report shall include—

(1) a summary of the Committee's activities for the preceding year;

(2) an assessment and evaluation of the status of the program; and

(3) comments on and recommendations for improvements in the comprehensive 5-year program management plan required under section 202.

(g) The Administrator shall provide such staff, funds, and other support as may be necessary to enable the Committee to carry out the functions described in this section.

DEFINITIONS

SEC. 208. As used in this title—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(2) the term "capability" means proven technical ability; and

(3) the term "certifying agency" means any government entity with direct responsibility for assuring public safety in the operation of the air transport system.

AUTHORIZATION OF APPROPRIATIONS

SEC. 209. There is hereby authorized to be appropriated to carry out the purpose of this title—

(1) $10,000,000 for the fiscal year beginning October 1, 1989;

(2) $15,000,000 for the fiscal year beginning October 1, 1990;

(3) $20,000,000 for the fiscal year beginning October 1, 1991;

(4) $25,000,000 for the fiscal year beginning October 1, 1992; and

(5) $30,000,000 for the fiscal year beginning October 1, 1993.

## FUEL CELL TECHNOLOGY

Mr. MATSUNAGA. Mr. President, at this time, I am also introducing two bills to advance the energy technology of fuel cells, together with Senators MURKOWSKI and BINGAMAN, as well as the cosponsors of my hydrogen measure: Senators INOUYE, WIRTH, PELL, and LIEBERMAN.

These measures passed the Senate by unanimous consent in the 100th Congress after being reported favorably by a unanimous vote of the Energy and Natural Resources Committee. Unfortunately, House action was not completed on them prior to adjournment.

Fuel cell energy technology is perhaps the most developed example of hydrogen energy. It is also an example of a technology pioneered in the United States for its space program and rapidly being taken up by other countries. The bills I am introducing are based on recommendations of a Congressional Research Service report on how best to bring this technology to commercial fruition.

One, the Renewable Energy/Fuel Cell Systems Integration Act supports research on the use of renewable energy sources to produce hydrogen for use in fuel cells, as well as the use of this technology as a backup system to renewable power systems in rural and isolated areas. Fuel cells have the potential to provide system continuity for unreliable renewable energy systems such as wind power. The bill would authorize $5 million for this integrative renewable energy/fuel cell research.

The second bill, the Fuel Cell Energy Utilization Act, would include fuel cells under the provisions of the Renewable Energy Industry Development Act as a fuel conservation technology, by itself or when used for cogeneration. This would empower the Department of Commerce to assess international markets for the technology and identify export barriers as well as opportunities. Included in this coverage would be integrated systems of fuel cells with renewable power technologies. The bill also would require the Environmental Protection Agency to prepare guidelines for the benefit of local governments in order to permit the use of fuel cells, subject to environmental and safety standards.

Mr. President, these bills reflect needed legislation and, again, I urge my colleagues to join me in achieving their speedy adoption. I ask unanimous consent that the text of the bills be printed in the RECORD.

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

S. 633

*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 "Renewable Energy/Fuel Cell Systems Integration Act of 1989".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that while the Federal Government has invested heavily in fuel cell technology over the past 10 years ($334,700,000 in research and development on fuel cells for electric power production), research on technologies that enable fuel cells to use alternative fuel sources needs to be undertaken in order to fulfill the conservation promise of fuel cells as an energy source.

(b) PURPOSE.—The purpose of this Act is to authorize funds for research on technologies that will enable fuel cells to use alternative fuel sources.

SEC. 3. RESEARCH PROGRAM.

(a) PROGRAM AUTHORIZATION.—The Secretary of Energy shall implement and carry out a research program, pursuant to the Federal Non-Nuclear Energy Research and Development Act of 1974, for the purpose of—

(1) exploring the operation of fuel cells employing methane gas generated from various forms of biomass;

(2) developing technologies to use renewable energy sources, including wind and solar energy, to produce hydrogen for use in fuel cells; and

(3) determining the technical requirements for employing fuel cells for electric power production as backup spinning reserve components to renewable power systems in rural and isolated areas.

(b) GRANTS.—In carrying out the research program authorized in subsection (a), the Secretary of Energy may, subject to appropriations, make grants to, or enter into contracts with, private research laboratories.

SEC. 4. REPORT TO CONGRESS.

The Secretary of Energy shall transmit to the Congress on or before September 30, 1992, a comprehensive report on research carried out pursuant to this Act.

SEC. 5. AUTHORIZATION.

There are hereby authorized to be appropriated $5,000,000 for fiscal year 1990 to the Secretary of Energy to be used to conduct research as provided in this Act.

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S. 634

*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 "Fuel Cells Energy Utilization Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) while the Federal Government has invested substantially in fuel cell technology through research and development during the past 10 years, there is no national policy for acting upon the findings of this research and development; and

(2) if such a national policy were developed, the public investment in fuel cell technology would be realized through reduced dependency on imported oil for energy and the consequent improvement in the international trade accounts of the United States.

SEC. 3. INCLUSION OF FUEL CELLS AS A FUEL CONSERVATION TECHNOLOGY UNDER REIDA.

Section 256 of the Energy Policy and Conservation Act is amended by inserting at the end thereof the following:

"(e) For purposes of this section, the term 'domestic renewable energy industry' shall include industries using fuel cell technology.".

SEC. 4. ENVIRONMENTAL PROTECTION AGENCY GUIDELINES FOR USE OF FUEL CELL TECHNOLOGIES.

Within 180 days of the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall prepare Federal guidelines for cities and municipalities specifying environmental and safety standards for the use of fuel cell technology. In the preparation of the guidelines, the Administrator shall utilize the successful experience of the New York City Fire Department in the use of fuel cell technologies.

SEC. 5. DEPARTMENT OF COMMERCE INVESTIGATION OF EXPORT MARKET POTENTIAL FOR INTEGRATED FUEL CELL SYSTEMS.

Within 180 days of the date of enactment of this Act, the Secretary of Commerce shall assess and report to Congress concerning the export market potential for integrated systems of fuel cells with renewable power technologies.

## THE SOCIETY OF AMERICAN FLORISTS

Mr. HEINZ. Mr. President, I am pleased to join today in honoring the commendable and diligent efforts of the Society of American Florists in coordinating the floral designs for all the official bicentennial inaugural events. This tremendous undertaking was chaired by one of this country's finest retail florists from my own State of Pennsylvania, Charles Kremp III. Mr. Kremp's leadership, dedication, and resourcefulness was evident in each of the meticulously crafted floral arrangements. Each elaborate floral display lent an air of beauty, individuality, and pride to the various events and to the inauguration as a whole.

The Society of American Florists [SAF] is the only national trade association that represents all segments of the floral industry and each segment was represented in the group of more than 200 volunteers who came from around the country, at their own expense, to procure, prepare and design over 300,000 stems for the inaugural celebration. Growers, wholesalers and retailers donated their time, talents, expertise and resources to this effort. The industry should be proud of its accomplishment and congratulated on its success.

This is a time in our history when nations are recognizing the necessity of global cooperation, and neighborhoods are joining forces to enhance the lives of all community members. It serves as an example that the united efforts of a national industry, the floral industry, could result in unprecedented success on this celebrated occasion, as our country and the world focused attention on our Nation's Capital and the inauguration of the U.S. 41st President.

I would like to give special recognition and thanks to the inauguration floral volunteers from my State of Pennsylvania: Ira and Helen Bitner of Hanover, Frederick W. Davis of Wyomissing, John and Torrie Dillon of Bloomsburg, Chris Drummond of King of Prussia, Scott Edwards of Danville, Walter Fedyshyn of Pittsburgh, Daniel Firth of Burham, Nancy Gingrich of Lancaster, Andrew and Warren Goll of Bensalem, Frank Grau of Doylestown, Jeff Harmon of York, Debbie Keyes of Camphill, Charles and Gina Kremp III and Scott, Chad, and Andrew Kremp of Willow Grove, Thomas L. Luscombe of Greensburg, Gary E. and Kathryn Olson of Warren, Robert L. Pekula of Elkins Park, Chris Polites of Drexel Hill, Tim Rettger of Erie, Paul Saywell of Willow Grove, and Dennis and Carol Wolnick of University Park.

I salute the Society of American Florists, Charles Kremp, the volunteers from all over the country, and the floral industry for helping to make this historical bicentennial inauguration one to remember.

## THE LIFE OF THE LATE PAUL M. BATOR

Mr. HUMPHREY. Mr. President, a few days ago, America lost one of its brightest legal minds, and a man of supreme personal and professional integrity and principle—Paul M. Bator.

Professor Bator, who was the John P. Wilson Professor at the University of Chicago Law School, died February 24, 1989, after a long illness. Despite his relatively young age, 59, Professor Bator had amassed an impressive record as a lawyer, legal scholar and educator, Supreme Court advocate, and public servant.

Professor Bator was born in Budapest in 1929 and came to America when he was 10 years old. He was graduated from Princeton in 1951 summa cum laude and class valedictorian.

He earned a master's degree in history from Harvard University and went on to get a law degree from Harvard Law School where he was editor of the Law Review and was graduated summa cum laude.

He also clerked for U.S. Supreme Court Justice John M. Harlan in 1956–1957 before going into private practice in New York.

In 1959, he joined the faculty of Harvard Law School and became a full professor in 1962 and taught there until 1982.

While there, Professor Bator wrote one of the most important articles on

the use of Federal habeas corpus in the Harvard Law Review, "Finality in Criminal Law and Habeas Corpus for State Prisoners."

Professor Bator examined the circumstances under which the habeas corpus jurisdiction of the Federal courts should be used to redetermine the merits of Federal questions decided in State court proceedings.

He argued that the use of Federal habeas corpus was appropriate in challenging the decisional processes used by State courts but not their results.

The bottom line of the article was that there has to be some point at which all judicial proceedings end, and that Federal habeas corpus has been misused to prevent that from happening in State court cases. Since it was written, it has been cited many times in opinions from the High Court.

Professor Bator also was an expert on the Federal courts and constitutional law.

He was coauthor of the second and third editions in 1973 and 1988 of "Federal Courts and the Federal System," a leading text on Federal jurisdiction. According to one colleague of Professor Bator, "it is more than a textbook. It is a treatise."

Harvard was Professor Bator's home until 1982 when he took a leave to serve President Ronald Reagan and his country as Deputy Solicitor General in the Justice Department.

He argued and won eight cases before the Supreme Court and wrote the briefs for many more during his tenure before being made counsel to the Solicitor General. The cases he argued and won included Hishon versus King & Spalding, holding that the civil rights statutes protect women associates at law firms; Grove City College versus Bell, narrowly construing the provisions of title IX of the Civil Rights Act—a decision subsequently reversed by Congress; Watt versus Community for Creative Non-Violence, establishing that the Constitution does not guarantee the homeless the right to camp in the memorial parks of Washington, DC; and Regan versus Wald, upholding the validity of currency restrictions imposed on travelers to Cuba.

Professor Bator was nominated for the Federal bench in 1984, but was forced to withdraw his name due to cardiac illness.

He returned to Harvard but in 1986 left to join the faculty at the University of Chicago Law School. While there he was also counsel to the law firm of Mayer, Platt & Brown, and engaged in an active appellate practice.

His most recent Supreme Court appearance was on October 4, 1988, for the U.S. Sentencing Commission, in a case challenging the constitutional validity of the Commission and the sentencing guidelines that the Congress instructed it to design.

On January 18, 1989, the Supreme Court upheld the Commission's position—and upheld the act of Congress that established the Commission. That decision was a victory for the Commission, for Congress, and for the superb appellate advocate who presented the persuasive argument.

His departure from Harvard for Chicago caused quite a stir in legal academic circles. He left, in part, because of disagreement over the critical legal studies movement there. For those who don't know what the "crits" are all about, a brief description: It is small radical movement in the law that argues that the laws, and even the Constitution, are simply tools that dominant factions in society used to oppress others. But even this bizarre notion was not what drove Professor Bator away.

It was, instead its anti-intellectual nature and subversive political tendencies that caused its disciples to try and take over power at the law school and to block appointments to the faculty of those who disagreed with their theories.

A true advocate of intellectual and academic freedom, Professor Bator was not opposed to the critical legal studies adherents' explorations in the law, but instead their attempts to preclude all others.

He left Harvard, therefore, to find intellectual freedom; that's truly the mark of an intellectual in the best sense of the word.

As for his own philosophy, Professor Bator was an adherent to the principle of judicial restraint which he learned from one of the great practitioners, the second Justice Harlan, for whom he clerked. When the great Justice died in 1971, Professor Bator praised Harlan's "faithfullness to law 'in the largest sense—the sense that makes democracy possible.' He was 'one of those rare public men for whom democratic faith meant fidelity to the whole law, every day and not every other day, fidelity not only to those rules which define other people's power but also those which limited his own.'"

The young clerk learned well, for now, after his own passing, the same could be said about Professor Bator.

He would have made a fine judge and I would have been honored to support his confirmation in 1984 had he not been forced to withdraw for health reasons.

Professor Bator also believed that the original intent of the framers should be earnestly sought and heeded wherever it could fairly be discerned. In a 1986 interview in Chicago Lawyer, Professor Bator was asked:

Is the extrapolation of the original intent of the framers of the Constitution the proper antidote to judicial activism?

The following excerpt from his answer, I think, explains precisely why original meaning is so important in interpreting the Constitution and why he was such a powerful force in the law.

The art of interpretation—interpretation that is animated by fidelity to the law—is a difficult one and a creative one. It is not completely unlike one of musical interpretation.

We think that it would be absolutely ridiculous if somebody said that a pianist could take a Beethoven sonata and then could play any note he wants to because Beethoven's intentions have nothing to do with it.

I agree with many who feel that the style of a very free-wheeling, subjective, decision-making policy had gone way too far. It is a good thing that there is a call for a more disciplined, objective, and restrained judicial style.

Mr. President, Professor Bator gave a much longer and even more eloquent exposition of his judicial philosophy at the investiture of Judge Kenneth W. Starr to the U.S. Court of Appeals for the D.C. Circuit in 1983.

I would ask that an excerpt from that speech be included in the RECORD at the conclusion of my remarks.

My personal contact with Professor Bator came during the hearings on the nomination of Judge Robert Bork to the U.S. Supreme Court.

Professor Bator came to testify on behalf of Judge Bork. His words were clear and simple. They cut through the hysteria of the time and set out the dangerous precedent the Senate was creating:

The practice of converting the confirmation process to a plebescite based on constitutional philosophy seems to me mistaken.

To testify on behalf of Judge Bork entailed a certain amount of risk.

It has been not quite 2 years since his nomination, but my colleagues no doubt still remember the atmosphere. Clearly it would have been easier for Professor Bator not to testify, as some of Judge Bork's former colleagues chose not to testify.

But Professor Bator felt strongly about the role law professors played in the Bork confirmation battle.

He worried about the difference they made in the fight, and felt that they lent an aura of respectability to the opposition when, in fact, their opposition to Judge Bork's legal philosophy was anti-intellectual.

Indeed he incisively noted that in his testimony:

What has been characteristic about the attack on Judge Bork, it seems to me, is precisely that a single—and highly controversial—theory of constitutional interpretation has been put forward as the only legitimate one, and all those who disagree with it read out of the mainstream. And, of course, it is particularly ironic that those who are now so cheerfully and aggressively encouraging the Senate to impose this narrow orthodoxy are persons who, on other days, never tire of flaunting their special fervor about the first amendment.

To step forward and be counted in the firestorm was an act of friendship, but to be sure it was proof of a conviction to principle, intellectual and academic freedom.

Men and women like Paul Bator are rare. Students and professors alike should look and learn from his example of rigorous intellectual honesty.

And even though I did not know him well, I mourn his passing, as do many thousands across our land.

## CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

## EASTERN AIRLINES LABOR DISPUTE LEGISLATION

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 9 o'clock having arrived, the majority leader is authorized to proceed to consideration of H.R. 1231.

Mr. MITCHELL. Mr. President, I move to proceed to Calendar Order No. 33, H.R. 1231, the Eastern Airlines labor dispute legislation.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I understand there is a time agreement; am I correct?

The ACTING PRESIDENT pro tempore. The Senator is correct; there is a time agreement, time to be equally divided between now and 10:30 a.m.

Mr. KENNEDY. So each side has 45 minutes; is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. KENNEDY. Mr. President, I yield myself such time as I may use.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise in strong support of H.R. 1231, and urge the Senate send it to the White House at the earliest opportunity.

I am sure we will hear in this debate that since Eastern is in bankruptcy, Congress should not intervene. That somehow the shroud of bankruptcy sanctifies all that lies beneath.

But I think that if we lift that shroud and take a good look at what isn't there, we may find that the need for our intervention is even greater than we thought.

First, we have to recognize we are dealing with a master.

Frank Lorenzo has used the bankruptcy process before to get rid of the workers at Continental, and it seems clear he is trying it again at Eastern.

Our bankruptcy laws were intended to give businesses in distress the chance to seek court protection while they reorganize their affairs.

But our bankruptcy laws should not provide a roadmap by which union-busting management can strip a business of its valuable assets and leave behind a debt-ridden shell unable to carry on its business.

That's exactly what Texas Air has done with its subsidiary, Eastern. Over the last 3 years, Texas Air has systematically looted Eastern of its most valuable assets in a long series of highly questionable transactions. I will just mention of few of the more egregious ones:

In April 1987, Eastern sold its vaunted computer reservation system to Texas Air for a give-away price of $100 million, payable over 25 years at 6 percent.

Eastern now pays Texas Air $10 million a month to use their old reservation system! Texas Air makes more each year from the system than it will have to pay Eastern 25 years after the purchase.

Eastern sold 11 gates at Newark Airport to Continental for a $10 million dollar, 10-percent note due in 1998, half the appraised value.

Eastern also pays Texas Air $12 million a year in fuel service fees and $6 million a year in management—or should we say mismanagement—fees.

Eastern also tried to sell its shuttle to Texas Air for $125 million in cash and a $100 million note. Far below the $365 million Donald Trump has agreed to pay.

These dubious deals, and a host of other questionable loans, fees, payments, and other transactions between Eastern and Texas Air have enriched the Texas Air while driving Eastern into bankruptcy.

Some claim Frank Lorenzo intentionally stripped Eastern and intentionally has driven it into bankruptcy. Others feel he is merely utterly incapable of running an airline.

I think there is ample evidence supporting both positions. But there is no evidence on which he can base his claim that his employees wages are the cause of his problems, or that slashing them further will save the airline.

If union-busting and low wages were the solution, Continental would not be losing as much money as Eastern. But it is.

Eastern is not going to survive sitting on the ground.

Frank Lorenzo will carve it up and sell it for scrap. The only hope for the airline to survive as anything more than a spare parts bin for Texas Air is to get back in the air, while a panel of experts recommends a fair and workable settlement in this festering dispute.

I share the concerns expressed last night by my colleague from Florida. Each day of delay, each day of a moribund Eastern losing millions of dollars and thousands of customers is another nail in the coffin for what was once a great airline.

Over 30,000 workers and their families—the Eastern family—face collectively the worst crisis in their lives. And unless an emergency board is created and the planes get back in the air and the passengers fill those seats, it could be the end.

The President chose to be the first President not to follow the recommendations of the mediation board. One of the reasons for not acting cited by the Secretary of Transportation was that Eastern was losing a million dollars a day.

Look at what Eastern is losing now, Mr. Secretary, and tell me whether Eastern is better off financially by your inaction.

Another reason cited by the Secretary of Transportation was that there would be no disruption.

Look at the shambles in Miami, New England, the Eastern seaboard, Mr. Secretary. A major competitor is grounded, airlines depending on Eastern connections are shutting down, and many towns have been deprived of their only air service.

The Secretary of Transportation claimed this would not be a national emergency, and the President would not intervene and Congress should not intervene.

Yet not 7 months ago, this same Secretary, Samuel Skinner, wrote to us in Congress demanding intervention in a rail dispute in Chicago. Mr. Skinner claimed "it is Congress' public responsibility to this region," to intervene.

Over the objection of the local union, we did intervene, and imposed the recommendations of the emergency board.

By unanimous consent, we did what rail management and Samuel Skinner urged us to do, and not a single Member of this body objected.

But they object now, and Secretary Skinner somehow has changed his views about Congress' "public responsibilities."

Mr. President, I hope that we will be able to address this issue and take the action which is necessary in order to preserve the airline, to protect the employees and the passengers, and the regions that will be affected by this bankruptcy, and that we take the action and pass the legislation which is before us.

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

The PRESIDENT pro tempore. The Senator from Missouri.

Mr. DANFORTH. Mr. President, the time on this side has been under the control of Senator HATCH. However, Senator HATCH is not on the floor right now and I have been asked to control the time on this side.

The PRESIDENT pro tempore. The Senator may proceed. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I think that the real question before us is whether we are going to act before this legislation receives at least some attention from the Labor Committee or whether we are going to have a review of the legislation by the Labor Committee before we act. The time is about the same either way.

The present situation is that 1½ hours has been allocated today to debate a motion to proceed. In other words, there is no chance at all that this legislation is going to be passed today; nor is it going to be passed next week because the Senate will be in recess. Nor will it be passed the week after, because the Senate will be in recess.

The earliest we can get to this bill is on April 4, the Tuesday after the Easter recess. That is the earliest we could get to it under any circumstances, and the majority leader has indicated that he prefers that we proceed not to this bill, but instead to the minimum wage bill.

So let us take a very optimistic view of the minimum wage bill and say it is on the floor just a couple of days and say that we invoke cloture on the motion to proceed on the Wednesday after we return, which would be April 5. Then eventually we would get on this bill, but it would probably be the week that begins April 10 before we would get on the bill.

So we are not talking about whether or not we are going to pass legislation now. That is not the issue that is before us. The issue is, during the interim period, prior to sometime around April 10, when this legislation will be on the floor, is the Labor Committee going to address the matter at all? Is the Labor Committee going to ask the experts what the effect of the legislation is? Is the Labor Committee going to hold any hearings? Even send out any questionnaires asking for information? Or instead, are we going to proceed to consideration of this bill without referring it to the committee?

I made the suggestion to the majority leader yesterday that the orderly way to go about this was to shop a unanimous-consent agreement referring the bill to the Labor Committee, discharging the Labor Committee on Friday of the week after we return, and bringing the bill to the floor the following Monday, which would be April 10, about the same time the bill would come to the floor in any event.

And, in fact, on this side, we put out the hot line. We asked Senators their opinion, and there was agreement. We have unanimous consent on this side to proceed to this bill on April 10 provided there is an opportunity by the Labor Committee to consider the meaning of the legislation in the first place.

Mr. President, I am not standing on the floor either to attack or defend Mr. Frank Lorenzo. That is not the question. All of us want the strike ended. All of us want the planes flying. All of us want competition in the airline industry. All of us want Eastern to survive in the strongest fashion possible. The issue is, Do we really know whether this legislation is going to make it more or less likely for Eastern to survive?

I think an argument can be made that if we were to pass this legislation, we would make matters worse, not better. I believe an argument can be made that this legislation would make the airline weaker; that it would minimize the possibility that another buyer could be found for the airline; that it would interfere with the operation of the bankruptcy court. I think those arguments can be made, but I do not know if they can be made successfully. That is why I believe the Labor Committee should address this matter even for 5 days, and I do not understand why the Labor Committee does not want to address this matter for 5 days. I cannot imagine why the committee could not spend just a short amount of time exploring the meaning of the bill.

Here is one problem, Mr. President. One problem is that a bankruptcy court has assumed jurisdiction of this matter, has assumed jurisdiction over the operations of Eastern Airlines. I have been informed that there is no law telling us the relationship between the jurisdiction of a bankruptcy court, which has to approve all agreements on one hand, and the operation of a Presidential emergency board on the other hand.

I am informed that there has never been a case where they have both existed simultaneously. Maybe I am wrong. I would be happy to stand corrected, but if it is novel for a bankruptcy court and an emergency board to operate at the same time, how do they work together? Who makes decisions? And should we not know, and why should we not know the answer to that question if we are not going to be voting on this matter until the week of April 10 anyhow?

Then there is the question of the purchasers. The papers have been filled with stories about potential purchasers of Eastern Airlines. Mr. Donald Trump has apparently agreed to purchase the Eastern shuttle. The employees of Eastern Airlines are exploring the possibility of purchasing it. Carl Icahn has explored the possibility of purchasing the airline with the encouragement of the International Association of Machinists. Eastern itself has asked the firm of Drexel Burnham Lambert to look into the possibility of finding buyers.

How does that quest for purchasers key into the appointment of an emergency board? I could imagine that the appointment of an emergency board, which would put things on hold for 26 days after passage of the legislation and then make recommendations which Congress could act on relating to these labor contracts, I think a case could be made that the very existence of such a board would have a chilling effect on any consideration of purchase.

We do not know the answer to these questions, Mr. President, and I do not understand why we do not have the curiosity to at least find out. I think that it is very possible that if we were to pass this bill, we would not make things better for the employees of Eastern Airlines; we would make things much worse. I think that it is very possible that if we were to pass this legislation, their agony would be prolonged. I believe that it is possible that if we were to pass this legislation, this matter might drag on through March, through April, well into May, maybe into the summer before it is resolved. And, therefore, I think this should be referred to committee, and I believe that is the issue before the Senate, and I am puzzled at the apparent lack of interest by the Labor Committee insomuch as having a hearing on this matter.

I reserve the remainder of my time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. The suggestion that is made by my good friend is that we ought to have a hearing. The legislation that provided for a board to consider the recommendations of the mediation board has been in effect for 60 years—60 years. This is the first President since Franklin Roosevelt that has refused to appoint a board to make recommendations for the employees, as well as for the employers.

President Reagan did it 10 times. Not once did he refuse to do so. But this President did. All we are attempting by congressional action is to do what every President has done since Franklin Roosevelt. And he says we have to have another hearing. You tell that to the tens of thousands of workers and their families. You tell them we are going to have another hearing. We are not taking a new procedure. This has been going on for years and years and year and years. All we want to do is to follow the time honored precedent of the past.

Now, if the Senator is suggesting that we, in the Labor Committee, take a look at what this panel will recommend in terms of the employers and the employees, maybe that makes some sense. But why not convene that board now and then permit the Labor Committee to take a look at that rec-

ommendation, whether we in fact then will take legislative action that will affect the employees and the employers. That perhaps makes some sense. But why wait? Why wait now for the 2-week period when all we are trying to do is follow time honored precedent and say, OK, we have an emergency. This President would not convene the board, which was recommended by the Mediation Board, the first one in 34 air disputes—first one, the first President who refused to convene a board. Why do that? Oh, that is what we are attempting to do, Mr. President.

Now, maybe the Senator feels that in another 2 weeks while the Senate is in recess we can tell these employees, men and women who have to put food on the table and pay their mortgages and who have health care bills, they can wait for a hearing. What we are attempting to do today is to assure that the procedures will be followed and that we will have a 14-day review. It can be extended by Presidential discretion by 5 days. Seven days to consider the recommendations of the board and then if necessary we can take action. Perhaps then, prior to the final action, it makes sense but certainly not today.

So, Mr. President, we ought to recognize what is going on the floor of the Senate, that this administration is effectively blocking any kind of action. Make no mistake about it. They talk about bankruptcy, they talk about hearings, they talk about everything else. But they are saying no to any kind of action. No. No, to the workers, their families, no to the passengers, no to the communities, in New England and all along the eastern seaboard. The answer is no, we will not permit action.

If that is going to be the position of the administration, we can understand it since this President refused to appoint a board to make the recommendations. Now apparently the supporters of the President, are saying no to the Senate. A few hours debate in the House of Representatives and this measure was overwhelmingly approved, by Republicans and Democrats alike. But not in the Senate.

That is really what we are faced with. We know it is Friday, but, Mr. President, it is an emergency. This body can act when it is faced with an emergency and an emergency is what is before us. That is why President Reagan acted 10 times and previous Presidents over a period of 50 years have acted 20 times. But in this case evidently this administration wants to say no to taking what is a reasonable course of action, establishing an emergency board. This would give us an opportunity to consider what that board might recommend, and then take legislative action if we must, but at least it would get Eastern Airlines back in the air. The public knows there is a dispute now.

We hear, "well, we can't do that because it is going to cost resources. Eastern was losing a million dollars a day."

Well, it is losing five times as much as that every day it is on the ground. Why not get it back in the air, give the board an opportunity for a reasonable period of time, the 14 days to study this and several days for the parties to consider the recommendations. When we come back from the recess, we will be able to take the action and be able to make a final judgment. In some cases it makes sense to delay, but in this case we are talking about an emergency. That is why it is essential that we move on this legislation today.

Mr. DANFORTH addressed the Chair.

Mr. KENNEDY. Mr. President, I will be glad to yield to the Senator from Illinois whatever time he wishes.

Mr. SIMON. I thank the Senator from Massachusetts, the chairman of the committee.

Mr. President, my colleagues in the Senate, I think this bill should pass. As the Senator from Massachusetts has said, every President since the 1940's, when we faced this kind of a situation, has used that emergency power. It is very interesting that the emergency board's recommendations in 34 of those disputes, 34 of those 36 have been solved because both labor and management accepted the recommendations of the emergency board.

Now, this legislation does not say they are going to have to work for another 60 days. This legislation is modest legislation that says let us move on this thing, let us have a report in 14 days. Let us see that we can get things worked out.

Just in general, Mr. President, we have better labor-management relations in this country, and I am pleased to say it. I would say to my friend from Missouri, if Frank Lorenzo was the chief executive officer of Ralston Purina, instead of that stock selling for $75 or $80, it would be selling for $7 or $8 today in the market. What has happened is you have what the Wall Street Journal calls "upstreaming" of the funds from Eastern. We are not talking about a company that is broke. We are talking about a corporation whose funds have been drained by the chief executive officer.

Let me just give you two examples. Eastern purchased a small commuter airline for $1.5 million. They paid a financial advisory fee to the parent corporation of $1 million for the financial advice. That is pretty healthy fee for financial advice.

Let me give you another example. Eastern had a computer reservation system that according to their own documents was worth somewhere between $200 million and $500 million. They sold it for $100 million, not in cash, $100 million in notes and then signed a contract to pay $130 million for the use of the reservation system, and of course the corporation that they sold it to was another Lorenzo corporation. What is happening is you are simply having the money from Eastern being drained off, upstreamed in this particular case.

Why invoke this emergency legislation? Because we are doing great harm to the Nation. We are doing harm to the aviation industry. We are doing harm to the communities involved—Miami, Boston, LaGuardia, Washington National. Eastern is the largest single carrier in each one of those cities. We are doing harm to families. we are doing harm to the whole climate of labor-management relations. There is no guarantee that if this emergency legislation is invoked and there is a report back in 2 weeks as to what should happen it is going to be effective. It may be that 2 weeks from now we will be back in a strike situation. But let us try to avoid it.

I cannot help but contrast what is happening here with seeing a picture of Lee Iaccoca the other day handing a check, profit sharing check, to a member of the United Automobile Workers. Lee Iaccoca and Chrysler recognize that management and labor have to get together and work together as we have in most industries in this country. That is unfortunately not recognized by the chief executive officer of Eastern.

Let us see if we cannot get this thing settled. We are setting a bad precedent if we do not enact this emergency legislation. The President for reasons I do not comprehend has made a decision that is unprecedented in terms of refusing to act in this airlines strike.

I hope we will do the responsible thing and respond.

I yield the remainder of my time to the chairman of the committee.

Mr. DANFORTH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. DANFORTH. I wonder if the Senator will yield me 5 minutes?

Mr. President, my suggestion was that hearings be held by the Labor Committee before we act. Senator KENNEDY suggested, well, this is just a delaying tactic and that we should act quickly. But it is not a delaying tactic. I think the problem that he is referring to is not any delay that is caused by any Senator on this side of the aisle, but rather the fact that a recess of 2 weeks has been scheduled.

If the Senator is correct that it is truly an emergency, then we should work through the recess. Nobody on this side of the aisle scheduled the recess. My suggestion to the majority leader was on the assumption that we

were going to have the recess, and then after the recess the Labor Committee could meet for a week. Then we could bring it to the floor. We were willing to set a date certain for bringing it to the floor. But this Senator does not see any reason why we should not speed the matter up just so long as we could have some consideration by the Labor Committee.

If the Labor Committee were to hold its hearings next week, if the chairman and the ranking member of the Labor Committee could convene a hearing next week, hear from some experts about the relationship between the appointment of an emergency board and the bankruptcy court, hear some testimony about what the appointment of an emergency board would do with reference to trying to get other parties interested in purchasing the airline, then make a report, then we could bring it back immediately after Easter. If that is what the Senator is suggesting, we could move this process forward.

But I do not think we should move it forward without thinking. I mean maybe thinking first is not a requirement for acting in the government. A lot of people would suggest that. Maybe we do not have to have hearings or even debate, just bring things up and pass them, report bill numbers. We do not have to even have the titles reported, I suppose. But it seems to me that government sometimes does more harm than good.

I think this is a case where government can do more harm than good. I think this is a case where government by its action can actually delay the resolution of this problem. I think that if we were to pass this legislation without knowing what we were doing, the possibility is by passing it we would be saying no to those employees of Eastern Airlines and no to their families.

I do not want to do that. I want to help them, not hurt them. I do not want to pass legislation that is going to hurt those people. I do not want to pass legislation that is going to make it impossible for the planes to get back in the air. I want to do something that is wise and not foolish.

We did not set the schedule of the Senate on this side. We did not set the recess schedule. If we want to cancel the recess schedule I will be here, and I am confident members of the Labor Committee could be brought here. They might have to cancel some plans in order to do that and make some people unhappy. But if it is all that rush, rush, let us rush; but let us not rush without thinking.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I am really quite amazed at my good friend suggesting that we need a long hearing. You know, I can remember when being on the floor here in 1986 the Senator from Missouri offered an amendment affecting the TWA-Ozark Airline merger in order to preserve the working conditions for employees. He did not ask for days of hearings at that time. We might have had 1 hour of debate on it. Why? Because the Senator said it is an emergency. It is an emergency. We ought to act now.

There are people, families, that are going to be discombobulated if we do not do that now. There are going to be men and women who live in "my" own State whose lives are going to be affected, trying to put bread on the table, heating their homes, and pay their mortgages. We need to act now, said the Senator from Missouri. We need to act right now.

He was not suggesting at that time to the Senator from Utah and myself, let us have some hearings. No, he said, "Now; it is an emergency."

And what happened? It ended up being a 49-49 vote. Now the employees that live down in Miami, he is saying, "Let us have either some hearings next week so we can act 2 weeks from now perhaps." No suggestion of a time certain for final action or disposition. Oh, no. But he wanted a final time to his position when it affected the merger between TWA and Ozark Airlines.

Mr. HATCH. Will the Senator yield for a question?

Mr. KENNEDY. Not yet.

You cannot have it both ways. What is sauce for the goose is sauce for the gander, for those workers all along the eastern seaboard. I am amazed at that argument. I am really amazed at that argument.

So, Mr. President, it is time to act—more hearings? Our good friends over in the House of Representatives had 1 day, and they took action—1 day. Four hundred and thirty-five Members of the House of Representatives knew what they were dealing with. They were dealing with time-honored precedents.

This is not a new issue, Mr. President. This is an old issue. We have considered all of the facts in terms of this whole process and procedure. We do not need hearings on whether to establish a board. We know what that has been.

Mr. President, it is an emergency. We can act now. We can act today. Let us move ahead and call the roll.

So I would hope, Mr. President, that the kind of urgency that the Senator from Missouri exhibited at another time when it affected so many workers in his constituency, the same passion which he echoed—I think it was on an evening, on the continuing resolution—I think these other workers are entitled to that kind of consideration.

So I yield to the Senator.

Mr. HATCH. I just would like to point out to the Senator and ask him a question. I would like to point out to the Senator——

Mr. KENNEDY. Could I just find out how much time I have left?

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Massachusetts controls 21 minutes and 20 seconds.

Mr. KENNEDY. I would be glad to yield.

Mr. HATCH. How much time do I have?

The PRESIDING OFFICER. The Senator from Utah controls 30 minutes.

Mr. KENNEDY. I am glad to yield to the Senator from Utah on his time.

Mr. HATCH. Why do I not withdraw? I will make my point because I think it rebuts the distinguished Senator from Massachusetts.

Mr. KENNEDY. I withhold the balance of my time.

Mr. HATCH. Mr. President, I remind the distinguished Senator from Massachusetts that as much as he is finding fault with the suggestion of the distinguished Senator from Missouri, the Senator from Missouri happens to be right here.

I can remember just a few years ago when the distinguished Senator from Massachusetts and myself insisted on hearings in a nationwide rail strike. It was during those hearings that the whole matter was resolved. We actually reached an accommodation right there at those hearings that, as far as I could see, actually resulted in the settling of the whole nationwide rail strike.

The Senator from Missouri is right. This is not something that is an emergency right now. This dispute has been going on for 17 months, now 18 months, during which time the National Mediation Board kept it bottled up, knowing that the parties were getting farther apart. It was not until January, 13 months after the contract expired, that the Board finally declared an impasse.

The thing that bothers me is that Senators and Congress people like my good friend from Massachusetts are constantly saying, let us let the collective bargaining process work. That is, until it is not working the way they want it to work. Then, suddenly, there is a so-called emergency, and they want to impose a Federal Government solution to that emergency. They want to impose it on both parties.

Now, the reason they want to do so is that, invariably, those impositions favor their side of the equation, as they view it. In my view, neither side of the equation deserves to be favored in this matter. They both appear to be

wrong to me. Neither of them appears to have worked hard to try to resolve this, neither management nor labor. They say they have worked hard, but they have actually moved farther apart, with all the help of the National Mediation Board, for 18 months now.

The President has taken a principled position. That position is that this is a dispute between two private parties and we are going to let them settle it within the framework of the collective bargaining system.

What ultimately happened, though, is that management felt that the pilots would cross over if the machinists struck and they did not. When they did not cross over, in management's view, it had no choice. Losing at least a million and a half dollars a day, having lost many millions of dollars before this, in their opinion the only recourse was to put Eastern Airlines into chapter 11 bankruptcy.

The fact that Eastern is now in bankruptcy substantially complicates this matter. I have extremely serious concerns that requiring the establishment of an emergency board, which would result in restoring the status quo ante, will operate to the detriment of every creditor of Eastern Airlines—and, I might add, to the detriment of Eastern Airlines and every worker of Eastern Airlines. This is because the only chance of resolving this mess is through the bankruptcy courts, and the establishment of an emergency board would substantially complicate and interfere with the bankruptcy proceeding. I think there is a good chance Eastern can be saved. But, if we go the route of the distinguished Senator from Massachusetts and his friends in the House, kiss Eastern Airlines goodbye. It is unfortunate to say this, but I believe that there are those who want this so-called emergency board for one reason: They want to kiss Eastern Airlines goodbye.

I do not believe that management is part of that particular group. They want to save Eastern if they can, realizing that there is no way this can be accomplished if they are required to restore the status quo in terms of wages and working conditions during an emergency board's tenure.

Mr. President, at this point, I would like to read portions of a letter from the distinguished Secretary of Transportation sent to the Representatives in the House. In the letter, Secretary Skinner says:

We understand that the House may act this week on H.R. 1231, a bill that seeks to force the President not only to empanel an Emergency Board with respect to the dispute between Eastern Airlines, Inc. ("EAL") and the International Association of Machinists and Aerospace Workers ("IAM"), but also to place the government squarely in the middle of two other ongoing labor disputes with EAL that have not even reached impasse. So that there can be no doubt—the President strongly opposes this bill, and his senior advisors would recommend that he veto this or any similar bill.

So even if this bill does pass, the President is going to veto it. I believe that veto would be upheld. If that is so, then it appears to me that this is an exercise in politics rather than an exercise in trying to save Eastern Airlines. It may be an exercise to try to embarrass the President, when the President has taken a very principled position: Let the collective bargaining process work between two independent entities that are fighting each other.

The Secretary's letter continues as follows:

As you are aware, the President already has decided that no compelling reason exists to justify formation of an Emergency Board. The President announced his decision on March 3, 1989, and no new facts exist to warrant a different conclusion. At the time of his decision, the President cited his strong aversion to unwarranted government intervention in the collective bargaining process. This applies with even greater force today, as we have witnessed the dynamics of the marketplace rapidly unfold, with other carriers quickly filling the void left by EAL's scaled-back operations.

In short, no emergency exists, and the President strongly believes that government should not be dictating the economic terms of labor contracts. Moreover, it is unlikely that such "stop gap" measures ultimately will inure to the benefit of the public and, as recent events have made so painfully clear, an additional cooling-off period after 17 months of fruitless negotiations will not be a panacea to resolve this dispute. It is only the specter of secondary boycotts, which are strictly limited in all other labor disputes, that threatens to disrupt our Nation's transportation system. If boycotts were to occur, the solution is not legislation requiring an Emergency Board, but legislation to disallow secondary boycotts across the board.

Additional reasons militate against passage of this bill, including:

Not only does the bill address the machinists who are on strike without a contract, but it also applies to the Air Line Pilots Association and the Transport Workers Union of America. A mandated settlement for all three unions, two of which are still under contract, would be an unwarranted intrusion into the collective bargaining process.

Now that Eastern is within the jurisdiction of the bankruptcy court, a solution to a labor/management dispute imposed by the executive or legislative branch is especially inappropriate. Under bankruptcy law, the presiding judge is now the focal point and arbiter of creditor, employee, and stockholder rights, without special, "add on" direction from bills such as H.R. 1231.

Return of the parties to pre-strike conditions, as envisioned in H.R. 1231, could require expenditures of millions of dollars to prepare for traffic that never materializes, draining the company of assets that should contribute to reorganization. Ticket-holders, vendors, and the federal government are just some of the parties in addition to the employees that stand to lose.

Finally, the constitutionality of the bill itself is open to question. Article I, section 8, clause 4 requires that Congress establish "uniform Laws on the subject of Bankruptcies throughout the United States." H.R. 1231 would clearly apply to Eastern alone, impact directly on the operations of the debtor-in-possession, and arguably provide a favorable status for employees over the airline's creditors.

At the bottom, the long-running dispute between EAL and the machinists has benefited as much as it can from federally mandated "status quo" and "cooling-off" periods. It is time for management and labor, now under the auspices of the bankruptcy court, to work out their differences and reach an agreed-upon solution to this dispute. If America is to remain a competitive force in our global economy, labor and management can and must negotiate and work together, without undue governmental intrusion, to provide the best products and services at the lowest cost to the most people.

I agree with the Secretary's views. Imposing a Presidential emergency board under the current circumstances is both unprecedented and unwarranted. As he points out, return of the parties to prestrike conditions as envisioned in H.R. 1231 could require expenditures of millions of dollars to prepare for traffic that never materializes and thus drain the company's assets, which would otherwise aid its reorganization. Such a drain would come at the expense of numerous parties including ticketholders, creditors, and the Federal Government and its taxpayers.

Now, I have sympathy for the employees, too, but given that Eastern is in bankruptcy, we ought to allow these very carefully thought-out laws to work. It is the only way this airline might have a chance at being saved which will ultimately be to the benefit of all concerned. Furthermore, I share the Secretary's concerns about the constitutionality of establishing the emergency board given the pending bankruptcy proceeding. In sum, I think that the Secretary's letter basically says it all.

At this particular point, I also ask unanimous consent that additional materials including five editorials and a series of other statements that provide further support for the President's position be printed in the RECORD.

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

[From USA Today]

KEEP GOVERNMENT OUT OF EASTERN STRIKE

President George Bush is right not to interfere in the Eastern Airlines strike. And Congress should butt out, too.

The president has been under intense pressure to order the strikers back to work for 60 days to cool off. Congress is rushing to pass a law to make him do it.

That would be a big mistake, despite what AFL-CIO President Lane Kirkland writes on the opposite side of this page.

Eastern's contract dispute with its machinists and baggage handlers has been going on for 17 months. The workers want an 8 percent raise; Eastern wants to cut their paychecks.

A federally mandated 30-day cooling-off period that ended last week didn't bring them any closer to agreement.

Another 60 days wouldn't help, either. It might have delayed Eastern's filing for bankruptcy, Thursday. It definitely would discourage serious bargaining for two months.

Bankruptcy shouldn't be used to break a strike. It won't end this one. It only keeps creditors off Eastern's back.

The outcome of this strike will reach beyond Eastern's employees in Boston and Miami, and passengers it serves in New York and Washington. Workers and air passengers in Los Angeles, Dallas and St. Louis have a stake, too.

If Eastern busts the union, it could have a domino effect in labor-management relations elsewhere. And if Eastern dies, the reduced competition means everybody probably will pay more to fly on the remaining airlines.

Eastern workers and their families who are sacrificing for what they believe in deserve our consideration. And we all should be concerned about the bankruptcy of an airline.

But that doesn't make it a national emergency. Not yet.

Right now, this battle is between Eastern's managers and workers. They should be left alone to solve their problems.

As for the traveling public, there are plenty of alternatives. More than 1.2 million passengers fly daily aboard 3,300 aircraft making 16,000 flights. Eastern flies only 100,000 passengers on 1,040 scheduled flights aboard 250 aircraft.

Eastern and its unions have snarled at each other for years. The fighting turned vicious when Frank Lorenzo, who has a reputation for union busting, made the airline part of his Texas Air empire in 1986.

Lorenzo's relations with his Eastern employees got so bad that Federal investigators concluded last year the fighting could jeopardize flying safety.

Once the USA's third largest airline, Eastern has slipped to seventh. It has lost $1.2 billion the last 14 years and has $2.5 billion in debts, costing $800,000 a day in interest.

And unionized Eastern workers have taken three pay cuts or pay freezes since 1976.

There are no heroes in this sorry saga.

Instead of compromising, Lorenzo would rather surrender control of the airline to a bankruptcy court. Instead of compromising, the unions are willing to let this proud, 63-year-old airline die.

That's a formula for failure. Frank Lorenzo and the unions should sit down and work out their differences.

But not in the White House. Or in Congress. Strikes should be settled at the bargaining table.

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[From the New York Times, Mar. 12, 1989]

KEEP THE PUBLIC INTEREST FLYING

Is there life after bankruptcy for Eastern Airlines? It's too early to tell. What's already clear, though, is that if Eastern dies, competition will be reduced and travelers will pay higher fares.

After a week in which Eastern strikers portrayed themselves as the victims of a ruthless robber baron and rail unions threatened to sever vital transport links in sympathy, it was easy to conclude that great principles were on the line. In fact, this is an ordinary strike and an ordinary bankruptcy, costumed as class warfare by union officials.

Eastern hobbled by pugnacious unions and by managers slow to adjust to open competition, had fallen deeply into debt by 1986 when Texas Air bought it. The new management quickly decided that the airline's best hope for survival was to confront labor on wages and work rules, and to use the savings to underprice the competition.

The strategy has thus far failed. Eastern asked its ground crews to take a one-third pay cut from a top wage of $15 an hour, offering in return to train them, free, for mechanics' jobs. The union responded with a flat refusal and a campaign to discredit Eastern's safety practices. They didn't win over inspectors but did scare away passengers. And when regulators finally released the airline from the provisions of their expired labor contracts, Eastern was unable to persuade pilots to cross the picket lines.

Bankruptcy does not permit Eastern to escape legal obligations to creditors, pensioners or workers still under contract. But it does allow management to delay debt payments, giving it a few months' leeway to rebuild the airline and coax back its customers. It also signals Eastern's determination to carry on with or without striking workers.

Ground services have been contracted out. And as the recent history at T.W.A. shows, striking flight attendants can be quickly replaced. Only pilots are in scarce supply. Eastern will have to bid away talent from other carriers by offering younger pilots a quick jump to the captain's seat.

Eastern's striking pilots and mechanics will be able to find other jobs. But the company's decision to fight rather than settle could prove catastrophic for ground workers, many of whom will be unable to find work paying even half the union scale. That, however, is the risk strikers always take.

There may still be an acceptable way out for the machinists' local that represents the ground crews. Texas Air seems willing to sell Eastern for a reasonable price. If the machinists are prepared to make wage and productivity concessions, they could probably find a buyer—or raise the capital for an employee takeover.

Either outcome would serve the public. A leaner Eastern run by Texas Air could once again play price cutter in markets that would otherwise be dominated by Delta or USAir. An independent, union-run Eastern or an Eastern merged with a relatively weak carrier like T.W.A. would almost certainly play a similar role. And since either restructuring would protect the creditors, either would likely satisfy the bankruptcy judge.

The biggest risk from the public's perspective is that Congress will intervene on behalf of the strikers and order Eastern to extend its expired contract with the machinists. That would put planes back in the air temporarily. But it would bleed Eastern to the point that no one would dare try to build a competitive airline from the remains. And such meddling would set a terrible precedent, giving other politically connected unions, let alone employers, an incentive to look to Washington to settle, wage disputes.

Eastern's bankruptcy is bad news for labor and management. Ordering it to fly without restoring its economic health mocks free enterprise.

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[From the New York Times, Mar. 8, 1989]

BLAME THE LAW, NOT THE STRIKE

Should Eastern Airlines strikers be permitted to hold other airlines, rail freight and even commuter rail lines hostage to their demands? Surely not, but under the Railway Labor Act, which covers labor relations in both the rail and airline industries, sympathy walkouts are apparently legal. Congress needs to act promptly to prevent this abuse of the right to strike.

Even before the machinists' strike against Eastern ends, it's time to press for major reforms in the whole outdated system for settling rail and airline labor disputes.

Federal law has long barred sympathy strikes. But two years ago the Supreme Court ruled that rail and airline employees retained the right to take secondary actions under the Railway Labor Act. The courts have yet to decide, however, whether affected union members are bound by the no-strike pledges in their own labor contracts. If the courts rule in the machinists' favor, secondary boycotts could disrupt commuter service in many cities, adding to the pressure on President Bush to intervene in the strike.

Mr. Bush deserves credit for stubbornly resisting pressure to get the White House into the Eastern strike. But staying the course won't settle the larger question of how to settle air and rail labor disputes in the future. Only outright repeal of the Railway Labor Act would push unions and corporations to settle their own battles.

Under the act, expired labor contracts remain in force and strikes are barred until the National Mediation Board declares a bargaining impasse. Once an impasse is declared, the President is empowered to delay a strike while an emergency board ponders the equities and recommends a legislated settlement to Congress.

That may have made sense when regulated railroads were the only way to move people and freight around the country. Today, airlines and railroads must compete with cars, trucks, pipelines and barges—as well as with each other. With the exception of commuter railroads, no labor dispute is likely to damage commerce. And in the case of the commuter lines, Federal law actually weakens the public's defenses by superseding tougher state statutes that bar strikes altogether.

Typically, the Railway Labor Act slows the pace of bargaining. One side usually has an interest in keeping the old contract in force by dragging out negotiations. And once an impasse is declared, the Government is often pressed to dictate settlement terms. One side or the other usually believes that it can get a better deal from an arbitrator than from negotiation.

Labor's friends in Congress are sure to fight any attempt to repeal the Railway Labor Act. Transportation unions, under pressure for givebacks, like the law's bias toward the status quo. And they love the mediation board's current chairman, Walter Wallace, who barely conceals his affection for organized labor.

But times change. Inflation could give management a reason to cling to old contracts, and new mediation board members could reverse the prolabor bias. The question that will endure is whether air and rail labor disputes should be settled by bureaucrats or by bargaining. As the threat to commuters makes dramatically clear, the only right answer is bargaining.

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[From the Washington Post, Mar. 3, 1989]

SHOWDOWN FOR EASTERN

Neither Eastern Air Lines nor the machinists' union is entitled to much of your sym-

pathy. Eastern is dominated by Frank Lorenzo, who has made a career and a fortune out of pushing down the wages of the people who work for his airlines. He wants a reduction of $150 million a year in the pay of the ground crews represented by the union, with the heaviest cuts falling on the baggage handlers. The union wants raises amounting to $50 million a year from Eastern, an airline already running heavy losses, and it wants Congress to write a settlement into law.

Deregulation has led to heavy pressure downward on wages at all airlines, but most of them have managed to maintain a reasonably civilized atmosphere in dealing with their employees. Eastern was well known for poor labor relations before Mr. Lorenzo arrived, and since then they have turned dramatically worse. The next stage of this duel between them will proceed, unfortunately, under the Railway Labor Act, the provisions of which have little correspondence to the realities of the air travel industry.

The National Mediation Board has urged President Bush to appoint an emergency panel. The panel would recommend a settlement, and if the airline and the union refused to accept it voluntarily, Congress would enact it into law. This peculiar procedure was devised early in this century to protect innocent third parties—shippers and travelers—from the enormous losses that a rail strike threatened at a time when most people had no other means of transportation. Under deregulation, any airline can serve any airport.

The union says it will do its best to take as many innocent hostages as possible by running secondary boycotts against as many other airlines, and as many commuter railroads, as it can manage. Despite that risk of disruption, Mr. Bush and Congress have to stay out of this one.

Many people in the airline industry have suffered pay cuts, and even lost their jobs, as a result of deregulation. It would be utterly unfair for Congress now to rush in and legislate raises and job security for Eastern's machinists and baggage handlers. Perhaps Eastern will succeed in shedding the machinists' union. Perhaps the union will deliver the final fatal blow to Eastern. Both sides are in danger. But it's not the president's job to rescue them from the accumulated results of their own misjudgments and bad temper. In the deregulated airline industry, their fate is up to them.

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[From the Journal of Commerce, Mar. 1, 1989]

NO EMERGENCY

The National Mediation Board has blundered once more into the airline industry's longest-running labor dispute. By requesting that President Bush appoint an emergency board to look into the dispute between Eastern Airlines and the International Association of Machinists, the Mediation Board is doing its best to keep matters from ending up where failed contract negotiations belong on the picket line.

It's been 17 months since Eastern and the machinists began bargaining over changes in their labor agreement, with the airline demanding cuts in wages as well as major work rule changes. In most other industries, a strike deadline would have brought matters to a head. But in the airline industry, things are different. The Railway Labor Act which governs the industry's labor relations, prohibits strikes or unilateral contract changes until 30 days after the National Mediation Board declares bargaining at an impasse.

With management barred from imposing a contract that lowers wages, the union has had little incentive to bargain seriously. Only the looming prospect of a strike will force agreement.

Last month, the Mediation Board finally declared negotiations at an impasse, clearing the way for the company to impose its latest offer on March 4 and allowing the union to strike. But bowing to labor union pressure, the board last week changed its mind, asking the president to appoint an emergency fact-finding panel. If Mr. Bush gives in, the strike deadline would be pushed back for another 60 days—leading, no doubt, to 60 more days of deadlock. With travelers already steering clear of the strike-threatened airline, prolonging negotiations could be as damaging to Eastern as a strike.

The ostensible reason for seeking presidential intervention is the threat that, because the law does not forbid secondary boycotts by rail and airline workers, the machinists could extend a walkout at Eastern to every railroad and airline in the United States. That scenario is most unlikely. The willingness of rail workers to strike in support of their airline brethren is doubtful, and the legality of spreading an airline industry strike to railroads, which interchange no traffic with the airline concerned, has never been tested in court.

A stoppage at Eastern will leave no place in the country without air service, and, under deregulation, any other carrier is free to begin operating on Eastern's routes. There will undoubtedly be some inconvenience to the public. But an inconvenience is not an emergency. There is no cause for Mr. Bush to intervene.

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PRESIDENT BUSH'S STATEMENT ON THE EASTERN AIRLINES INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS LABOR DISPUTE, MARCH 3, 1989

The National Mediation Board has recommended that I appoint an emergency board before March 4, pursuant to section 10 of the Railway Labor Act, as amended, to investigate the dispute between Eastern Airlines and the International Association of Machinists and Aerospace Workers. I have decided not to accept this recommendation.

The National Mediation Board has for many months attempted unsuccessfully to bring the parties to an agreement, and I have no reason to believe that an additional investigation or the 60-day delay that would be entailed would produce such an agreement. In light of the well-publicized threats of a strike and related activities, the Department of Transportation will monitor the situation and will, in addition, take whatever steps are needed to protect the safety of the traveling public.

I urge responsible labor officials not to try to influence resolution of this dispute by disrupting the Nation's transportation systems through secondary boycotts against uninvolved parties. Such boycotts would unfairly burden millions of citizens, not only preventing necessary travel but also affecting shipment of consumer goods and the ability of many workers to earn a living. For these reasons, secondary boycotts are not permitted in any other sector of the economy.

Accordingly, if secondary boycotts threaten to disrupt essential transportation services, I will submit, and urge that Congress promptly enact, legislation making it unlawful to use secondary picketing and boycotts against neutral carriers. We cannot allow an isolated labor-management dispute to disrupt the Nation's entire transportation system.

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From the CONGRESSIONAL RECORD, Mar. 13, 1989]

EASTERN AIRLINES STRIKE—H.R. 1231

Mr. HAMMERSCHMIDT. Mr. Speaker, on March 9, the Committee on Public Works and Transportation reported H.R. 1231 to establish a Presidential emergency board to investigate the labor dispute at Eastern Airlines.

The minority position on this legislation follows as well as two pertinent editorials.

MINORITY VIEWS

This legislation would mandate the establishment of a Presidential Emergency Board (PEB) under the Railway Labor Act (45 U.S.C. 151) to deal with the dispute between Eastern Airlines and its unions. In our view, the establishment of such a Board is not justified on either legal or policy grounds.

Under the Railway Labor Act (RLA), the President has the discretion to appoint a PEB if the labor dispute "threaten(s) substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service." Since the late sixties, the government has not viewed a single-carrier strike in the airlines industry as threatening such an interruption. This was, no doubt, due to the fact that other carriers were available to provide the essential transportation services.

What was not justified then is even less justified now. Since the advent of airline deregulation, airlines have been free to adjust their routes in response to passenger demand. Indeed, in this case, some airlines have increased their flights to accommodate passengers. Others already fly Eastern's routes and have accepted tickets of Eastern's passengers. Although there is certainly inconvenience to passengers, there is not the deprivation of essential transportation service that would justify a PEB under the statute.

We recognize that the use of secondary picketing, which some unions have threatened, could cause the sort of disruption that the statute was meant to prevent. If a serious disruption in transportation occurs as a result of secondary picketing, however, the appropriate solution is to prohibit such picketing rather than to establish a PEB. The Nation's economy and the movement of its people and goods should not be held hostage by the picketing of companies that have nothing to do with the dispute. This could not be done in any other American industry because Federal labor laws put severe restrictions on this sort of secondary picketing. Thus, the way to prevent the disruption created by secondary picketing is to eliminate secondary picketing.

Notwithstanding the fact that the law speaks only in terms of disruption of commerce, proponents of a PEB urge adoption of this legislation in order to save Eastern Airlines and prevent the disruption to its employees that would be caused by the loss of their jobs. We share their fervent hope for the survival of Eastern and feel just as deeply for the agony being experienced by Eastern's many fine employees. However, we believe their faith in a PEB as the way to solve this problem is sorely misplaced.

The parties have been in mediation under the auspices of the National Mediation Board (NMB) for over a year without

coming close to an agreement. There is no reason to believe that they will do any better under another Board, the PEB, during the short timeframe set forth in the legislation. The Board has no power to mandate a solution. It can only recommend. In all likelihood, the recommendations of the PEB would be rejected by one or both of the parties. This would put the dispute right back to where it is now, with an airline that is much weaker for having to endure the further delay.

Of course, Congress could always make the PEB's recommendations mandatory by enacting legislation to that effect. But that would put it in the awkward position of forcing a resolution that management feels would bankrupt the company or that labor would refuse to live with, or both. In that event, the intolerable labor-management situation at Eastern would simply be perpetuated. In this connection, it is important to note that neither Eastern nor the machinist's union have agreed to be bound by the recommendations of the PEB.

Moreover, the unions have made it quite clear that the real problem here is Frank Lorenzo, the head of Eastern's parent, Texas Air. If Frank Lorenzo is their problem, a PEB cannot be their solution. Whatever this Board can accomplish, it cannot change Eastern's ownership. Therefore, even if its recommendations were accepted, the source of all the employees' anger would still remain.

On March 9, 1989, the company filed for reorganization under Chapter 11 of the U.S. Bankruptcy Code. Eastern's present intentions are to operate the shuttle and several South American routes. This new development in the labor dispute has further complicated a very complex set of labor questions which we frankly do not believe a Presidential Emergency Board would be prepared to deal with. Furthermore, in our opinion, there are simply too many unanswered legal questions which have arisen because of the bankruptcy to proceed at this time.

The bill requires, pursuant to Section 10 of the RLA, that during the investigation by the board and for the cooling off period that follows its report, no change, except by consent of the parties, "shall be made . . . in the conditions out of which the dispute arose" (45 U.S.C. 160). In other words, union employees are eligible for the same wages and working conditions that were in effect prior to the strike.

The Committee has scrambled to report this legislation without making an adequate analysis of its effects on the requirement for a return to the status quo. Enactment of this legislation could pose both legal and practical problems for a prompt resolution of the dispute.

It is unclear what a return to the status quo means with respect to the rights of the workers. It is our understanding that the company intends to honor the expired contracts of the Airline Pilots Association (ALPA) and the Transport Workers Union (TWU). However, under the provisions of the RLA, the company is now free to pay the International Association of Machinists' (IAM) members whatever it sees fit and has the right to change working conditions. The machinists' pay, of course, is the major issue in this dispute.

Does this legislation require the company to bring all workers back at full pay whether or not there is a job for them to perform? Or, does the company bring them back and go through furlough procedures to lay them off. Currently, the company is operating about six percent of the normal number of flights. Obviously, it will take time for the company to put additional flights in service. If pilots are brought back on an as-needed basis, what are the seniority rights of these workers? Do pilots have to be retrained to fly different aircraft because of seniority requirements? If this is the case, retraining will take time.

These same questions could be posed for the flight attendants, machinists, baggage handlers, and cleaners. If the company must bring all workers back immediately, whether or not there is a job for them to do, there may be serious adverse economic consequences to this bankrupt carrier.

Also, there is the question of potential constitutional infirmities. It is unclear whether this legislation would survive scrutiny under Article I, section 8, clause 4 of the U.S. Constitution which gives Congress the power "To establish . . . "uniform Laws on the subject of Bankruptcies throughout the United States." The recent case of *Railway Labor Executives Association* v. *Gibbons*, 455 U.S. 457 (1982), raises substantial questions about its applicability to the situation at Eastern Air Lines. In that case, Congress passed legislation requiring the Rock Island Railroad, which had filed for reorganization under the bankruptcy laws, to pay benefits to certain employees. The Supreme Court concluded that the uniformity requirement of the U.S. Constitution prohibits Congress from enacting bankruptcy laws that specifically apply to the affairs of only one named regional debtor.

Arguably, we may be violating this holding if we enact H.R. 1231 because the legislation requires that a specific company, Eastern Air Lines, which is in bankruptcy, return its employees to the wages and working conditions that existed prior to the strike.

Also, there are questions as to whether we are, in effect, modifying the rights of a Bankruptcy Judge to adjust collective bargaining agreements under the U.S. Bankruptcy Code. Today, the company is free to unilaterally set wages and working conditions for the members of the machinists union. This legislation, however, would obviously require a higher wage than what the company would be willing to pay today. The question is: does this return to the status quo affect or override the power of a Bankruptcy Judge to carry out his authority to change the terms, conditions, wages, benefits, or work rules for employees?

It can also be argued that the legislation constitutes an uncompensated taking of private property for a public purpose in violation of the Just Compensation Clause of the 5th Amendment. Courts have held that a "taking" occurs when three conditions exist: (1) the required action imposes a severe economic impact on the claimant; (2) it substantially interferes with financial expectations; and (3) the governmental action appropriates the claimants property for a public use. *Penn Central Transportation Co.* v. *New York City*, 438 U.S. 104 (1978). Certainly, these three conditions appear to exist with respect to Eastern.

Today, the company has implemented a wage scale below that which existed before the strike. If a Presidential Emergency Board is established and workers are returned to the pre-strike status quo, it can be argued that the IAM members are accorded a status in the bankruptcy proceeding that they do not now enjoy because they will be receiving much higher wages by the operation of the legislation. These wage levels are, of course, a major reason for the financial straits the company is in. This is certainly contrary to the expectations of the company and amounts to a governmental taking of the estate's assets to pay employees a higher wage.

Also, a related issue is whether this could potentially affect the rights of creditors in any liquidation situation and whether irreparable damage to the estate may result through a legislative requirement to return to the status quo. Conceivably, this may present a "taking" which requires the government to compensate the company.

In short, we believe that the best way to resolve this dispute and save Eastern Air Lines is to have both sides come together at the bargaining table and reach a mutually acceptable resolution. The only way this will ever happen is by the pressure put on the parties through the process of self-help and strikes that we have now reached. We recognize that this is a painful process for many. But it is a necessary one. The establishment of a PEB would only drag out this process that much longer.

We recognize that this bill would shorten the 60-day delay that is typical in Railway Labor Act cases but we believe this presents a false hope. Even under the 30-day limit in the current law, the average duration of a hearing involving past airline emergency boards was 75 days. One took 200 days. It is not realistic to expect the emergency board in this case to complete its work in the 14 or 19 days contemplated by H.R. 1231.

That is especially true here where the board would have to evaluate the cases of not just one but three unions, two of which have not even completed the negotiating process. And its task is further complicated by the fact that the company is in bankruptcy.

It should also be pointed out that this legislation would establish a questionable precedent because ALPA and TWU have not negotiated to the stage of impasse requiring the intervention of the NMB. In other words, this legislation bypasses the regular procedure for collective bargaining and mediation by requiring a PEB for two unions whose labor situation is not ripe for consideration by such an emergency board. This totally distorts the RLA process and may set the stage for further legislation and Congressional intervention in labor disputes before the collective bargaining process has had the chance to run its course.

It may be that Eastern will not survive. It will almost certainly not survive as we knew it. But if it dies, it should die as a result of its own failures, those of its management and its employees, and not because of ill-conceived government intervention.

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[From the New York Times, Feb. 24, 1989]

LABOR THREATENS THE PRESIDENT

Like President Reagan before him, President Bush faces an early challenge from labor in the air transport industry. Mr. Reagan stood firm against a strike by air traffic controllers that could have grounded civil aviation. The question now is whether Mr. Bush will stand up with equal courage to unions that threaten to shut down the railroads unless the White House intervenes in their dispute with beleaguered Eastern Airlines.

The cost of appeasement could be enormous. If the President sides with labor, Eastern is likely to fail, which would sharply reduce price competition in the deregulat-

ed airline industry, and other transport unions would be encouraged to settle their disputes in the political marketplace.

Eastern has been battling with its unions for years, trying (and mostly failing) to reduce labor costs. Those costs are one reason Eastern has lost $1.4 billion since 1978. But the battle only turned ugly in 1986. The carrier's new owner, Texas Air, demanded concessions from baggage handlers, whose compensation averaged $45,000 a year. Eastern's unions struck back, with among other things, a public relations campaign, frightening passengers with allegations of safety violations.

The conflict probably would have been resolved last year when the baggage handlers' contract expired, forcing both sides to stare at the real chance of a strike. But under the Railway Labor Act, airline contracts remain in force until an obscure agency, the National Mediation Board, decides that collective bargaining has failed.

The board's two members delayed, unwilling to risk the wrath of labor's friends in Congress by freeing Eastern from contract provisions highly favorable to the baggage handlers. So for 13 months, Eastern had to absorb million-dollar-a-day losses, selling asssets to raise cash. Not till last month did the board finally declare an impasse, setting the stage for a strike or lockout on March 4.

Now organized labor has switched tactics. It is urging the White House to create an emergency mediation board. That would postpone a strike—and drain Eastern's cash—for 60 more days. Even if the airline weathered the delay, it might not survive subsequent pressure to settle on the panel's terms. In the past, such boards have recommended settlements at prevailing industry wages, far above the means of a deeply indebted airline operating primarily in low-fare markets.

If the President does not intervene, the A.F.L.-C.I.O. president, Lane Kirkland, threatens the public with more than the inconvenience of a work stoppage at Eastern. Labor, he warns, will disrupt vital transport links by staging sympathy strikes against railroads.

Mr. Kirkland is probably bluffing. Rail and airline unions are the only unions legally permitted to stage such secondary boycotts. But rail workers are not likely to risk losing this precious leverage in support of generously paid airline employees. Whether he is bluffing or not, capitulating to these demands could make the traveling public pay.

The failure of Eastern would knock out the carrier with the strongest incentive to build market share by lowering prices. And it would increase market concentration in an industry already dominated by a few airlines that cover high costs by charging high fares.

Beyond economic loss, any short-term political benefits the White House might gain by avoiding labor conflict would be overwhelmed by the cost of the precedent. If baggage handlers can blackmail Washington, why would any transport union hesitate to try drawing the President into its labor disputes? The best time to defend the principle of collective bargaining is before it has been violated. And that time is now.

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STATEMENT OF SECRETARY SAMUEL K. SKINNER, DEPARTMENT OF TRANSPORTATION, MARCH 7, 1989

Mr. Chairman and members of the committee: I appreciate the opportunity to appear before this committee to discuss the Eastern Airlines management/labor dispute. As you know, after 17 months of arduous bargaining, the parties are exercising their rights under the Railway Labor Act to pursue self-help in the attainment of their economic objectives. We do not take sides in this dispute, nor do we believe it appropriate, in light of the history of the dispute and the precarious financial condition of a major commercial carrier in our deregulated aviation environment, to empanel a Presidential emergency board.

Having said that, I am well aware that some of my friends and distinguished members of this committee originally believed that the President should empanel a board and prolong the standoff for another 60 days, perhaps imposing a legislated settlement thereafter.

We respectfully differ with this approach, and believe that empaneling a Presidential emergency board is wholly inappropriate. This administration believes in free market principles—we should allow the collective bargaining process to take its normal course. We do not believe that Government should be in the business of drafting the economic terms of labor agreements. The plain fact of the matter is that a strike at Eastern alone does not substantially disrupt this Nation's transportation system. It is only the specter of secondary activity that threatens to hold hostage this Nation's economy and our global competitive position. If this specter is removed by Congress, safe and certain travel of perhaps millions of innocent passengers can be preserved. If widespread secondary action occurs, I am confident that the Congress can act quickly and expeditiously, just as speedily as it achieved a solution for Chicago's mass transit riders on the C&NW last fall when I headed the regional transportation authority of northeastern Illinois.

Before going any further, I want to emphasize that our first and foremost goal at the Department is to assure that the safety of the air transportation system, at Eastern and at any other point in the system affected by the Eastern situation, is not compromised in any respect. Heightened FAA surveillance and staffing procedures are in place to assure that safety is not affected by the strike. We are aware of intentions by some to "fly by the book," and we will deal with that by continuing to put safety first and efficiency next. The air traveler wants to get to the destination on time, of course, but wants above all to get there safely. We agree.

I need not dwell on the facts of the strike that precipitated this hearing. Essentially, Eastern Airlines and one of its major unions were unable to reach a satisfactory resolution of widely divergent goals, and the National Mediation Board declared an impasse in the negotiations between the Machinists Union and Eastern at the beginning of February. Under the processes of the Railway Labor Act, a 30-day "cooling off" period was triggered, at the end of which the parties were entitled to exercise self-help. Eastern indicated that it intended to impose new wages and work rules, and the machinists availed themselves of their right to self-help at midnight Friday night, walking out and posting pickets, which were honored by nearly all of the pilots and flight attendants at Eastern. Most Eastern service was shut down as a result.

The President has assessed this situation as it has developed, most particularly because the Railway Labor Act permits his intervention in a case when a section of the country is threatened with loss of "essential transportation service". The President's decision to appoint an emergency board to make recommendations for a settlement is discretionary. Last Friday afternoon, the President concluded that the facts of this labor dispute do not justify the appointment of a Presidential emergency board.

Two fundamentals underlie the President's decision. Most important, this administration believes that labor/management disputes can be and should be worked out by the involved parties, without recourse to the President or Congress. The Railway Labor Act preserves the rights of the parties to exercise self help if bargaining and the mediation efforts of the National Mediation Board are unsuccessful. Eastern and the Machinists Union have reached this point, and the Federal Government should not impose a compromise on them. The Nation's economic vitality is a reflection of the fact that solutions reached by private entities most often are better than those imposed by Government.

This reaches the second fundamental point. The United States is part of a global economy, and our manufacturing and service industries must remain as competitive as possible to maintain our place in the world. The economic deregulation of transportation has reaped untold benefits in making our transportation system competitive. Our competitive stance should not be interfered with. Decisions based on market factors, not Government fiat, will best preserve our competitive abilities.

Since airline deregulation in 1978, the situation of domestic airlines has changed dramatically. Because there are no bars to serving domestic routes, a reduction or cessation of Eastern service to a particular point will not mean an end to service. As was the case with five significant strikes against air carriers since 1978, other carriers fill in quickly to provide needed passenger and cargo service, and we have already seen that happening in this case as Delta, Pan Am, and other carriers are moving to accommodate passengers unable to fly Eastern.

This ability of other airlines to provide supplementary service where needed means that the history of previous Presidential emergency boards is no longer relevant in today's economic environment. In the last 20 years, only one emergency board has been appointed in the airline business, and that was pursuant to section 44 of the Airline Deregulation Act. It involved the Wein-Air Alaska dispute in which the Congress ordered the emergency board despite the fact that the Mediation Board had not recommended one. Intervention in that case, which was based on the particular facts of the dispute, should not serve as a precedent for interfering in the Eastern controversy more than a decade later.

In analyzing the situation before us, another new factor exists by virtue of the 1987 Burlington Northern Supreme Court decision. For the first time since the inception of the Railway Labor Act in 1926, it was ruled that a party is not barred by the act from conducting "secondary activity" against other companies. This is an anomaly in the overall context of U.S. labor law and at variance with the law governing most other Industries (section 8(b)(4) of the National Labor Relations Act). Secondary picketing in the building trades and trucking industries was barred by the Taft-Hartley Act in 1947, and has not been available in any sector of the economy since that time, excepting the Supreme Court ruling in 1987

for air and rail transportation. In my view, that decision has upset the balance of forces anticipated to be available under U.S. labor law, and secondary activity is fundamentally unfair to truly "neutral" parties, for instance, commuters in Chicago and New York, that can be affected by it.

At this point, secondary activity has been threatened but has not occurred, due to the temporary restraining orders entered during the past week addressing commuter rail services and other airlines. The reasoning underlying the decisions is being further tested and we must await the outcome. However, the President has indicated the correct approach to dealing with secondary activity against truly neutral parties would be to amend the Railway Labor Act so that it does not permit such activity. Then, neutral parties would unambiguously be able to seek proper injunctive relief. I see no reason why railroad commuters in New York or Chicago, or air travelers in San Francisco or Minneapolis, should be deprived of service because of a dispute between Eastern and its machinists in Miami. The administration is prepared to transmit corrective legislation should circumstances require.

With regard to the legislation before the committee today, my considered view is that such an approach would not serve the interests of the parties or the public. The FAA is vigorously upholding its responsibilities for assuring the safety of the system. We believe that the public will generally find alternate transportation on other airlines which serve all of Eastern's major points. We are prepared to deal with any "fly by the book" actions by assuring system safety and by minimizing delays where feasible.

The appointment of a board under these circumstances would merely delay, for up to 60 days, the self-help process which is already underway and being dealt with safely. It is far superior to allow the economic realities of the dispute to dictate the outcome.

This completes my statement. I would be pleased to respond to questions from the committee.

Mr. HATCH. Mr. President, it is nice to stand here and hear my colleagues say that they are fighting for employees. Well, that is a good thing to do. But generally, unions' efforts are and ought to be directed toward making collective bargaining work. The problem is, however that when they do not win in the collective bargaining arena, they come in as they have in connection with the Eastern dispute, and ask for an emergency board. What they are doing is seeking Government intervention in an effort to secure more favorable terms than they were able to secure at the bargaining table.

The establishment of a Presidential emergency board is not an appropriate solution to this dispute, as a policy or a legal matter. Rather, this board will likely jeopardize rather than enhance the prospects for Eastern's continued viability and the possibility that the rights and interests of Eastern's creditors and others will be safeguarded.

In 1978, bankruptcy procedures were substantially revised in order to provide for a workable chapter 11 bankruptcy proceeding which emphasized preserving the business and the jobs it provided. Again in 1984 Congress further amended the code to establish what it concluded were the best and the most workable procedures and standards by which to determine the debtor's continuing obligations under its collective baragaining agreement.

This bill, however, would impose a Presidential emergency board on this carefully crafted process and thus threaten to hamper the operations of the bankruptcy court and to dissipate the resources necessary for a successful reorganization. A successful reorganization, I note, is perhaps the only hope that Eastern Airlines will be saved, that employees' rights will be preserved, and that these employees may be able to work again.

This bill, as I understand it, would essentially roll back the clock insofar that it would obligate Eastern to restore prestrike wage levels and benefits. As we well know, however, we cannot really roll back the clock given a major intervening event Eastern's bankruptcy under chapter 11 of the Bankruptcy Code.

This bankruptcy proceeding is being governed by a law which Congress has carefully drafted so as to safeguard the rights of creditors, the parties, and the public to the greatest extent possible. All rights are going to be preserved and protected under those bankruptcy proceedings, not just the rights of some, which is what this bill would do. These proceedings, under the strict supervision of the bankruptcy court, hold out not only the best but the only viable means for Eastern's survivial.

Given the current bankruptcy proceeding, what exactly are we doing here today? Are we suspending these bankruptcy proceedings? I know of no precedent for the action being contemplated and I am seriously concerned that establishing a Presidential emergency board under these circumstances would set a dangerous precedent for the whole airline industry in general.

What does it say to airline creditors, ticket holders and potential buyers and investors? Does it say that if an airline goes bankrupt under chapter 11, the process and safeguards in the Bankruptcy Code may at any juncture be suspended by intervening events, by the whimsy of Congress?

I would certainly hope that the answer is no and that Congress will recognize and be sensitive to the fact that superimposing the Emergency Board on the ongoing bankruptcy proceeding is treading in very hazardous and largely unchartered waters.

There are, in addition, serious constitutional questions raised by the action which is being contemplated here today and which I referred to earlier. Specifically, the imposition of a Presidential Emergency Board may potentially conflict with article I, section 8, clause 4, of the Constitution, as pointed out by Secretary Skinner. That clause empowers the Congress to enact uniform bankruptcy laws on the subject of bankruptcy and it was this clause that the Supreme Court in 1982 relied upon in striking down congressional action targeted at a single debtor. Further, to the extent that the Emergency Board's recommendations degrade the rights of other creditors and stockholders which they may well do, these groups might sue for just compensation from the Government under the takings clause of the Constitution.

In addition to the concerns which I have expressed, I also have a great number of questions regarding the bill itself. I will reserve some of my time to bring up some of those questions as we get into this.

Might I ask how much time does the Senator from Utah have?

The PRESIDING OFFICER. The Senator from Utah controls 15 minutes and 20 seconds.

Mr. HATCH. I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KENNEDY. Mr. President, I listened to my good friend from Utah talk about the position of Mr. Skinner, the Secretary of Transportation, and his position on this particular dispute.

It was only on September 7, 1988, that Sam Skinner made these comments: RTA chairman—this is the Regional Transportation Authority chairman in Chicago.

The head of the Regional Transportation Authority Wednesday called on Federal legislators to uphold their public responsibility and head off a looming strike against the Chicago Northwestern Railroad.

RTA chairman Sam Skinner said a strike against the railroad by the members of the UTU scheduled on Friday would result in massive disruption of service for area commuters—

Area commuters—

Skinner urged Federal legislators to intervene in the dispute over freight train crew size, saying it is Congress' public responsibility to this region to keep commuter lines open.

He was talking about the 41,000 commuters. There are 30,000 workers for Eastern. He is concerned that Congress must act, Congress' public responsibility is to act. It should act to preserve the commuter lines in Chicago, but you do not have to act to preserve the commuter lines for hundreds of thousands of Americans on the eastern seaboard, where we see just in our region of the country constant examples of small businesses shutting down all throughout the region.

Sam Skinner, the Secretary of Transportation, who is quoted out here now, says we ought to act to pre-

serve for commuters but now with regards to Eastern Airlines.

Well, is that not fine?

Mr. President, all this action suggests is that we follow the Mediation Board. Both of the Mediation Board members were appointed by President Reagan, unanimously recommended what we are attempting to do today.

So, Mr. President, I find it difficult to be persuaded by my good friend from Utah when he quotes Sam Skinner, the Secretary of Transportation, just like I found it difficult for the Senator from Missouri when he was out here asking for action to protect his workers.

So, I would hope, Mr. President, that we would have the opportunity to take some action.

I see my good friend in the Chamber.

Mr. HATCH. Will the Senator withhold just for 1 minute to me?

Mr. KENNEDY. Yes.

Mr. HATCH. If I could just take 1 minute.

Mr. KENNEDY. I withhold the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. I was interested in those arguments as well, but as I understand it the National Mediation Board recommended a Presidential emergency board for the dispute involving two parties—Eastern and its machinist union. This bill, however, would apparently also apply the emergency board to two other Eastern unions, the pilots and transport workers unions. These are not parties that, to my knowledge, have exhausted the procedures under the Railway Labor Act, procedures which are a prerequisite for an emergency board under that act. So, it appears that we are not simply distorting the Bankruptcy Code here but the Railway Labor Act as well.

Again, including all three of these unions increases the extent to which H.R. 1231 will drain Eastern's assets.

This is, therefore, not some simple little problem that is a matter of employee rights. This is a matter of a lot of people's rights as I've previously noted.

Let me tell you, in this regard, that there are a lot of people who feel that both sides are wrong here, that both sides have brought this about and that it is time for other people's rights to be protected. It is my hope that if Congress resists interfering with the bankruptcy proceeding this will be done. I have confidence that the chapter 11 bankruptcy judges will handle this in a very appropriate and efficient way.

I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I see the former Transportation Secretary on the floor.

I would like to be able to yield to the Senator from West Virginia for 5 minutes.

The PRESIDING OFFICER (Mr. DIXON). The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I urge my colleagues to vote for the motion to proceed to H.R. 1231 which passed the House on Wednesday by a vote of 252 to 167.

This is important legislation. It would direct the President to appoint a board to review the facts in the dispute between Eastern Airlines and its unions and to make recommendations as to the terms on which the dispute might be resolved. The board would be required to report to the President after 14 days, although this period may be extended an additional 5 days upon the request of the board. After the report has been completed, parties to the dispute would have 7 days to agree upon the resolution. This legislation would provide not only the much needed 26-day cooling-off period, but equally as important, this legislation would provide a much needed independent and objective third party authorized to arbitrate this dispute.

Eastern Airlines, which is this Nation's sixth largest airline, has already filed for bankruptcy and discontinued most of its service. Negotiations between the airline and its unions are at a standstill. We have reached this point primarily because the President has thus far failed to act. One month ago, in an effort to end this dispute which began in 1987, the National Mediation Board declared negotiations between Eastern Airlines and the International Association of Machinists Union to be at an impasse. The board initially proposed that both sides agree to resolve the dispute through binding arbitration. The machinists' union accepted the board's offer, but Eastern's management did not.

As a result, the National Mediation Board then recommended to President Bush that he appoint a Presidential emergency board to examine the issues and propose a settlement. Had President Bush acted on the emergency board's recommendation, an automatic 60-day cooling-off period would have been established during which Eastern management and employees would have continued normal operations while the board worked with all parties to reach an agreement.

But, the President did not act. In fact, he refused to act. The result has been devastating. Eastern Airlines, which in 1988 carried 35.6 million passengers representing 7.5 percent of this Nation's domestic air traffic, has now filed under chapter 11 bankruptcy proceedings. A $3.5 billion company is about to be laid to waste, and more than 30,000 employees are being thrown out of work.

Our new President must begin to understand that with his new authority, comes a new responsibility. President Bush has not acted decisively in this situation. His inaction has stranded travelers and cost working men and women their livelihoods. Worst of all, he has impeded the collective bargaining process. His failure to act has the effect of complementing and promoting Lorenzo's efforts to bust the machinist's union.

Mr. President, the public's interest must be served. If we are to restore an essential transportation service and put people back to work, there must be a cooling off period. If we are to save this airline, the integrity of the collective bargaining process must also be restored. If the President refuses to act, we must act.

Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I yield such time as the Senator from Washington might need. The former Secretary of Transportation speaks with great authority on this issue.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. ADAMS. Mr. President, I came to the floor today as this debate started because it is a chapter in what I see as an unfolding tragedy for labor/management relations in the United States.

This is the first time, as was pointed out by Senator SIMON, that a President has not invoked an emergency board when the mediation board said that it should be done. Twenty years ago, the first time I met Senator KENNEDY, then-Senator McCormick sent me as a young Congressman over to a conference to deliver papers to have an emergency board established so the railroads of the United States would not stop.

There is a history, Mr. President, behind this particular dispute, and I am dismayed that the President of the United States has not followed what every President for the last 40 years has done and appointed an emergency board. Because what will happen in this case is a tearing of the fabric between labor and management in industry after industry.

The reason that management does not want to have an emergency board here—and it is management that is creating this filibuster, that is preventing us from having a vote on this as the House did. And we should not even have to have a vote, Mr. President, because the President of the United States can do this like that and, with the stroke of a pen, establish this cooling off period. The reason management is so opposing it is because management in this case has used the

powers of deregulation. And I rue the day, I rue the day, Mr. President, that those of us that worked on the deregulation bill in the early 1970's when I was Secretary of Transportation were not able to be here in the 1980's to enforce it so that these things would not happen.

The history of this particular dispute and its bitterness goes back to what President Lorenzo of Texas Air did in the Continental strike.

I might state to the Senator from Utah that the bitterness that arose in this case was because he used the bankruptcy proceedings in that case to abrogate every labor contract in the Continental thing. We had to pass a law to change that.

Mr. HATCH. Will the Senator yield?

Mr. ADAMS. Yes, I yield.

Mr. HATCH. Well, the reason he did so was that he was trying to save Continental which itself was in trouble. Now, he has had lots of difficulty with Continental. It has lost a lot of money, too, although I understand that it is coming out of its difficulty.

But, be that as it may, the bankruptcy laws were such that he could do what he did. He acted within the law and today he runs Continental Airlines.

Mr. ADAMS. If the Senator will yield back to me, I understand that situation very well.

Mr. HATCH. So do I. I was there.

Mr. ADAMS. And what we have here is the beginning of an effort in the transportation industry by a very clever man—the Senator from Utah and I have both known Frank Lorenzo for a long time—to have taken one airline, destroyed its labor contracts, made it nonunion, put it into a holding company, buy out Eastern Airlines, which is unionized, take the assets out of Eastern within his holding company, which has been done by the computer system which was bought for a note and which now the Eastern system has to pay for. He does not care if he has the destruction of this airline because he feels he can put Continental planes on those routes and fly them.

Now, a lot of us have had some experience with Continental and we know what happens when they come into an area. They are there for a while; they pull back for a while. Then maybe they will put some more planes in and maybe they will not.

We, I might state to the Senator from Utah, have just lost a gateway through a very clever legal procedure like this one in the Department of Transportation where they wanted United to stay as a gateway in Seattle. Instead, we have Continental. What does that mean to us? It means that we will have no more nonstop service within the next year. It means a whole series of things.

So what I am saying is transportation is not like every other business that you could just treat it in or out of bankruptcy courts, in or out of various business dealings, put a company out of business, put Continental on its routes, try to sell off the shuttle, which is what he did and is still trying to do, because transportation affects whole sections of the country.

The little story I started with of why we invoked the emergency procedures—and we, in fact, went beyond the emergency board in the seventies again and again, I might state to the Senator from Utah—was in order to prevent a complete stoppage of the railroads which are under this act, like airlines are, very different from the National Labor Relations Act because a whole section of the country, in this case New England, would have been blanked out from rail service.

Now what we have here is we have one of the largest carriers in the country, not just 30,000 people involved, but we are about to blank this out and substitute a much lesser service for that. That can happen in the business world. But as this starts to happen in this case, why should we, the legislative body, see the fractioning between labor and management created by this one man in this one case, stop service that runs in the whole Eastern part of the United States——

Mr. HATCH. Will the Senator yield?

Mr. ADAMS. I will in just a moment. Hopefully that others will flow in or flow back out and in effect set back labor-management relations of attempting to achieve harmonious relationships between them so that we have a safe, a safely maintained, a safely flown aviation system. The breaking down of labor-management relations in the aviation industry is a safety problem as well as a service problem for the entire United States. That is the tragedy of this.

So all we are asking is that we have an emergency board. This is not mediation to finality. I do not know why they are so afraid of it at management at Texas Air. I think what they are afraid of is that an independent board appointed by the President will come in and say, "You should do these things for the harmony and benefit of the Nation," which will give a powerful impetus to settling this matter. At that point, we would begin to build labor relations, not drive them apart.

That is why we are asking only for 26 days here and for the President to do it himself. Senator KENNEDY is not going to appoint this board. I am not going to appoint this board. The Senator from Utah is not going to appoint this board. This is done by the President of the United States and it has always been done in the past.

This is what we mean by lowering our voices, making this a fairer and gentler country, letting people in labor understand that the Government is not against them, that it is prepared to listen to their problems, it is prepared to take the time as it has for many years.

I know the Senator from Utah is a very fair man and that is what we want to have happen. It may well be, and I will join with the Senator in the committee, that we wish to do more in terms of legislation here. But this fabric will tear and it will be irreparably torn if we do not do something at this time, before we go to the hearings.

I yield to the Senator, my friend from Utah.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 6 minutes. The Senator from Utah has 14.

Mr. ADAMS. I need 1 minute.

Mr. KENNEDY. I yield 1 additional minute to the Senator from Washington.

The PRESIDENT pro tempore. The Senator from Washington is recognized for 1 more minute.

Mr. HATCH. If I could just ask this question. I respect the Senator from Washington and I respect his service as a former Secretary of Transportation and his knowledge in this industry. But is the Senator not somewhat concerned about the fact that this is in bankruptcy and that there are rights of all kinds of people involved here that could be trampled upon in favor of management and labor, in this case, to the disregard of shareholders, creditors, and the Government. In this regard, I would note that the taxpayers may also be hurt if the bankruptcy court is not allowed to perform its function and if the resources of Eastern are further drained by a return to the status quo under H.R. 1231.

Are you not concerned about that? Are you not also concerned about the fact that this bill apparently covers three unions although, the National Mediation Board called only for an emergency board for just the International Association of Machinists Union and Eastern?

This bill covers International Association of Machinists, the Transportation Workers Union, and the pilots union. Are you not concerned about this? Those are not just legal technicalities. Those are important issues.

The PRESIDING OFFICER. May I say to the Senator from Utah, his question consumed over a minute and a half.

Mr. HATCH. Let me add a minute and a half to the time of the other side.

The PRESIDING OFFICER. From your time? I thank the Senator from Utah.

Mr. HATCH. The Senator is welcome.

Mr. ADAMS. Of course we are concerned with this. We went through this with the railroads. The railroads went through the Senator's part of the country back in the seventies. We used the bankruptcy procedures. I am very familiar with it being used in transportation issues.

What will happen if we do not solve this strike is that we will have enormous losses suffered by the creditors of bankruptcy as the crushdown occurs in the bankruptcy court and assets are pulled out and used in Continental Airlines and the routes are lost, the counters are lost, the employees are lost. The status of this airline will be in a state of liquidation and the losses of creditors and other parties to that bankruptcy will be enormous. We are trying to avoid that.

This is a great tragedy that is occurring both in American labor-management relations and to all the people who have been involved in Eastern Airlines throughout the whole seaboard.

I hope, Mr. President, that we will be granted a chance to vote on such a bill. Then I hope that we will have hearings later to help. I will put in amendments on labor protection provisions. I can tell the Senator this: If this bill does not pass, the creditors that he refers to and the other parties, that are not either in labor or management, will be the ones that will suffer the most and you will see the destruction of one of America's great airlines. I thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 4 minutes and 40 seconds.

Mr. KENNEDY. Mr. President, it has been suggested during the course of this debate that somehow, if we impose this board, that it is going to some way affect the creditors of Eastern Airlines. I think the Senator from Washington has really made the most cogent argument. That is, unless Eastern goes back to flying, there will not be much around in any event. That is the point No. 1. Eastern was losing $1 million a day before bankruptcy; now they are losing $5 million a day in bankruptcy.

What we are trying to do is to get Eastern Airlines to fly again.

Then there is the question, well, if they move ahead and go ahead and create a board, what is going to be the impact on the bankruptcy proceedings? Well, Mr. President, there are court decisions. The Overseas National Airways case (238 F. Supp. 359) in which the district court held that the bankruptcy court would follow the Railway Labor Act is directly on point. An airline in bankruptcy and the creation of a board, what was going to be the impact on the creditors? It is all laid out in the Overseas National Airways case.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. KENNEDY. I will withhold the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah has 12 minutes.

Mr. HATCH. Mr. President, let us just be honest about it. What we have here is we have almost 18 months of labor negotiations, all fruitless. The former Secretary of Transportation, the distinguished Senator from Washington, said that we can get this back on track and get good labor negotiations going on. Nobody believes that.

And there have been a lot of attacks on Mr. Lorenzo here. I am not apologizing for Mr. Lorenzo. I think he has made some mistakes, just like I think the unions have made some mistakes here as well. But I will say this, that having taken over Continental—and I have some reasonable contacts with Continental and I have talked to many of their employees—I can tell you that what I hear from them is that they are nonunion now and they would not go back to union for anything. Why? Well perhaps because they are afraid of exactly this: A recalcitrant union leader who takes them out regardless of their own best interests and who basically is only interested in destroying the company or taking it over so that it is totally owned by the union.

I do not think that is going to happen unless they can get a consortium of companies that is going to be willing to live with paying baggage handlers $48,000 a year and with machinists earning more than that. I do not think many business people are interested in involving themselves in that type of a situation.

I do not begrudge anybody making whatever they can and trying to negotiate the best deal they can get. But there comes a point where the bank is busted. And it was not just what happened to Mr. Lorenzo. Mr. Borman, who was a man of credibility and honesty and decency, who tried to build Eastern and tried to buy the best equipment he could was unable to deal with them either.

So let us not just blame Mr. Lorenzo. Let us understand that the unions have been pretty tough in this matter, too. But now they come to the Congress of the United States with their friends in the House of Representatives and say: We need a bill. We want a bill that ignores all the rights of everybody else and requires action by the President at this late date. We want a bill despite the fact that we have sat through months and months of negotiations and did not budge.

What happens is they come in and they say we want the President to set up an emergency board so that that board can somehow bring this dispute to a conclusion. I would emphasize, however, that it is not clear how the board would do this absent Congress ultimately imposing the board's recommendation on the parties. The problem with all of this is that the matter is in bankruptcy where it should be right now because of the impasse and because of the losses that have been occurring. Those losses were astronomical when the pilots refused to cross the picket lines and go to work. Since Eastern could not have survived very long under those circumstances, it had no choice but to go into chapter 11.

When they chose to go into chapter 11, that triggered very specific procedures and safeguards to protect the interests of everybody, not just the International Association of Machinists or the Airline Pilots Union or the Transport Workers Union, or Mr. Lorenzo and management.

There are lots of people who are going to be hurt by this if there is not some reasonable way, through bankruptcy and through chapter 11, to enable a business to reorganize and to save itself without the onus of labor and without the onus of management. The problem with this bill is that it is contrary to everybody's interests because it will destroy Eastern Airlines once and for all by restoring the status quo ante and creating massive losses to Eastern. It will destroy the rights of creditors, shareholders, our own Government, and our taxpayers, who are going to foot the bill in the end if Eastern does go completely through bankruptcy rather than reorganization. Thus, this benefit to these three unions will be to the detriment of all other interested parties.

The President has acted responsibly here.

I might add, he has acted in a manner that would normally be accepted by the unions because he says let the collective bargaining system work. The unions now have a right to put together their consortium and try to take over Eastern Airlines. That is a right they should have. And I, for one, wish them success in being able to do so, if they can.

Mr. Lorenzo has a right as the leader of the management team to try to put together a consortium to save Eastern Airlines through reorganization as best he can. I wish him success as well because whatever side that can save this airlines would be a wonderful side. Both sides have been wrong and both sides have been right from time to time. What we have here with this bill is a desire to prefer one side over the other side, and I think that is improper and it is wrong.

I will reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has 6 minutes and 20 seconds. The Senator from Massachusetts has 3 minutes.

Mr. KENNEDY. I yield 2½ minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, for the last several years, we have witnessed the slow and painful deterioration of labor-management relations at Eastern Airlines.

Mr. President, as a native of Miami—the headquarters of this great air carrier—this situation has been especially agonizing.

It is difficult to imagine Florida without Eastern Airlines.

I have followed closely the efforts of the National Mediation Board.

I have been in contact with the parties in the negotiations. It was my hope that an agreement could be reached to enable Eastern to once again become a strong, economically viable airline, responsive to the needs of customers and its employees.

We have watched 16 months of talks at the National Mediation Board.

The result was zero.

We have watched a 30-day cooling-off period.

The result was zero.

Tonight, it has been 2 weeks since the strike began.

And we all know the results.

Eastern has gone into bankruptcy.

Passengers have been grounded.

Families in Florida and throughout our Nation have suffered.

Our aviation system has been wounded.

And, communities face the reeling impact of economic loss and future loss.

In Miami, it is estimated that every job lost at Eastern would impact three other jobs related to the airline.

Since the National Mediation Board declared negotiations at an impasse, we have held back on Government involvement, allowing time for a remedy to develop in the marketplace.

But no remedy is in sight, and therefore, it is appropriate for us to ask the President to exercise the powers vested in him under the Railway Labor Act.

The President should appoint a board to investigate and make recommendations on the dispute between management and labor at Eastern Airlines.

The President's emergency action should not be viewed as a tilt to labor or to management. Our goal is to preserve a great airline.

Our goal is to maintain competition in a deregulated industry.

Our goal is economic health—not economic ruin.

Given the efforts to negotiate an agreement over the last 18 months, it may be that even a Presidential board is unable to resolve this dispute.

However, it is an option we must explore.

If both sides are unwilling to accept the recommendation of the board, in the very least we will have achieved finality to a situation which has dragged on too long and torn at the very soul of the airline.

Perhaps we will have set the stage for a third party to enter the picture and make an offer acceptable to both the airline and to labor.

I support the House's resolution to direct establishment of an emergency board. I hope that the President will act expeditiously in naming the board members and that, in turn, the appointees will work diligently and in a timely fashion to recommend a resolution.

Delay serves no one. Delay in this Chamber, or delay by the President, will mean that we are headed toward a funeral of a great airline.

I do not want to attend a funeral. I want Eastern in the sky—not in the ground.

In summary, Mr. President, I would like to speak to two points. One, what is our objective? Our objective as a nation and appropriate to the Federal Government is to preserve the independence of Eastern Airlines. Why are we interested in the preservation of a commercial airline? We are interested in that because it is an integral part of America's transportation system.

In the last several months, as this process has dragged through negotiation, impasse, and now at midnight tonight 2 weeks of a strike, we have seen enormous disruption of our domestic and international transportation system. We have seen tens of thousands of passengers and users of the cargo system of this airline unable to move. We have seen thousands of families placed in great distress. We have seen many other thousands of persons who depend upon Eastern Airlines for their own economic well-being put in great jeopardy.

We also see, Mr. President, the prospect of the seventh largest airline in this Nation going out of existence with significant adverse effects on the competitive structure of our deregulated airline. This Nation has now for 10 years been operating in essentially a deregulated economic environment. One of the things we have learned is the importance in such an environment of maintaining the maximum amount of competition for service to the customers and to assure that there would be a competitive pricing structure. That is at risk. That is why our primary goal today is one of preserving the independence of Eastern Airlines, not to tilt in a labor/management dispute to one side or the other. I believe that what has been proposed by the House of Representatives is a reasonable step to contribute to that objective.

The second point, Mr. President, briefly, is the timeliness of our action. If we do not move with a sense of urgency and expedition, this matter will be resolved by indecision, by the inability to take affirmative action.

If I could conclude with a short story, it reminds me of the callow youth who came to the wise man with a bird behing his back and asked the wise man, "Is the bird alive or dead?" The wise man pondered for a few moments and then said to the youth, "As you will it; you have it within your power to either crush the bird or let it fly free."

To some extent, we stand in the same position of that youth. We have the ability by acting and acting in the way that has been suggested by the House of Representatives to at least give the opportunity for this airline to fly again and not be consigned to the graveyard. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I believe I have about a half a minute, is that correct? Will the Senator yield to me?

Mr. HATCH. How much time do I have?

The PRESIDING OFFICER. The Senator from Utah has 6 minutes.

Mr. HATCH. I will be happy to yield 2 minutes of my time to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just in conclusion, according to Aviation Daily, during the last 2 years, Eastern has lost $517 million. During the same period, Continental, which is non-union, and also owned by Lorenzo has had losses of $573 million. By comparison, in the same 2-year period, United reported profits of $595 million; American had profits of $675 million; USAir had profits of $360 million; Northwest had profits of $328 million.

Mr. Lorenzo does not know how to run an airline. It is a shell game, Mr. President. I will put in the RECORD the number of billion of seat miles flown by Eastern and Continental. In 1983, 1984, 1985, 1986 it increased. What happened in 1986? Lorenzo bought it. Since that time it has lost 20 percent of its passenger miles. On the other side, since 1983, Continental increased its passenger seat miles by 400 percent.

This is a corporate shell game, and, Mr. President, this action is absolutely essential if we are going to help these people. That is the issue. Are we concerned about people? The workers and the passengers, that is the issue, and I hope we will be able to get a vote to show that we are.

The PRESIDING OFFICER. The time of the Senator from Massachu-

setts has expired. The Senator from Utah has 4 minutes.

Mr. HATCH. Mr. President, let us be honest here. This is unprecedented. What the people in the House did and what their counterparts in the Senate are asking for is for Congress to interfere with a bankruptcy proceeding that is set up to protect the rights of everybody in such a way as to prefer only the rights of a few. That is after almost 18 months of negotiations, where neither side has really been able to get together.

I get a little tired of the main argument being that Mr. Lorenzo is the cause of all these problems. The fact of the matter is that both sides are the cause of these problems. They are both intractable, and that is why the collective-bargaining process and the bankruptcy process ought to be allowed to work without the interference and infringement on the rights of everybody else.

Frankly, I do not know whether Mr. Lorenzo knows how to run an airline or not. But I understand Continental is doing quite well now. I also understand balance sheets and financial statements and how losses can be attributed during individual years.

What supporters of H.R. 1231 want to do is to amend the Railway Labor Act with this bill. There is no evidence that this dispute meets the standard established under the Railway Labor Act for establishing an emergency board. Under the act, the Presidential emergency board may be convened if the airline dispute "threatens substantially to interrupt commerce to a degree to deprive any section of a country of essential transportation service." No such threat exists with regard to this dispute, so further, they want to impose an emergency board on three unions rather than the one union that was involved in the dispute to begin with.

Let me tell you, no board is justified under this particular circumstance. Nobody should have to violate the Constitution, no President should have to violate it by being forced to convene an emergency board under these circumstances. Let us let the process work. Let us let the bankruptcy laws work. Let us give Eastern a chance for reorganization and survival. Let us not throw it all down the drain because one side hates Eastern Airlines and hates Mr. Lorenzo.

A Presidential emergency board can damage Eastern and long-term employment prospects now that it is in bankruptcy. The bankruptcy court has jurisdiction over this matter and that is where it belongs. And this proceeding ought not to preclude the parties from reaching a mutually acceptable accommodation if that is possible. So let us let the bankruptcy court work and let us protect everyone's rights, not just the interests of unions and not those of management.

## CLOTURE MOTION

Mr. KENNEDY. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the cloture motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisons of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to H.R. 1231, an act to direct the President to establish an emergency board to investigate and report respecting the dispute between Eastern Airlines and its collective bargaining units:

Alan Cranston, Wendell Ford, Jay Rockefeller, Bob Graham, George Mitchell, Timothy E. Wirth, Edward M. Kennedy, Kent Conrad, Paul Simon, Brock Adams, Robert C. Byrd, Alan J. Dixon, Daniel K. Inouye, Christopher J. Dodd, Patrick J. Leahy, Howard Metzenbaum, Bill Bradley.

## EXECUTIVE SESSION

The PRESIDING OFFICER. The hour of 10:30 having arrived, the Senate is in executive session to consider the nomination of RICHARD CHENEY to be Secretary of Defense. The clerk will report.

## DEPARTMENT OF DEFENSE

The assistant legislative clerk read the nomination of RICHARD B. CHENEY, of Wyoming, to be Secretary of Defense.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. 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. NUNN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the executive session to consider the nomination of RICHARD CHENEY to be the next Secretary of Defense.

Mr. NUNN. Mr. President, is there any time allocation or time limit on this nomination?

The PRESIDING OFFICER. There is none.

The senior Senator from Georgia, Mr. NUNN, is recognized.

Mr. NUNN. Mr. President, I will make a few opening remarks, and then I will defer to my friend and colleague from Virginia, Mr. WARNER.

Mr. President, I am pleased to bring before the Senate the nomination of the Honorable RICHARD B. CHENEY to be Secretary of Defense.

After careful and thorough consideration, it is the unanimous opinion of the Committee on Armed Services that Representative DICK CHENEY is qualified to be Secretary of Defense and that this nomination should be confirmed by the Senate.

The Committee has filed a favorable report on Representative CHENEY's nomination which has been available for all Senators to review since approximately noon yesterday. The written report accompanying the nomination was distributed to each Senator's office and also put on each Senator's desk on the Senate floor at noon on Thursday, March 16.

I would like to take a few moments, Mr. President, to outline the scope of the committee's review of this nomination and summarize the committee's conclusions on the nominee's qualifications to this important position.

SUMMARY OF THE COMMITTEE'S PROCEEDINGS

President Bush announced his intention to nominate Representative CHENEY to be Secretary of Defense on March 10, 1989. At that time, the committee contacted Representative CHENEY to outline the committee's requirements and to start the preparation of the necessary paperwork associated with his nomination.

On March 14, President Bush formally submitted to the Senate the nomination, which was referred to the Armed Services Committee on that date. The committee met in public session on March 14 to receive testimony from Representative CHENEY on national and international security policy issues. Excerpts of these views are included as appendix 1 to the committee report on this nomination.

On March 15, the committee met with the nominee in executive session to examine confidential financial and other matters. On March 16, the committee completed its deliberations on the nomination in a public session by voting unanimously—20 to 0—to favorably report the nomination to the Senate with a written report.

I want to point out that the committee followed our normal procedures and took no short cuts in reviewing this nomination. All of us I think were in the mood to move expeditiously but we also wanted to make certain that we insisted on thoroughness and fairness, and I think we have done all three.

The committee's ability to process Representative CHENEY's nomination was greatly assisted by the existence of detailed financial disclosure information that he had filed as a Member of Congress; by the fact that we had a thorough but timely FBI report with no problem areas and no impediments

in that report to his ability to serve as Secretary of Defense; and, also by the nominee's and the executive branch's ability to meet the committee requirements in a quick manner.

I ask unanimous consent that a list of the material provided by Representative CHENEY and the executive branch related to this nomination be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. NUNN. Mr. President, during the 100th Congress, the Armed Services Committee initiated new procedures for consideration of nominations for civilian appointed positions in the Department of Defense. In addition, the committee adopted standards to guide its consideration of the qualifications of nominees which Senator WARNER and I outlined to Governor Dukakis and then Vice President Bush before the election last November. The Committee applied these procedures and standards during consideration of Representative CHENEY's nomination.

And we intend to continue to apply those standards to the more than 50 nominees that will come before our committee this year from the executive branch, to fill the important slots in the Department of Defense.

As part of its review of Presidential nominations, the committee requires each nominee to complete a questionnaire relating to the nominee's qualifications and potential conflicts of interest. Representative CHENEY's response to the committee questionnaire, which the committee received on March 13, provided basic biographical and financial information and served as the starting point for the committee's inquiry into Representative CHENEY's qualifications and suitability for the position of Secretary of Defense.

CONFLICT OF INTEREST

The committee carefully reviewed the nominee's personal financial records and other materials in reviewing the conflict of interest area. The committee obtained Representative CHENEY's financial disclosure forms for the last 10 years and his tax records for the last 3 years. The committee also received the letters on conflict of interest and related matters required of the nominee, the Office of Government Ethics, and the general counsel of the Department of Defense. The committee concluded that the nominee is in compliance with all applicable laws and regulations governing conflict of interest, as did the Office of Government Ethics and the general counsel of the Department of Defense. We all had the same conclusion.

SUMMARY OF FBI BACKGROUND INFORMATION

On March 15, the White House provided the committee with the summary memorandum on the background investigation of the nominee by the FBI. This document was reviewed by Senator WARNER and me, and we briefed the committee on our review in executive session. I will have a little more to say about our procedure in this respect in just a few minutes.

The committee also received the required letter from the counsel to the President outlining the nature and scope of the FBI background investigation and agency checks. The committee concluded that there is nothing in Representative CHENEY's background, as reflected in the FBI investigation, that would preclude him from serving as Secretary of Defense.

MEDICAL CONDITION

The committee looked into Representative CHENEY's medical condition, particularly his recovery from coronary bypass surgery in the summer of 1988. The committee received a letter from Representative CHENEY's physician, Dr. Alan M. Ross, director of the division of cardiology at the George Washington University Medical Center. This letter indicates that Representative CHENEY's "recovery has been excellent and he has been advised to pursue unrestricted professional and recreational objectives" and that "the congressman is presently fit to accept any position requiring the highest intellectual behavior and physical performance."

At the committee's request, more detailed information on Representative CHENEY's medical condition was provided by his physician and is retained by the committee in its executive files.

I add, for the public record, there is nothing inconsistent in this report with the public record just quoted.

In addition, after receiving the nominee's permission, Senator WARNER and I reviewed the medical information provided by Representative CHENEY's physician with other physicians and briefed the committee on their views. Again, this information was entirely consistent with the public record.

The committee also discussed Representative CHENEY's medical condition in both public and executive sessions. The committee concluded that there is no medical reason that would preclude Representative CHENEY from serving as Secretary of Defense.

COMMITTEE CONCLUSION

Mr. President, after a careful review the committee concluded that Representative CHENEY is highly qualified to serve as Secretary of Defense.

Representative CHENEY has had a distinguished career of public service, serving in senior leadership positions in both the legislative and executive branch of our Government. After serving as a congressional fellow in the late 1960's, Representative CHENEY began a series of assignments in the executive branch, culminating in the position of White House Chief of Staff for President Ford, a very important and responsible position.

In November 1978, Representative CHENEY was first elected to the House of Representatives. This past January, he began his sixth term as the at-large Representative for Wyoming.

After only one term in the House, Representative CHENEY was chosen by his Republican colleagues to serve as chairman of the House Republican Policy Committee, a position he held for four terms. In June 1987 he was unanimously elected chairman of the House Republican Conference, and in December 1988 he was unanimously elected House Republican whip.

Beyond his leadership and management experience, Representative CHENEY has substantial expertise in national security and intelligence issues. He has been a member of the House Permanent Select Committee on Intelligence, serving as ranking Republican on the Subcommittee on Program and Budget Authorization. He was also the ranking Republican on the House Select Committee To Investigate Covert Arms Deals with Iran.

I have already mentioned that a summary of the nominee's position on key national security issues from the confirmation hearings is included in the committee's report on this nomination.

Finally, the Armed Services Committee concluded that Representative CHENEY's high standards of personal conduct and integrity would set an excellent leadership example for the men and women in the U.S. Military Establishment and would help to restore public confidence in the integrity of defense management.

Mr. President, we face some very tough choices in the area of national security policy in the months ahead. We need a strong, capable, and effective Secretary of Defense heading up the Department of Defense. I believe President Bush has made an excellent choice in nominating Representative CHENEY for this difficult assignment, and I urge my colleagues to support the nomination.

Mr. President, I yield the floor.

MATERIAL SUBMITTED TO THE COMMITTEE ON ARMED SERVICES CONCERNING REPRESENTATIVE CHENEY'S NOMINATION TO BE SECRETARY OF DEFENSE

1. Representative Cheney completed and submitted to the Committee the following items:

(a) The Committee Background Questionnaire containing questions and answers on biographical, financial and other matters, and the standard required letter from the nominee.

(b) His draft Standard Form 278 which is his public financial disclosure form. The official version came with the Office of Government Ethics letter. The Committee also obtained his public financial disclosure reports for the last ten years.

(c) His tax returns for the years 1985, 1986, and 1987.

(d) Statements from his doctor concerning his medical condition.

2. The Committee has received the following items from the Executive Branch:

(a) The Committee required letter from the Office of Government Ethics—which reviews the public financial disclosure form—and comments on conflict of interest and other matters.

(b) The Committee required letter from the DoD General Counsel covering the same matters.

(c) The Committee required letter from the White House Counsel indicating the nature and scope of the background investigation.

(d) The FBI background investigation material which Senator NUNN and Senator WARNER reviewed and briefed to Members of the Committee.

The PRESIDING OFFICER (Mr. BRYAN). The minority manager, the Senator from Wyoming, is recognized.

Mr. WALLOP. Mr. President, let me begin by thanking the distinguished chairman of the Armed Services Committee for his support and for the manner in which the nomination was expedited. I say "for his support" because the nominee is a long-time personal friend of mine.

In addition to being a long-time personal friend, he is one of those rare human beings whose behavior in what might have otherwise been a competitive circumstance—Members from the same party vying in our State for the same press and our party for the same adoration, as it were—as attracted, without exception, my admiration, my affection, and my astonishment at the depth of his ability, continuing to learn, even on areas where he is considered by most of the world to be an expert.

Many have suggested that if there is any drawback at all to this nominee's presence as Secretary of Defense, it might be his lack of experience in defense matters. One, I think that those who are suggesting his lack of experience probably would be surprised at the depth and breadth of that experience, from setting up arms control summits with President Ford in Vladivostok to his service on the Intelligence Committee, to his service as one of the leaders of his party in the House of Representatives, to experience that he may have had with President Ford's National Security Council.

Were those not the case, that hands-on experience with the defense establishment policy, having this man, someone who has the appropriate amount of modesty, and for someone taking on a challenge of this nature, an appropriate amount of modesty, Mr. President, it is really a rather simple statement. It is to know when you do not know, and to know where to go to find out. It is not to be so self-satisfied that your opinions are based on some God-given gift that no change need be contemplated.

This is a modest, self-confident westerner. He is a man with whom I have campaigned, with whom I have fished, with whom I have—yes, in this day and age—sat down and had a beer with, believe it or not. I trust DICK CHENEY. I trust how he behaves in life. I trust his intelligence, trust his integrity, and I trust his friendship.

It is not going to be an easy time for Senator SIMPSON and myself who have grown so smugly used to having a State delegation whose party positions and whose committee positions have so completely covered the interest of our State that we have been able, working in coordination with one another, to do far more things for a State the size of ours than might have otherwise been expected.

It was with some sentimentality, Mr. President, that the three of us sat probably certainly for the last time as a delegation, while Senator SIMPSON and I introduced our friend and colleague to the Senate Armed Services Committee as President Bush's nominee.

I will not belabor any points any further, Mr. President, except to say that I am grateful to the committee for their swift action. I was not surprised by it, having known DICK CHENEY as long as I have, that they found nothing but exemplary performance not only in the conduct of life but in the performance of tasks that he has shouldered in life.

So now we have what this country so badly needs or will have shortly a Secretary of Defense to guide us in times when the leaders of the Western World have told us the threat we face may be diminishing and they are at the same time going to be asking for resources and finances to confront the threat that exists. Those are two difficult concepts for a Democracy to accommodate at the same time, on the one hand to decry our inability to confront the threat and on the other hand to proclaim that the threat is now in such a state of diminishment as to be an occasion for national confidence and peace break out.

DICK CHENEY I think has the intellectual capacity, the philosophical capacity, and the steadfastness and toughness to confront that challenge. He will serve President Bush well. He will serve America well, and he will make this Senate proud for having confirmed that nomination.

Again, I would like to thank Senator WARNER, who will return here momentarily for his statements, but, Mr. President, this is a day that shows when the Senate sets its mind to it, it can move swiftly, expeditiously, and responsibly to put in place the Government of the United States that it so desperately needs.

I yield to my colleague from Wyoming.

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

Mr. SIMPSON. I thank the Senator from Wyoming, my friend and colleague. I, too, thank the chairman of the committee, Senator NUNN, for his great efforts in this matter, fair and firm as we know him to be, and Senator WARNER, the ranking member, the two of them worked very closely together to the benefit of the Senate and to the country.

I think the thing that I would say in very brief remarks is to elaborate and touch on what my friend Senator WALLOP has said. I think you seldom see in this place, either in the House or the Senate, a delegation that in some sense does not compete with itself for that little press release or for this letter to an agency head, even when both are of the same party. It is a common thing. There is nothing wrong with it, but it is common.

But I think that has been the most delightful part of the 10-year relationship with MALCOLM WALLOP and DICK CHENEY. There was never a shred of jealousy. No one tried to win the race to the gallery. No one tried to get out the first press release. And that was a special, special relationship.

There is not any need to elaborate on what DICK CHENEY has done. He has been through all this course before. He had the full investigation when he became part of the Nixon White House. He had the full investigation when he became part of the Ford White House and then Chief of Staff of the President of the United States of America.

So, there is his record just as clear and appropriate as one can imagine.

I have heard people in my 10 years here speak of the "DICK CHENEY model" as chief of staff of the President, and they said that with the greatest respect. That is because DICK CHENEY tackled that job as he does every single task, with admirable confidence and professionalism and dedication.

So when he came back from the White House and came to Wyoming and decided to run for the House of Representatives, the people in Wyoming saw that and they were impressed and they figured since you only get one vote in the U.S. House of Representatives, 435 of them over there, you might just as well load the cannon, and so they did. And DICK CHENEY rose in a meteoric way through the ranks of the Republican Party in the House of Representatives to "No. 2," and he learned the issues, and he participated, he was fair and firm, with this remarkable degree of common sense.

So, I will not go further on that but just to say that the great pleasure of the day, the elation of the day for those of us in Wyoming is that we are very proud to offer a native son to be Secretary of Defense of the United

States of America. You can imagine that that is very deeply pleasing to a population of 470,000 people, ranging around in 98,000 square miles, and they take a fierce pride in this, but they also know that his replacement, whoever that may be, will not have the distinctions and the honors and the rare political savvy that DICK CHENEY has had.

So, my day is tempered by a sense of personal sadness, just a shred of that. I will miss this man. I, too, like MALCOLM have campaigned with him, laughed with him, joshed with him, even had a suds or two with him, if you can believe that I would do that in my off hours.

So we have had a lot of fun and we are going to miss our friend, but that sense of selfishness will not last. I know what DICK CHENEY is going to do when he gets over there. He is going to learn the issues to where he will be on a par with any Congressman. He will be able to deal with any field grade officer there and in about 6 months he is going to call one of them in and say, "What is the purpose of your job?" And that will be a shocking thing for some of those people because you see part of the problem at the Pentagon is that if you are a field grade officer you have to have somebody to command and a lot of them do not have anybody to command. It is very frustrating for them.

I think DICK CHENEY will find those who are the true commanders and those who need not be further beleaguered with their activities over there. He will find that out. He is a realist, a pragmatist and he is going to be able to deal very effectively with this chairman, his friend, SAM NUNN, very effectively with Senator WARNER, very effectively with the Armed Services Committee, very effectively with the House leadership of both parties, and he is just the man to make the important decisions on defense that are going to be required right out of the box, whether it is MX—we deal with that continually—or the rail garrison, Midgetman, all of those heavy decisions early on, and Senator WALLOP expressed it beautifully in one word, trust. You do have to come away with trust about DICK CHENEY when you talk about DICK CHENEY.

The American people are going to learn to trust him. The American service men and women are going to learn to trust him and look up to him and greatly admire him.

So you have before you in DICK CHENEY the ultimate legislator, the creative leader, the knowledgeable and spirited man who in every sense will make a difference.

His wife, Lynne, a multi-talented woman of extraordinary effervescence and creativity and his two daughters, Liz and Mary, whom Senator WALLOP and I have watched grow to womanhood in the 10 years since we campaigned together first with their little baskets and their blue buttons, and we watched all that.

So, to all the family, our sincere congratulations. Our sense of pride is high and I am sure that DICK CHENEY will attain whatever goals he has set for himself in this cause. He is one of the most steady and unflappable men I have ever met anywhere, at any time, under my circumstances, ever, and he will need it all. This is a remarkable choice for a tough job and America is the singular winner in this instance.

I thank the Chair and I thank my colleagues.

Mr. WALLOP. Mr. President, I yield to Senator LOTT.

Mr. LOTT. Mr. President, I thank the Senator for yielding me a few brief moments here.

I am delighted, and without any hesitation or reservation at all, to endorse the nomination of Congressman DICK CHENEY to be Secretary of Defense.

I, too, want to join in commending the Armed Services Committee for moving very expeditiously in this instance on this very fine nomination. Also, I must say I was very pleased that President Bush did not hesitate and moved quickly in making this recommendation just 7 days ago.

So one and all now have been working together to fill this most important position. We all know that we need aggressive, competent leadership at the Pentagon, and DICK CHENEY will certainly provide that leadership.

I had the great pleasure of getting to know DICK CHENEY well as a Member of the House of Representatives. We served together for 10 of the 16 years that I served in the House and we served in the leadership together for the past 8 years.

DICK CHENEY is truly a unique individual. I know him to be a man of great experience, keen intellect, and superb leadership ability.

Also, I think I need to change the record just a little bit from his two colleagues from Wyoming who know him so well. And it really is a credit to the man that the three of them have had such a good relationship in the Wyoming congressional delegation. You do not always hear that type of personal warm friendship and relationship that they have had together and it means a lot, I am sure, to Congressman CHENEY and it does to all of us.

But I also know DICK CHENEY to be a man of great moderation in his participation with the suds, as the Senator from Wyoming just said. While he is a man of conservative character and philosophy, he certainly is very moderate in that particular area.

DICK CHENEY has been active in legislation in the House of Representatives. Not only has he been a member of the leadership cadre where he always provided very good counsel, he was active.

He has been involved with the complex subject of military strategy for some time. The definition of military strategy is the "art and science of employing the Armed Forces of a nation to secure the objective of national policy by application of force or the threat of force." As a member of the House Permanent Select Committee on Intelligence, he is intimately familiar with the various threats posed to our national security. A firm understanding of the threat is fundamental to devising a rational national strategy to minimize risk in the full spectrum of possible conflict with potential adversaries. He is the ranking minority member on the Budget and Program Authorization Subcommittee on Intelligence. This subcommittee conducts exhaustive reviews of all intelligence programs to ensure that they support strategic policy goals. Congressman CHENEY cosponsored with Senator WARNER the national security strategy portions of the Goldwater-Nichols legislation on defense reorganization. This, together with his extensive knowledge of the Soviet Union and frequent involvement in various forums on defense such as the Aspen Institute, gives further evidence that DICK CHENEY is a wise choice to lead our Defense Establishment.

Congressman CHENEY's ability as a consensus builder is widely known and will be invaluable in his role as the President's spokesman on national security. He has been a participant in a number of bipartisan efforts to achieve consensus on defense issues including a working group jointly sponsored by the Center for Strategic and International Studies and the Johns Hopkins Foreign Policy Institute which published a report on how best to implement defense reforms proposed by the Packard Commission. He has been involved in similar bipartisan defense efforts with the Institute for Foreign Policy Analysis, which is associated with the Tufts University Fletcher School of Law and Diplomacy. Until recently, he served as cochairman of the advisory board for the Center for Strategic and International Studies along with our distinguished colleague, Senator NUNN.

Congressman CHENEY is a proven champion of the principles of freedom and democracy. He has long been a staunch supporter of democracy in Central America including assistance to the Nicaraguan freedom fighters. His efforts in the House of Representatives to support the freedom fighters have been instrumental in maintaining a viable resistance to the repressive Sandinista regime. His appointment would signal this administration's continuing commitment to the principle of democracy for all nations.

Congressman CHENEY's service as White House Chief of Staff under President Ford gave him a unique perspective from which to observe the many competing national priorities. But I want to build on that. One of the things we do not always stop to think about is that the chief of staff is always there with the President, on trips to places like Vladivostok, but also at meetings of the National Security Council. This experience will stand him in good stead as the Nation faces the difficult choices ahead in determining strategic priorities and balancing national security requirements in a constrained budget environment.

The task of leading the Department of Defense with its 5 million men and women in the Active, Ready Reserve, and civilian components is a demanding challenge of the first order. I can assure you without reservation that this is the man who can meet that challenge. His leadership ability is unquestioned. I recognized his superb natural leadership skill during his early days in the House of Representatives and I came to rely on that skill as a member of the Republican leadership team. When I left the House, he was unanimously elected to succeed me as House Republican whip. I felt good about DICK CHENEY being in that position. I knew he would do the job and do it well.

But now he is moving on to this greater opportunity and it is good for the country, it is good for Wyoming, it is good for all of us that we have a man of this moral character and leadership ability to be Secretary of Defense. So I trust and I urge my colleagues in the Senate to support wholeheartedly and hopefully unanimously this very fine choice to be Secretary of Defense.

I thank the Senator for yielding.

Mr. NUNN. Mr. President, I have already gone over this, both in the committee report and to some extent in my presentation earlier today on this nomination, but I want to review this for everyone's attention. I hope Senators who are not on the floor would pay heed to these comments, because I think it is important for every Member to understand the committee's procedures regarding information furnished by the nominee himself that we deem to be confidential, unless it is needed to be made available to all the Members, and also committee's procedures regarding the FBI report.

I have said in the last 2 or 3 weeks on several occasions that the Senate itself is the device and consent body in this Government under our constitutional scheme. It is not the Armed Services Committee. We are only the trustee for the Senate in presenting to the Senate the nomination and in taking from witnesses as well as the nominee and the FBI certain information that we sort through to determine what should be presented to the Senate. So it is important that this whole body understand the way we are handling nominations.

I know other committees have their own responsibilities and there are very, very important nominees coming through other committees. We are not the only committee that serves as trustee for the Senate.

We do have more nominations coming through our committee than almost any other committee, with the possible exception of the Foreign Relations Committee. We have some 50 nominations or more that will come through our committee in the next 3 months. And in each one of them we will go through this general procedure. So it is important for people to understand that this nomination is being treated like others and it is going to also reflect what we will be doing in the future. So my remarks now are not aimed at the Cheney nomination per se but have a broader application to our general procedures.

First, we receive a letter from the nominee and a detailed response to the committee's questionnaire. That questionnaire covers personal background and financial information. Again, unless we believe there is something in there that needs to be made public in order for the public and for our colleagues to make a judgment, we do not normally make the personal background information available to the public. The questionnaire states that such information will not be made public unless it is voted on by the committee. So that is important for people to understand.

We encourage candor, we encourage frankness here, and we ask for certain information that could be relevant, in some cases it is not relevant, but could be relevant to our own deliberations and to the Senate's deliberations.

The next step is our review of the nominee's financial disclosure forms and conflict of interest opinions from the Office of Government Ethics as well as the Department of Defense general counsel. The nominee fills out standard form 278, which is processed in the executive branch. It goes to the Office of Government Ethics. They review it, they comment on it, and their commenter we provided to the committee and to the President. Also, the Department of Defense general counsel reviews that same form. So we get a three-way check on that form on conflict of interest. One is the Office of Government Ethics, the second the Department of Defense general counsel, and third is our own counsel on both sides of the aisle, Republican and Democrat. So we have a three-way check on that. We deem it important and we review it carefully.

In addition we review the nominee's tax returns, usually for the last 3 years, unless we run into some unusual situation.

We have done all of those things in this case. The chairman and the ranking minority member review the FBI material—and this is the way we handled it so far and we have done it for the last 2 years, and this nomination is no different. Senator WARNER and myself, as trustees for the committee, review the FBI summary memorandum that they send to the committee. They do not send us the interviews. They send us the summary. And we also get a letter from the executive branch detailing the scope of the FBI investigations.

People do not realize this, but it is important. There are all sorts of FBI investigations, anything from an agency check, which means simply looking at other Government agencies and what information they may have on the nominee, to a full field investigation, which involves going out and interviewing people by the scores.

So, there are different kinds of FBI checks and we get a letter from the Counsel for the President, stating what kind of FBI summary we are, indeed, examining.

What Senator WARNER and I do after we receive that FBI report, and after we have read it, is to come to a conclusion. The staff does not read that report unless there is an unusual situation. In the last nomination we did have staff access by specific written agreement.

After we come to a conclusion Senator WARNER and I act collectively. Normally we do not disagree, but if we did disagree we would, each one, state our individual views to the committee. Regardless of our individual conclusions, Senator WARNER and I collectively decide what information in that report could, by anyone's possible interest, be deemed relevant to the membership in making a decision. If we believe there is anything in that report that any member of the committee might really focus on in terms of their own concern about the nomination, then we believe it is our obligation to present that particular information to the committee.

If we do not find any material like that then we do not reveal the contents of that FBI report to the committee. But, if any member asks to be briefed on that FBI report or to have access, then it has been my position and will continue to be, that I will then go to the White House and ask permission for that particular member to have access to the report.

So nobody is blocked out here on the committee from viewing that report if they deem it is necessary for their own deliberations.

We have followed our normal procedure in this case, in the Cheney matter. We reviewed it and we did give

the membership an oral briefing on the FBI report.

There were a couple of items in it that we ourselves did not believe had any bearing on our determination on the Cheney nomination but we briefed every member of the committee. The committee, all 20 people, came to the same judgment that we had, that there was no information in that FBI report that was in any way an impediment to DICK CHENEY's ability to serve as Secretary of Defense.

So we have done the same thing here as we will do with other nominations in the future and have done in the past. In this case there was a consensus in the committee, after receiving the summary from Senator WARNER and myself of certain factual information that had been in the FBI report and certain factual information that had been in the confidential questionnaire filled out by DICK CHENEY, that there was nothing that would constitute an impediment to his serving as Secretary of Defense.

That was an agreement of every member of the committee, all 20. There was no dissent.

It is my judgment that reasonable people would agree that the committee had served as trustee for the Senate, that we had done our job, and that there was nothing from the confidential information which should be brought to the attention of the entire U.S. Senate or be made public.

If we had five or six people who felt otherwise, then we would have had a different kind of determination to make. Or even two or three people. But we had no one who felt there was anything in that material that would serve as an impediment to DICK CHENEY taking his position to serve as Secretary of defense.

Again, I am pointing out that unless we are instructed otherwise by the leadership or the Senate itself, this is the way we will handle all the other nominations. I am not dwelling on this one. I am just saying this is the way we are handling all of them.

To summarize our procedures, Senator WARNER and I review the FBI report. We also review the financial data, and the other confidential data. We bring to the attention of our committee any information that we believe would in any way possibly be relevant to anyone's consideration. The committee makes a determination whether there is anything in that report that we give them, the oral summary, that should be brought to the full attention of the Senate. And in this case the committee unanimously felt there was no impediment to this nomination.

The other thing I want to point out to the Members is that our committee's questionnaire specifically identifies those portions that will not be revealed to the public unless the committee votes on it.

The committee did not believe anything in the financial or personal information should be made public. We found no impediments there. Therefore, there was nothing that would in any way compel us to make that information public or even insinuate that we should.

But I want everyone to know now, on the floor of the Senate, that if there is anything that they want to review from the committee's questionnaire, we will make it available. We do not have it in our authority to grant access to the FBI report, but we do have the committee's confidential questionnaire.

I would say that Congressman CHENEY was candid. He was frank in his responses to our questionnaire. We found he had given us everything we asked for and more in terms of our questions.

But, if any Member of this body—and I hope everyone understands that on this nomination or the other—if any Senator would like to review that personal financial and biographical information in the questionnarie, it is sitting right here—it will be. Put it there. [Laughter.]

It is right here. Come look at it.

I repeat what I said before, and Senator WARNER said the same thing: We find nothing in that financial information and biographical information that is in any way an impediment.

I will close by just saying Representative CHENEY was frank and candid in his responses to the questionnaire of the committee. The financial and personal aspects of the questionnaire are not relayed to the public unless the committee votes to do so. But, again, if any Member would like to review that questionnaire on the Senate floor, all they have to do is come up and do that. I am sure that Senator WARNER would say the same thing for his side.

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

Mr. WALLOP. Mr. President, on behalf of Senator WARNER—and I was in on the conference that was the foundation for the chairman's explanation of the process, I totally agree with it. I know Senator WARNER does. And I would say one of the reasons by which this nomination cleared so quickly was the very nature and exemplary behavior of the nominee.

There was no complicated trails to follow. There was just a man who has served his country and his family. He was married over a quarter of a century, raised two beautiful children, and has conducted his life in public. The consequence is just as the chairman has stated it.

The report is there and the committee, not just the chairman, invites Members to look at it.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from West Virginia.

Mr. BYRD. Mr. President, I support the nomination of Mr. CHENEY for the post of Secretary of Defense. It is a pleasure to support a nominee whose background and experience are well known to all of us. It is well known that he brings substantial experience in the national security and intelligence fields. He served on the House Intelligence Committee and on the committee investigating the Iran arms-for-hostages scandal. No serious questions have arisen in the course of the Armed Services Committee investigation and hearings over Mr. CHENEY's fitness for the office, or his integrity, or over the issues related to conflict of interest. On the contrary, I think the record is clear that by virtue of his temperament, his character, his experience, his commitment to public service, that this is an excellent nominee. I welcome his nomination, and I look forward to a solid working relationship with him in sorting out the very difficult issues on national security that we face in the light of our fiscal constraints.

It is going to take a sustained, consistent and positive effort by both the Congress and the Department to fulfill our most important responsibility, to provide for the security of our Nation.

While I welcome this nomination, it does not mean that there will not be differences of opinion over policy, over emphasis, over the various directions in which we must move, over the configuration of the defense budget in some areas. This is to be expected, but I hope that, after vigorous scrutiny and debate under the leadership of the distinguished chairman of the Armed Services Committee and Mr. WARNER, the ranking member, a renewed consensus on our national security posture will emerge. The image of the Pentagon must also be rehabilitated from the shock of the procurement scandals that have arisen over the last few years by a steady and effective reform program. It is very easy to lose a reputation, it is harder to build one, and even harder to rebuild one. So, the challenge is to rebuild both the reputation of the Defense Establishment and the consensus that has been so foolishly squandered over the last few years. I am sure that the Armed Services Committee members and the Senate are committed to that, and I have every reason to believe that Mr. CHENEY is as well.

There is one area of policy and, I think, basic viewpoint, with which I do differ with Mr. CHENEY, and that is illustrated by a recent paper which he authored entitled "Congressional Overreaching in Foreign Policy." The paper focuses on certain areas where

MR. CHENEY objects to what he calls congressional "overreaching" and "aggrandizement." He refers particularly to diplomatic bargaining tactics by individual Members of Congress and foreign powers, to covert operations and to the continued unresolved problem of the workability of the War Powers Resolution. On the last issue, as my colleagues are aware, the distinguished majority leader, and the distinguished chairman of the Armed Services Committee and a number of other Senators, including the leadership on the other side of the aisle of both the Armed Services and Intelligence Committees, have introduced legislation, that substantially revises the War Powers Act to enhance the consultative relationship between the Congress and the President on the matter of introducing Armed Forces into certain situations. It also removes the 60-day deadline requirement for the removal of any troops committed beyond our shores by the President.

I am not saying that that legislation is perfect by any means. I think it is a good starting point. I certainly share with Mr. CHENEY and some of the customs with respect to the legislation. It certainly can be improved, and I would welcome the best talents of the Members on both sides of the aisle in an effort to improve the legislation and bring it forward for debate and, hopefully, enactment.

I would encourage Mr. CHENEY, as did the distinguished chairman of the Armed Services Committee, Mr. NUNN, during his confirmation hearing, to take a serious look at that legislation.

On the matter of personal diplomacy by Members of the Congress and foreign powers, there is a line between conferring with foreign leaders which my colleagues regularly do, for an exchange of views, and I, myself, have done frequently, and the situation where one engages in some kind of negotiations.

Undoubtedly, that line has been crossed in the past, and I do think there is an important dividing line between the two branches on the matter of negotiations, per se.

On the matter of the legislation dealing with covert operations, S. 1721, that Mr. CHENEY refers to, which passed this body overwhelmingly last year, by a vote of 71–19, we have a fundamental disagreement. Part of the problem of the arms-for-hostages affair, was the fact that nobody in the Congress knew about the finding, knew about the policy.

As a matter of fact, the President himself in that January 17, 1986, finding authorized the transfer of arms for hostages and directed the CIA not to inform the Congress of the finding; not to inform the Congress. Part of the problem of the arms-for-hostages affair, as I say, was because of that deliberate and intentional policy on the part of the President that Congress not be informed, that the committees be eschewed, left out and avoided, circumvented with respect to that information. I am sure that had that information been divulged to the leaders in the Congress, that that terrible mistake would not have ever occurred because there would have been strong objections to such an approach, and the President would have been well guided by having revealed such plans to the leadership and certainly by the reactions that undoubtedly would have been strongly voiced to such an approach.

It would have been roundly condemned, and I am sure the reaction on the part of the leadership would have been such that such a finding would long ago have been buried and the events, the tragic events that followed in its wake, would never have occurred.

Mr. CHENEY says in his paper that situations like that, which might be so egregious, would not go forward because of leaks. He says that he is "confident Congress eventually will find out in this leaky city about decisions of any consequence."

Mr. President, it was many months before Congress found out about that decision and that was a decision of great consequence, it weakened the Presidency, weakened the President and undermined the integrity of the Nation in the eyes of the world, as well as in the eyes of our own citizens here at home.

Unfortunately, that was not true in the arms-for-hostages decision, a decision whose results damaged the credibility of our country, and could have been avoided if the finding on the covert action had been submitted to the Congress. The one single major legislative result of the whole affair was legislation requiring that a finding be submitted to the intelligence committees prior to the initiation of covert activities not later than 48 hours after it is signed by the President. It is, Mr. President, a rare event for a finding by a President to be challenged, but on some occasions a poorly conceived policy, as that one surely was, might be delayed or even terminated if the judgment of the intelligence committees is strongly opposed to the agency. In those circumstances the country might be saved an embarrassment as it certainly would have been in that instance, from a poorly conceived policy as that certainly was.

This is a government of laws and not men, but the Iran-Contra Committee found, generally, that the real problem in the arms-for-hostages affair was the "failure of individuals to observe the law, not from deficiencies in existing law or in our system of governance." While I subscribe to that conclusion, I also feel that the 48-hour notice requirement on findings is a needed adjustment to the laws now in place governing intelligence activities, and I am hopeful that this Congress will pass that measure again. I also hope that Mr. CHENEY will reexamine his views on this matter, in light of his new responsibilities.

Mr. President, I reiterate my support for this nomination. The Pentagon has been too long adrift without responsible, vigorous leadership, and I am sure that Mr. CHENEY will begin putting his team and things together immediately.

I yield the floor.

Mr. WARNER addressed the Chair.

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

Mr. President, I rise in strong support of the nomination of Representative RICHARD B. CHENEY of the State of Wyoming to be the next Secretary of Defense. I join the chairman, Mr. NUNN, in his remarks regarding the procedures of the committee covering executive department nominations, and as ranking member, I accept responsibility and accountability for the preparation of the record for committee review and full Senate consideration of nominees.

I commend the President for his selection of this outstanding nominee.

I strongly urge all my colleagues to vote for his immediate confirmation.

DICK CHENEY is extremely well qualified—in terms of experience, capabilities, integrity, and character—for this highly demanding and critical position.

His background and experience in government have prepared him well to serve as the Secretary of Defense.

I think it is fair to say that the report did not contain any information, covering the relevant period of his adult life, raising any question about DICK CHENEY's qualifications to serve as Secretary of Defense and on that point there is no room for reasonable men to disagree.

As President Ford's chief of staff, he participated in numerous, critical national security crisis situations at the very top levels of our Government.

He knows from firsthand experience how to cope with such crises and has been described as "absolutely unflappable" under extreme pressure and tension.

I indicated, upon first being informed by the President that Representative CHENEY would be his nominee, how very much I admired this man and his family. His talented wife, Lynne—a full partner in every way and an accomplished professional in her own right, serving as the chairperson of our National Endowment on the Humanities—and his two lovely daughters clearly reflect the family traditions and values that are dear to all Americans.

Representative CHENEY has a clear understanding and appreciation of the importance of those family relationships for our military families who face frequent and extended separations in fulfilling their military duties and responsibilities, particularly overseas assignments.

If we allow budgetary reductions to further reduce the size of our military forces, these family hardships could get worse.

In 1986, DICK CHENEY and I sponsored together—he in the House of Representatives and I here in the Senate—legislation requiring the President to provide a foundation report on our national security strategy to the Congress at the beginning of each year.

Eventually our legislation was included in the Goldwater-Nichols Department of Defense Reform Act and became law.

Little did DICK CHENEY know then that in 1989 he would have to participate in writing this Presidential document.

Representative CHENEY's clear understanding of the need to match military and diplomatic commitments with our available military resources was obvious then, as it was during his appearance before our committee when he stated, and I quote:

I would like to be able to come back to the committee and say, look, here is the strategy we decided upon in order to achieve the national goals and objectives that we all share, and I can carry out this strategy but it is going to cost *x* amount—or these are the choices and tradeoffs you as a Congress are going to have to make.

I would like to bring to my colleagues' attention a few other short statements made by Representative CHENEY during his confirmation hearing on Tuesday.

I believe these statements, in response to committee members' questions, clearly reflect this man's thoughtfulness about and clear understanding of a wide range of the critical national security issues we are facing. And I quote:

*On Low Intensity Conflict:* "* * * I think we will find, Mr. Chairman, that in the years ahead, especially if current trends continue, that is to say if we see a lessened Soviet threat, that increasingly our military requirements are going to be influenced by the need to deal with conflicts in the Third World, to deal with low-intensity conflict, as you have stated."

*On Procurement Reform:* "I am aware that the question of the power and authority of the Under Secretary for Acquisition was an important one with respect to the deliberations on the Goldwater-Nichols bill. I believe firmly in the proposition that we have got to do a lot more than we have in the past."

*On Arms Control and Defense Policy:* "I think that for us to proceed into the arena of arms control, especially when we look at the complexity of such issues as agreements on conventional force reduction or START accords, that it is absolutely vital that the Defense Department and our military services be consulted thoroughly before proposals are put on the table."

*On Maritime Superiority:* "My experience where carriers are concerned has been that the first thing a President does when he gets into a crisis is ask where is the nearest carrier." "* * * I have consistently been a supporter of the 600 ship Navy."

As a former Secretary of the Navy, I certainly concur with those remarks.

I noted that when Representative CHENEY appeared before our committee for his confirmation hearing, he was wearing cowboy boots, in the proud tradition of the West and his home State of Wyoming.

It may now be time for him to also put on his spurs—as he tackles the difficult challenges of directing our national security apparatus—as it may be a rough ride for even the toughest of cowboys.

In closing, Mr. President, I would like to quote that great American and great Virginian, Thomas Jefferson, who stated so eloquently: "Go grant that men of principle shall be our principal men."

The President has referred to us a man of principle and asked our advice and consent to his nomination.

I urge this body to give its unanimous support to this nomination so that RICHARD B. CHENEY can assume his duties as one of this Nation's principal men.

I first would like to thank my distinguished colleague from Wyoming for taking my place briefly while I had to leave the floor. Second, I want to associate myself with the remarks of the distinguished chairman of the Armed Services Committee relating to the procedure of the committee. He knows full well from our service together now for 2 years in our respective positions that I accept fully the responsibility and accountability for the manner in which we prepare records for our committee and records for the Senate as a whole with respect to executive department nominations.

I wish to say a very brief word here. Before doing so, I will yield a brief period, I hope, to my distinguished colleague from Idaho, followed by my distinguished colleague from Pennsylvania. I see the Senator from Maine on the floor. I presume he would like a brief period.

Mr. COHEN. If the Senator will yield, I would like to have a brief period to discuss Senator Tower. Perhaps it would be appropriate for me to include my remarks either as part of morning business or subsequent to the colloquy on Mr. CHENEY.

Mr. WARNER. I ask the Senator from Maine if he might consult with the Republican leader who is due on the floor momentarily, and then we will accommodate the Senator from Maine. First the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, following the vote last week to deny President Bush his first choice of nominees to the Secretary of Defense, I was greatly concerned with the course this body seemed to be taking regarding the security and defense of this Nation. I asked my colleagues the rhetorical question: "Where do we go from here?"

Yet, less than 24 hours after the defeat of Senator Tower, President Bush surprised many by quickly sending the name of House Minority Whip RICHARD CHENEY as his second choice.

I believe President Bush answered my question.

I highly compliment the President for his excellent choice of a person to lead the thousands of men and women who wear the service uniforms.

Representative CHENEY has distinguished himself as an excellent executive and legislator; most recently in his role as minority whip in the House of Representatives.

Mr. President, I had the privilege of working with him as a Member of that body until 1980. During that time, I found Representative CHENEY to be knowledgeable, competent, and tough on the various issues that faced Congress.

I have read through the Armed Services Committee's report, Mr. President, and I am pleased Representative CHENEY meets the qualifications and requirements the committee established for determining defense-related nominations. Frankly, Mr. President, I had little doubt to the contrary.

The nine standards—from the nominee's personal integrity to his commitment to public service—were met by Representative CHENEY with high accolades.

Moreover, his answers to some very tough questions clearly demonstrates his concern, understanding, and desire to implement President Bush's proposals to provide for a strong defense, utilize the "Peace Through Strength" initiative, and remain firm when dealing with the Soviets in strategic and conventional arms discussions.

Representative CHENEY recognizes these needs. However, as a man with a distinguished 20-year public service record, Representative CHENEY realizes a defense on the cheap is a recipe for disaster.

In his remarks before the committee, Representative CHENEY stated:

It is my hope that while we obviously have to respond to the budget realities we are faced with that we not fall into the trap of assuming that only budget considerations should drive our decisions.

I know Representative CHENEY will work closely with Congress. I believe this Government and, in particular, the Defense Department will go through some dramatic changes over

the next few years. President Bush must depend on a Secretary of Defense who provides competent advice, can promote the President's defense agenda, and bring with him a good working relationship with Congress.

Everyone realizes that one person cannot accomplish singularly the complex tasks facing the Department of Defense. I think, Mr. President, President Bush knows it best. That is why he has chosen a man of Representative CHENEY's high caliber and capabilities.

Furthermore, Representative CHENEY's high standards in conduct and personal and professional integrity will certainly assist in promoting greater confidence among Americans in the Defense Department.

Finally, Mr. President, what I'm sure will be the overwhelming approval of the Senate in this confirmation, I wish Representative CHENEY well in his new role and responsibilities, and I look forward to working with him as the new administration and this Congress tackle the tough issues ahead.

The citizens of Wyoming will be losing a distinguished legislator. However, their loss certainly will be every American's gain.

I believe there is one person who knows Representative CHENEY well and has included his very eloquent opinion on the nomination in the committee report. Mr. President, I ask unanimous consent that Senator WALLOP's additional views be printed in the RECORD following my statement, and I urge my colleagues to support this nomination.

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

ADDITIONAL VIEWS OF SENATOR MALCOLM WALLOP

I cannot find the right words to express my enthusiasm for the President's nomination of DICK CHENEY to be Secretary of Defense. It is a moment of great celebration for the Nation, and one not without some sentimentality on my part. Congressman CHENEY will not be leaving a Congressional delegation which has labored together closely for some ten years. While this represents some loss to the State of Wyoming, it also represents a great benefit to the Nation and in turn does our great State proud.

I have fished with DICK. I have campaigned with DICK. I have labored with him on issues of national moment and on issues of purely Wyoming interest. I know him as both friend and colleague. In my long experience with him, I have learned that he is above all an able, tough, and shrewd executive and legislator. In matters of great national importance, I came to know him as open-minded and fair, and as a man who is able to know what he does not know, and able to recognize and discover where to go to find out.

He brings to this monumental task before him a sense of humility and a sense of presence that shall serve him, and America, well. He is a studious man. Even though he is an undisputed expert on many questions, he still continues to study, to expand his horizons of knowledge. Although a modest man by nature he possesses that peculiar western talent and ability to be both confident and self-deprecating.

Finally, he brings to this high office one more trait that I admire greatly: a sense of historical perspective. As executive, as policy-maker, and as legislator, he has always demonstrated that in order to move the world forward toward the loftly goals all Americans share, it is absolutely essential to understand where we have been and the constraints that history places on us.

This is a big loss to Wyoming and to its Congressional delegation, as well as to the House Republicans. But it is a big gain for America. And in that gain for America it is, as well, a big gain for Wyoming and to the President of the United States. I am proud to see one of Wyoming's finest ascend to this distinguished office. And I am proud that it is DICK CHENEY, my friend, who has been so honored. God give him the strength, the wisdom, and the vision to meet the challenges of the future as he has always met those of the past.

Mr. SPECTER. Mr. President, I seek recognition to make a very brief comment first about Congressman CHENEY. I think he is very well qualified to serve in the important position of Secretary of Defense.

Mr. President, I believe that today there ought to be some mention and some focus on the rush to judgment the Senate has undertaken on this nomination procedure. Less than a week ago, President Bush suggested the name of Congressman CHENEY for Secretary of Defense, and the chairman of the Armed Services Committee announced on Saturday that hearings would be held next week, later scheduled for Tuesday. There was a committee vote on Thursday, and the matter really is hardly ripe for decision.

I say that because very frequently on nominations we hear from people across the country who have something to say. Even if you deal with a regulation on some minor matter administratively, Mr. President, there is notice, there is publication, there is a 30-day period for response and there is an opportunity for people to be heard. There has hardly been a chance for people to find out about Congressman CHENEY's nomination in the press or the media, to sit down and write a letter, have it delivered and opened and read by a Senator or a staffer. So I think there is no question about a rush to judgment here.

I think we are correct and I am prepared to vote for Congressman CHENEY, but I do think this timetable ought not to set a precedent. Had it not been for John Tower's imbroglio and the fact that we are about to recess for 2 weeks, I think it undeniable that we are on the speed track on this nomination today. You can rush to judgment and be right, but it is a bad precedent.

Mr. WARNER. Mr. President, will the Senator yield at an appropriate time for a response from one of the managers?

Mr. SPECTER. Right now.

Mr. WARNER. Fine. I thank the Senator.

Mr. President, I take issue with my colleague that there has been any rush to judgment which would in any way jeopardize the Senate's ability to render an informed decision on this nomination. The facts are that the National Security Adviser called the chairman and myself, and the majority and the Republican leaders, last Friday afternoon and advised us of the President's decision to forward the name of Congressman CHENEY as the nominee for Secretary of Defense. So far as I know, all four parties contacted at that time indicated complete concurrence in the President's judgment that Congressman CHENEY was the best-qualified individual to be Secretary of Defense; so stated the President later in a television program.

Now, Mr. President, Congressman CHENEY, by virtue of his membership in the House of Representatives, already has on file a substantial percentage of the factual material, the information that is required by the Senate Armed Services Committee in fulfilling its role on executive department nominees.

In addition, Congressman CHENEY expedited bringing the supplemental material, that is, his financial, his tax and other matters, quickly to the attention of the committee. The chairman and I were present on Monday and began to process that information together with our staffs. The FBI performed, I think, a very thorough and complete examination. In excess of 100 individuals were contacted; indeed, that report has been referred to by the distinguished chairman, and I likewise stated yesterday that the very brief report contained in our collective judgment no material on which reasonable men and women could differ.

Now, Mr. President, having said that, if we would look at the Carlucci nomination, there is almost an identical footprint between the time required for that nomination and the time required by the Senate Armed Services Committee for this nomination. Congressman CHENEY appeared before the committee in open session. We had the opportunity within the committee structure to have a full examination, and I think in every way the committee has met its responsibilities with respect to this nomination.

Mr. SPECTER. Mr. President, it grieves me to disagree slightly with my dear friend from Virginia, but I think I must in this situation. When he started his presentation, I was struck with the similarity between Congressman CHENEY and Senator Tower; when the matters came to this body, when they were referred to committee, both were strongly recommended by many people in this Chamber. Both

had records which were well known. But over a period of time people came forward. Most of them really had nothing to say about Senator Tower of substance. There is on occasion something to be heard from the American people or from someone who may have known the nominee in the past. And when you have a nomination cleared in the course of less than a week, it simply is not ripe, there is not an opportunity for the people to be heard.

I think we are correct in proceeding to confirm DICK CHENEY today and I said that at the outset. You can rush to judgment and be right, but let us not make any mistake about it; this is a rush to judgment and it ought not to be a precedent.

Mr. NUNN addressed the Chair.

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

Mr. NUNN. Mr. President, I think we are about ready to vote, but let me say in brief response to my friend from Pennslyvania, if this is a rush to judgment today, we were rushing to judgment on a number of other nominations in this administration, including the Secretary of State, the Secretary of Labor, and number of others.

I would suggest the Senator is not correct in saying that this is a rush to judgment. We have gone through normal procedures. We have gone through the normal process. We have all the financial information. We have had hearings. We have had any opportunity for anyone who wanted to be heard. The truth of it is there is just no problem with this nomination.

I am reminded, thinking of the nomination, about the old story that is told about the fellow who was accused of being inebriated and setting a bed on fire in a hotel and his plea was that he was innocent. He said, "Judge, the bed was on fire when I got into it."

This bed was not on fire, and I think that is a very important distinction.

Mr. SPECTER addressed the Chair.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. I am about to propound a unanimous-consent request with respect to this vote and the vote on Mr. Eagleburger. I believe it has been cleared with the Republican leader.

Mr. DOLE. It has been raised. It has not been cleared.

Mr. MITCHELL. All right.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the nomination of Lawrence Eagleburger to the Deputy Secretary of State upon the disposition of the Cheney nomination; that the vote on the Cheney nomination occur at 11:55 a.m., that it be a 15-minute rollcall vote; and that immediately following that vote, the Senate, without any intervening action, proceed to a rollcall vote on the confirmation of Mr. Eagleburger; and that at the conclusion of these votes the motions to reconsider en bloc be laid on the table and that the President be immediately notified.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Republican leader.

Mr. DOLE. I want to expedite this as much as I can. I need about 3 or 4 minutes, the Senator from South Carolina needs a couple minutes, the Senator from Maine needs 3 minutes, and the Senator from Nebraska 2 minutes.

Mr. SPECTER. And the Senator from Pennsylvania 1 minute.

Mr. MITCHELL. Mr. President, I am trying to accommodate all Senators. I am also trying to accommodate the President and the Secretary of State. I will then, after I add up all those times, renew my request with the change that the vote occur at noon.

Mr. President, I withdraw that request and propound the following request: That the Senate vote on the Cheney nomination beginning at noon, and that it be a rollcall vote; that following that vote, without any intervening action, the Senate proceed to vote on the confirmation of Mr. Eagleburger but I am not at this time asking that that be a rollcall vote. I propound that request.

Mr. DOLE. Will the Senator yield?

Mr. MITCHELL. Yes.

Mr. DOLE. We are trying to work it out so there will not be a rollcall on Eagleburger. That will help some of the Senators who are in a hurry. So we may have a report on that very soon.

Mr. MITCHELL. We certainly welcome that. The request for a rollcall vote came from a Republican Senator.

Mr. DOLE. It came from this side, and we are working with that Senator to see if Mr. Eagleburger can be voice voted.

Mr. MITCHELL. So the current request is that we vote on Cheney, and a rollcall vote at noon. In other respects my request respecting how the matter would be handled at the conclusion of the votes remains the same.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Mr. President, I have no objection.

Mr. DOLE. I think that will work. That will be about 11 minutes.

Mr. MITCHELL. I will amend my request to ask that the Senate proceed to the vote on Mr. CHENEY at 12:05 p.m., all other aspects of the request remaining the same.

Mr. SPECTER. Mr. President, reserving the right to object, I reserve 1 minute.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays on the nomination of RICHARD B. CHENEY to be Secretary of Defense.

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

The yeas and nays were ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that immediately upon the disposition of the Cheney nomination there follow without any intervening action a voice vote in the Senate on the confirmation of Lawrence Eagleburger to be Deputy Secretary of State.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, we canvassed our side. We are now advised this can be done on a voice vote. That will accommodate a number of us.

The PRESIDING OFFICER. If there is no objection, it is so ordered.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I want to congratulate once again, as I have so many times, the chairman of the Armed Services Committee, Senator NUNN, and the ranking member, the distinguished Senator from Virginia, Senator WARNER for another outstanding job well done.

There was no rushing of this nomination whatsoever. It was a totally uncontroversial nomination. I am delighted that the President nominated DICK CHENEY. I am delighed to enthusiastically support him. He has a very tough job to do with the budget crunch. We on the Armed Services Committee will be working with him.

I think he will be a great Secretary of Defense. I urge unanimous vote in support of the nominee.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the benefit of my colleagues, there will be no rollcall votes today after the vote on the Cheney nomination.

Mr. DOLE. Mr. President, I yield 1 minute to the Senator from Pennsylvania.

THE BAKER-ELIZABETH DOLE ANALOGY

Mr. SPECTER. Mr. President, I will take less than a minute.

I simply wanted to respond to the Baker-Elizabeth Dole analogies. Secretary Baker's prospective appointment to be Secretary of State was indicated shortly after the election in November. It was not confirmed until after January 20. Elizabeth Dole's nomination was announced Christmas Eve. She was not confirmed for more than a month later. So it is not like the case at hand.

Mr. DOLE. Mr. President, I yield 2 minutes to the Senator from South Carolina.

THE CHENEY NOMINATION

Mr. THURMOND. Mr. President, I rise in support of the nomination of the Congressman RICHARD CHENEY to be the Secretary of Defense. The loss for the State of Wyoming is the country's gain.

Mr. CHENEY has had an outstanding career, and I am confident that he will be an excellent leader for the Department of Defense.

Mr. President, we are well into the year and we need to confirm a Secretary of Defense, so that President BUSH's revised budget can be finalized for submission to the Congress.

The Senate Armed Services Committee has reviewed Mr. CHENEY's qualifications in public and private sessions. We have fouund him to be a man of high moral character and strong personal convictions, and he was approved by the Armed Services Committee unanimously.

He should be able to provide firm leadership to the Department of Defense in the months ahead when strong leadership will be a necessity.

Mr. President, Congressman DICK CHENEY has served this country in a variety of positions. He has worked for two Presidents of the United States and has respresented the State of Wyoming for 10 years as their single Member of the House of Representatives.

The task before him at the Department of Defense is great. Declining defense budgets make decisions more difficult and more divisive. I believe, however, that the President has picked the right man for the job, and I urge all Senators to support him.

Incidentally, Mr. CHENEY is endorsed highly by both Senators from Wyoming. He is endorsed by Senator SIMPSON and Senator WALLOP, both of whom are held in high esteem here.

In closing, I want to say Mr. CHENEY has a reputation of being a man of integrity, a man of capacity, a man of compassion, and a man who is tough. We need a tough man in that job.

Mr. DOLE. I yield to the Senator from Montana.

Mr. BURNS. Mr. President, I rise today to offer my wholehearted support of my good friend from Wyoming, DICK CHENEY, as Secretary of Defense. We all know that the circumstances leading to this event are less than optimal, but it is clear that President BUSH's second choice is in no way second best. DICK is a good friend of mine and I speak from a personal as well as a professional perspective when I say that I don't think the President could have made a better choice.

As a fellow westerner, I look forward to having a Secretary of Defense who understands the contribution we make to our national defense. In fact, the rest of you may want to note that if Montana, Wyoming, and North Dakota seceded from the United States, we would be the third largest nuclear power in the world. So now you can rest assured that with DICK CHENEY as Secretary of Defense, we will remain on your side.

In all seriousness though, DICK CHENEY's nomination for Secretary of Defense makes a lot of sense for several reasons. No. 1—DICK is a leader and that is what the Pentagon most needs right now. He was first elected to Congress in 1978 and was first involved in the House minority leadership in 1981—that shows leadership. He has the ability to "take the bull by the horns" as we say out west and make a difference. We all know that the Pentagon has faced some harsh criticism lately in the procurement area and I can think of no person better equipped to deal with that than DICK CHENEY. He will look at the facts, admit that some mistakes have been made, and sit down to come up with a plan of action which will correct the problems.

Second, DICK has common sense—a quality that is too often lost in the inside the beltway mentality. I believe that he will be able to balance our national security and defense needs with the ever-increasing fiscal pressure caused by the Federal budget deficit. In the years to come some tough choices will have to be made, and I am confident that DICK can make the right choices.

I could probably go on and on, Mr. President, but in the interest of time I will just point out one more quality which I think speaks highly of DICK CHENEY. He is fair. He will be willing to listen to both sides of the issue. He will be able to work well in the spirit of bipartisanship that President BUSH has tried so hard to foster. I also think his views on the parameters of the executive versus the legislative branch serve to his advantage. He will make the transition well and can not be criticized for having any predisposed leanings toward his previous profession.

I know that DICK CHENEY will serve this Nation proud as Secretary of Defense and I urge my colleagues to vote to confirm the President's nominee.

Mr. DOLE. Mr. President, the Committee on Armed Services has found our House colleague, DICK CHENEY, to be highly qualified, and I could not agree more. DICK CHENEY is going to be a great Secretary of Defense. He has had a long, distinguished career in business and public service. He is exactly the kind of leader we want at the Pentagon. He knows the American people and the values we must defend. He knows Capitol Hill and the White House. And after a good decade of good work in the House, he is thoroughly familiar with defense and national security issues.

DICK CHENEY is smart, but he is also tough; tough enough to pursue a solid, realistic defense policy and to ensure that our arms control proposals derive from that policy; tough enough to reform the defense procurement process whether that means taming the Pentagon bureaucracy, disciplining contractors, or standing up to Congress. DICK CHENEY is tough enough to keep America strong and smart enough to know how to do it. We wish him well.

As our new Secretary of Defense crosses the Potomac it is the right time for us to pause and consider what the Senate has wrought during the past 2 months.

Interestingly, in just 9 days, the fates of three men, John Tower, Alcee Hastings, and DICK CHENEY, have fallen into our hands. I am not going to go back and rehash the Tower battle. But I think the Cheney nomination took 4 hours and 36 minutes, as I understand it, in the committee—4 hours and 36 minutes—and the Tower matter consumed 7 weeks.

Apparently, some of my colleagues are not content even with the John Tower defeat. They are still out trying to assassinate the character of an honorable man.

I ask unanimous consent that these two stories, one which appeared in the Washington Post and one in the Dallas Morning News, be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follow:

[From the Dallas Morning News, March 17, 1989]

FBI MEMO SAYS TOWER ABUSED ALCOHOL

WASHINGTON.—The FBI official who supervised the background check on former Sen. John Tower said in an internal briefing paper that the investigation found a "pattern of alcohol abuse" that Mr. Tower had taken steps to correct by 1983.

It was not clear from the document whether the bureau believed that Mr. Tower dealt with his drinking problem before 1983 or whether it simply focused on that period because senators considering Mr. Tower's nomination as defense secretary wanted to know if the alcohol abuse continued after he left the Senate in 1985.

The document was prepared by Thomas Kirk, head of the FBI's special inquiry unit, and was released Thursday by Sen. Ernest Hollings, D-S.C.

It appeared to contradict assertions by the White House and Republican senators that the FBI report did not provide conclusive evidence that Mr. Tower, whom the Senate rejected last week for the Pentagon job, abused alcohol.

White House counsel C. Boyden Gray and Senate Armed Services Committee Chairman Sam Nunn, D-Ga., said the FBI file submitted to the panel did not contain any summarizing conclusions about Mr. Tower's drinking habits but was simply compendium

of interviews with witnesses and other information.

White House officials and Mr. Tower have acknowledged that he "drank to excess" in the 1970s. But they consistently said that he stopped drinking spirits in 1976.

Mr. Tower has denied that he had a history of "alcohol abuse," and the White House has said the FBI report turned up no evidence that he suffered from "the disease of alcoholism."

According to FBI spokesman Milt Ahlerich, Mr. Kirk prepared the document as a briefing paper for FBI Director William Sessions, who testified Thursday before Mr. Hollings' appropriations subcommittee.

Mr. Hollings has said that the White House and Mr. Tower's supporters misrepresented the FBI report in their effort to clear the former senator.

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[From the Washington Post, Mar. 17, 1989]

"PRIOR PATTERN" OF ALCOHOL ABUSE BY TOWER CITED IN FBI DOCUMENT

The long FBI investigation into former senator John G. Tower found "a prior pattern of alcohol abuse" as well as "indications" that Tower had sharply cut back on his drinking in recent years, according to an internal Federal Bureau of Investigation document made public yesterday by Sen. Ernest F. Hollings (D-S.C.).

The document, which a bureau official said was prepared for use by FBI director William Sessions, provides the first official, although partial, verification of what the FBI discovered in its background investigation of Tower, whose nomination to be secretary of defense was defeated by the Senate last week.

The FBI review of Tower's past included 500 interviews in 38 cities and seven foreign countries.

Investigators looked into 69 separate allegations and produced nine memoranda on Tower which ran 371 pages, plus another 137 pages of enclosures.

"The FBI investigation did not disclose any illegal activity on the part of Sen. Tower," the document said.

"However, the investigation did confirm a prior pattern of alcohol abuse, as well as the senator's continuing sporadic use of alcohol, with indication that he had greatly reduced his consumption levels during 1983-1989."

Mr. DOLE. We will hear more about this so-called FBI report and about how it fell into certain hands, and how it became public information.

I might say that whatever was given out would demonstrate that Senator Tower did not abuse alcohol. I mention this because one of my colleagues stood on this floor and referred to Senator Tower as "Mr. Alcoholic Abuser." That was his statement, and he will have to defend it. Even if they are untrue, statements like this is embarrassing. I think we should all agree not to embarrass John Tower further.

I suggest that we have had our say on John Tower. Now I think we have properly accorded Mr. CHENEY and the President the respect they deserve by moving toward a swift confirmation. It would seem to me it is in our interest to move ahead, as I have said, here in the Senate. At the same time, I think we should not forget that the Tower case was unique. I guess that if every case was handled like the Tower case, we would never have anybody confirmed for anything.

I suggest that we missed an opportunity to have someone with uncommon expertise in defense. Fortunately, we have a good replacement in DICK CHENEY, and I applaud the Senate Armed Services Committee for their efforts. We are, as I understand, prepared to vote on this side.

I yield back any time.

● Mr. JEFFORDS. Mr. President, as a former Member of the House of Representatives, I have known Representative DICK CHENEY since he first came to Congress in 1979, and through our association on the House Wednesday Group. He and I were also members of a very select group—the six at-large Members of the House. I am pleased that President Bush chose someone from this small but august group to serve as Secretary of Defense. As the lone Congressman from Wyoming, DICK CHENEY has gained the respect of the House and Senate leadership as well as national political leaders.

As my colleagues know, Representative CHENEY has had more experience on both ends of Pennsylvania Avenue than most Members of Congress, rising quickly through the ranks of the Ford White House and the House of Representatives. His keen political sense combined with astute intellect are readily acknowledged by those who agree with him and those who disagree with his stand on issues. Representative CHENEY's service on the House Intelligence Committee has given him a unique perspective on national security matters and the intricacies of interdepartmental relations.

I am pleased that the Armed Service Committee has acted swiftly in reviewing the nominee and sending his confirmation to the Senate floor. I trust that Representative CHENEY will act with equal dispatch in assembling his team as soon as he is confirmed. The important national security business of the Nation has been kept waiting for too long.●

Mr. DURENBERGER. Mr. President, I am pleased to rise today in support of Representative RICHARD CHENEY of Wyoming to be the next Secretary of Defense.

Just 8 days ago the Senate rejected the nomination of John Tower by a vote of 53 to 47, only the ninth time in history a President's Cabinet nominee had been rejected. Many predicted the divisive debate that characterized the Tower nomination would leave deep and lasting wounds on the kind of bipartisanship necessary to conduct effective national security policy. I indicated after the Tower vote I did not think the damage would be enduring. I believe today's vote will illustrate that the Senate and the President can work together promptly and effectively.

Yesterday, the Senate Armed Services Committee unanimously supported Representative CHENEY's nomination. And today, with unanimous consent, the full Senate is considering his nomination. The differences between the Tower and the Cheney nominations reflect differences in the nominees—not the Senate process of providing advice and consent.

Many legitimate questions were raised about Senator Tower after his nomination. The allegations about alcohol use, relations with women, and potential conflicts of interest deserved—and received—close scrutiny. After a review of the evidence—not merely the accusations—I concluded Senator Tower deserved my support as he received President Bush's support.

After Senator Tower's rejection by the Senate, President Bush moved rapidly to nominate Representative CHENEY. There have been no anonymous tips about DICK CHENEY, no allegations of womanizing, drinking, or conflicts of interest—not because the Senate or the media have adopted different standards but because of the differences between John Tower and DICK CHENEY.

In 1976, DICK CHENEY was named by the Jaycees as one of the 10 outstanding young men in America—a prescient decision. Representative CHENEY's career is a record of distinguished public service—to Wyoming and to America. He served Presidents Nixon and Ford in a number of positions, notably White House chief of staff from 1975 to 1977. First elected to Congress in 1978, he rose rapidly in the House Republican leadership: chairman of Republican Policy in 1981; chairman of the Republican Conference in 1987; and minority whip last year. He served on the House Permanent Select Committee on Intelligence and as ranking Republican member of the House Select Committee to Investigate Covert Arms Deals with Iran.

This impressive record of public service—when combined with Representative CHENEY's testimony at his confirmation hearings—have convinced me that he will make an outstanding Secretary of Defense.

In the area of "low intensity conflict"—insurgency, terrorism, illegal narcotics—I was pleased to see Representative CHENEY's testimony:

> I think we will find, Mr. Chairman, that in the years ahead, especially if current trends continue * * * that increasingly our military requirements are going to be influenced by the need to deal with conflicts in the Third World, to deal with low intensity conflicts. . . . I realize it has been something of a controversial issue with prior administrations, but it is certainly the law of the land. * * *

Representative CHENEY recognizes that in today's budget situation, "We cannot afford everything we would like to buy. * * *" He addressed many important issues in his hearing, includ-

ing our defense industrial base, burden sharing with our allies, and relations with the Soviet Union. In the area of arms control, he concluded:

I am basically inclined to believe that [the Soviets] are sincere in seeing arms control agreements. * * * I believe that the opportunity exists, the possibility exists that we may well be able to reach further accords.

I have quoted briefly from Representative CHENEY's testimony because such issues were completely overshadowed in the debate over the previous nominee. The decisive action by President Bush, and the quick response by the Senate now means we can move on. The unquestioned integrity and ability of Representative CHENEY means the Department of Defense will get the leadership it must have. Our Nation will be better for it.

Mr. GORTON. Mr. President, yesterday, the Armed Services Committee voted unanimously to confirm the nomination of Congressman DICK CHENEY to become the 18th Secretary of Defense since that Department was founded in 1947.

I want to commend the President for acting swiftly and for sending us one of the most qualified men in this country to head our Defense Establishment.

DICK CHENEY has distinguished himself throughout his 20 years of public service. His leadership experience in both the executive and legislative branches of our Government will have prepared him well for the challenges he will face in the Pentagon.

It goes without saying that DICK CHENEY personifies the high standards of personal conduct and integrity that all who serve in the public trust should aspire to.

Congressman CHENEY's grasp of the important national security issues facing this country was amply demonstrated when he appeared before the Armed Services Committee on March 14. He brings to the job the intelligence, character, and commitment necessary to perform his duties as policymaker, manager, commander, and leader of our Armed Forces.

I, therefore, commend to my colleagues, and in the strongest terms, the nomination of DICK CHENEY to be Secretary of Defense.

Thank you, Mr. President.

Mr. CONRAD. Mr. President, I rise in support of the nomination of Representative DICK CHENEY to be Secretary of Defense.

Representative CHENEY has a long and distinguished record of public service: six terms in the House of Representatives, during which he served on the House Intelligence Committee and on the congressional committee investigating the Iran-Contra scandal; chief of staff in the Ford White House; and he has had experience in the Federal bureaucracy at the Office of Economic Opportunity. His character and personal conduct are not in question, and I believe he can be trusted to lead the Department of Defense with integrity.

I am glad to see that the Armed Services Committee and the full Senate were able to act on this nomination promptly and expeditiously. I expect the vote on Representative CHENEY's nomination to be overwhelming—perhaps unanimous, and I hope this action will help to heal wounds from the divisive debate over the previous nomination of Senator Tower. We need to work together on the Nation's problems and, with this nomination to complete the Cabinet, should now move ahead with renewed commitment and vigor.

Mr. DOMENICI. Mr. President, I rise to support the nomination of Congressman DICK CHENEY to be the new Secretary of Defense.

I have had the privilege of working with DICK on numerous occasions over the past decade and can declare unequivocally that I believe he will be a great Secretary of Defense. I have witnessed firsthand his abilities: diplomacy, leadership, analytical acumen, his dedication to public service.

I also support DICK CHENEY because I believe he is the right man at the right time. The Department of Defense is in a period of transition. Transition from a period of a strong, concerted and fruitful rebuilding, to one of tighter budgets that will require a keen and thoughtful review of our programs and priorities. A transition in international politics from one of an uneasy and sometimes volatile period of détente, to one that appears to be ushering in a new, more cooperative and less confrontational relationship between the superpowers.

This is also a period in which a deft and firm hand will be needed to restore to the Pentagon the reputation of respectability and responsibility that it deserves and which has been tarnished recently by the allegations surrouding the ill wind investigation.

I believe DICK CHENEY is the leader who can restore the proper reputation and who can build a lasting, working relationship that will bridge the Potomac.

This is not the first time that a President has turned to a Member of Congress to be his Secretary of Defense. Of the former 16 Secretaries since 1947, 2 had served on Capitol Hill.

From 1969 to 1973, Mel Laird served under President Nixon. Laird had been an eight-term Congressman from Wisconsin. Like DICK CHENEY, Mel Laird had been chairman of the House Republican Conference at the time of his transition to the Pentagon.

Just as there existed significant challenges for Congressman Laird, so too are challenges awaiting Congressman CHENEY. Ironically, many of the issues that faced Secretary Laird 20 years ago—January 1969—now await Secretary CHENEY: calls for troop withdrawals overseas, the need for improved procurement practices, burdensharing, the maintenance of U.S. technological superiority in defense R&D, and base closures.

Just as Secretary Laird accomplished much during his tenure—the establishment of the Defense Investigative Service, the Defense Mapping Agency, the Office of Net Assessment, and the Defense Security Assistance Agency—so, too, I believe will Secretary CHENEY be an effective and productive leader at the Pentagon.

The second Congressman turned Secretary was, of course, Don Rumsfeld who served admirably as President Ford's Defense Secretary from 1975 to 1977. Parallels exist not only between DICK CHENEY and Mel Laird, but between DICK CHENEY and Don Rumsfeld as well.

For instance, Don Rumsfeld, a four-term Congressman from Illinois, worked with DICK CHENEY on President Ford's transition team in August 1974 and subsequently in the President's White House staff. In fact, when Don Rumsfeld moved over to the Pentagon in November 1975, DICK CHENEY became White House Chief of Staff.

So now, we have come to the moment when another Member of Congress will assume command of one of the largest and most important departments of the U.S. Government. As did the 16 Secretaries of Defense before him, DICK CHENEY will perform responsibly, pragmatically, and effectively in his new role.

Although I am not Irish, I think it is appropriate that today, St. Patrick's Day, I wish upon DICK an Irish blessing for the months and years ahead.

May the wind be always at your back.
May the sun shine warm upon your face,
the rains fall soft upon your field,
and, until we meet again, may God hold you in the palm of His hand.

Good luck, Secretary CHENEY. You have my support and, I hope, the strong support of the Congress, the Department of Defense and the American people.

Mr. COATS. Mr. President, I am extremely pleased that the Senate Armed Services Committee voted overwhelmingly to recommend that DICK CHENEY be confirmed by the Senate as our next Secretary of Defense. I am confident that he will be tough, decisive, and thoughtful in making the difficult choices facing the Department of Defense, currently and in the future.

I listened with great interest and admiration as Representative CHENEY responded to questions from members of the Senate Armed Services Committee this Tuesday. I was truly impressed by

his knowledge, honesty, and open-mindedness. I would like to comment on a number of issues raised during this hearing.

The Congress and the administration will clearly have to work together to reconcile differences and competing priorities related to the defense budget. In this regard, I applaud Representative CHENEY's suggestion that we place consideration of the defense budget in the context of what military capability is needed in order to achieve our national security objectives. Clearly we must be guided by sound budgetary planning, but until we place defense expenditures firmly in an integrated strategic context we will continue to pursue budget priorities in an inefficient manner.

I am pleased and encouraged by Representative CHENEY's support of the 2-year defense budget. Biennial budgeting would facilitate, and should foster a more long-term approach to defense planning and budgeting, and engender a greater degree of stability in program development and procurement.

Of course, the concept of a 2-year budget will be thoroughly undermined if the Gramm-Rudman-Hollings sequestration provisions are activated. Representative CHENEY's expressed desire "to avoid a sequester at all costs" is thus a positive signal. I must also reiterate and amplify my support for the chairman and ranking minority member of the Armed Services Committee in encouraging the Budget Committee "to establish a comprehensive agreement, consistent with the Gramm-Rudman-Hollings deficit targets, for a 2-year period so that a biennial budget for defense is feasible."

Implementation of the Goldwater-Nichols Act and the Packard Commission recommendations presents an important challenge to the Congress and the Department of Defense alike. Congressman CHENEY's stated commitment to pursue these endeavors is clearly a positive indication. These are areas that we will deal with extensively in the Defense Industry and Technology Subcommittee, and I look forward to working with DICK CHENEY on these matters.

Now that we have been presented with President Bush's revised defense budget figures for fiscal year 1990-92, we face many tough decisions. I eagerly await the President's strategic review, which I hope will provide an integrated concept for budgeting and procurement now and in the years ahead.

The strategic defense initiative [SDI] is clearly one of the most important strategic force development programs that Congress must oversee. Representative CHENEY's strong support for the SDI encourages me to believe that we will continue in the direction charted by President Reagan in 1983. Strategic defenses should not be regarded as an alternative to deterrence, but as a means of bolstering it. In my view, we should continue to move away from the threat of nuclear retaliation upon civilians as the principal means of deterrence, to the more humane, and indeed the more credible, method of protecting Western civilization and denying enemies the ability to successfully attack the United States and its allies.

My desire to augment the existing offense-dominant mode of deterrence does not mean that we can ignore strategic offensive forces, which will remain essential for the foreseeable future. Tough choices face the Congress in the coming months with regard to the modernization of our land-based intercontinental ballistic missile [ICBM] force. I am hopeful that we will approve a secure and stablizing basing mode, whether it be based on the MX or the small ICBM, or some combination of the two. The survivability of our ICBM force directly correlates with the stablility of the strategic balance and is therefore an extremely high priority item. We face similar challenges with respect to the other two legs of our strategic triad—the bomber force and the sea-based force.

Before we proceed with either strategic modernization or strategic arms control, we must have a clear idea of how the two processes interact. Arms control should serve the security interests of the United States and the West and must therefore be viewed as an integral factor in our strategic force planning process, not an alternative.

In the areas of conventional and theater nuclear forces the United States and its allies must also make difficult decisions. As with strategic forces, we must ensure that the West integrates its planning in the areas of conventional arms control and force modernization. I am confident that Congressman CHENEY will be willing and able to provide informed guidance in these areas.

I am also pleased by Representative CHENEY's cautious attitude in evaluating change in the Soviet Union. Although there is undeniable change taking place, I agree that "there is a real danger in the West that the perception of change in the Soviet Union will exceed the reality of change in the Soviet Union." This does not mean that we should not seek to improve relations with the Soviet Union, only that we should not lower our guard.

I agree entirely with Representative CHENEY that "the Defense Department does have assets and capabilities that are useful in terms of trying to interdict the illicit flow of drugs." I am pleased that we will have a Secretary of Defense who will be willing to do everything within his power to contribute to the war on drugs.

In all the areas that I have mentioned, I am encouraged that DICK CHENEY will be extremely competent and effective. I have all the confidence in the world that he will be a first-rate Secretary of Defense. I look forward to working with DICK CHENEY and wish him the best.

Mr. MCCAIN. Mr. President, I am proud to vote for DICK CHENEY as Secretary of Defense for many reasons. He is a friend. He is a former colleague in the House. He is experienced in policymaking at the White House level. He is a proven manager, and he has proven expertise in defense.

DICK CHENEY is a man who can help bridge the gap between the executive branch and the Congress without ever losing sight of the fact that our very real problems with the budget deficit must be balanced against the fact our Nation faces very real military threats. I believe that he is the kind of man who can make the difficult choices that need to be made to reevaluate the roles and missions of our forces, and to bring our force plans into balance with the resources that are likely to be available.

Equally importantly, I believe that DICK CHENEY is the kind of man who understands that we cannot maintain effective forces, or reach secure arms control agreements, without a new national consensus on defense.

DICK CHENEY is the kind of man who understands both the strengths and weaknesses of the intelligence community in communicating its data on the threat in a form that is persuasive to the Congress and the American people. He is the kind of man who understands that public and congressional support for defense spending must be built upon a sound understanding of a net assessment of our capabilities and those of potentially hostile nations. He is the kind of man who understands that all our defense expeditures must be kept to the minimum level necessary to meet those threats and that our defense dollars must be spent as efficiently and honestly as possible.

I look forward to working with DICK CHENEY and President Bush in achieving these objectives. I am all too conscious of the challenges that both we in the Congress and the Bush administration face in dealing with glasnost, with a national budget crisis, with defense waste and fraud, with procurement reform, with defense manpower and readiness problems, and a host of other issues. I know that we live in interesting times.

At the same time, we live in times where there is an opportunity to make major reforms in the way we structure our defense budget, to improve the linkage between defense spending and defense strategy, and to rebuild a defense consensus. DICK CHENEY is the

kind of man who can transform challenges into opportunities and that is precisely the kind of man we need as Secretary of Defense.

Mr. COCHRAN. Mr. President, it is a true pleasure to be able to express my support for the confirmation of DICK CHENEY to be Secretary of Defense. He is one of the finest men serving in the Congress.

He is well prepared to assume the responsibilities of this important position. In all of his previous undertakings he has shown that he is reliable, conscientious, and talented. His level of intelligence is enviable.

The fact that he was recommended so quickly by the Armed Services Committee is an indication of the widespread respect that others have for him.

I observed DICK CHENEY as he served in the White House as Chief of Staff for President Gerald Ford. I worked with him after his election to the House of Representatives.

From my personal vantage point I know him to be very competent and well equipped to deal with the wide range of issues and problems he will face as our Secretary of Defense. I have complete confidence in him as an experienced and qualified leader, and I'm pleased that he will be serving in the President's Cabinet.

Mr. SASSER. Mr. President, I rise today in support of the nomination of Representative DICK CHENEY to be Secretary of Defense. I have known and worked with DICK CHENEY for several years. He is a man who I am pleased to support for this crucial position.

Representative CHENEY is a man of dedication, honor, and integrity. Combined with his experience in public service and his expertise in areas of national security and intelligence, Representative CHENEY's personal attributes will enable him to perform his duties as Secretary of Defense in an exemplary manner. I believe that he has the ability to restore public confidence in the Department of Defense and the officials who operate it.

The Department of Defense is in need of a strong leader—one who will bring with him administrative skills to bring defense spending under control and the management experience to handle this complex and demanding position. DICK CHENEY is the right man at the right time for this crucial position.

Thus, I am pleased to support my friend and colleague, DICK CHENEY.

Mr. COHEN. Mr. President, it is indeed an honor and a pleasure for me to support Congressman DICK CHENEY's nomination to be Secretary of Defense.

Congressman CHENEY is highly qualified to serve as Secretary of Defense. He will bring to his new post more than 20 years of distinguished public service in both the executive and legislative branches. He served in the Nixon White House in several economic posts. During the Ford administration, he served as White House Chief of Staff. Since 1978, he has been a Member of the House of Representatives, where he has been a member of the Permanent Select Committee on Intelligence, overseeing matters of the utmost importance to our Nation's security. The high regard in which he is held by his colleagues was demonstrated by his election after only one term to the House Republican leadership and his recent unanimous election to be the House Republican whip, the second ranking Republican leadership post. He combines an intimate knowledge of national security issues with proven leadership, administrative, and managerial skills.

Mr. President, at a time when the Congress and American people are concerned about enormous deficits and the management of the defense acquisition process, the Department of Defense needs a leader who can persuasively make the case for a continuing commitment to a strong national defense, who can make the difficult decisions that will be necessary in setting priorities for our defense programs, and who can restore confidence in our procurement practices.

I am confident that DICK CHENEY's integrity, experience, and lifelong commitment to excellence will make him a superb choice for this important post, and I urge his speedy confirmation.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Chair recognizes the Senator from Georgia.

Mr. NUNN. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. There is no time remaining, in that sense. We have agreed to have a vote at a time certain—namely, 12:05.

Mr. NUNN. I am prepared to yield back all the time and go ahead and vote. I do not think the majority leader will object to going on and voting now. I hesitate to do it without his representative being here.

Mr. President, I ask unanimous consent that the rollcall vote immediately occur.

The PRESIDING OFFICER. Is there objection to the request that the rollcall vote occur immediately?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Is there time remaining?

Mr. DOLE. There is no time remaining.

Mr. NUNN. Does the Senator desire time? I do not have any time left. We did have a time certain for the rollcall vote. Everybody is trying to expedite that, if possible.

Mr. BUMPERS. I will not slow it up.

Mr. NUNN. Does the Senator want to make a statement?

Mr. BUMPERS. No.

Mr. NUNN. Mr. President, I renew my request.

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

The question is, Will the Senate advise and consent to the nomination of RICHARD B. CHENEY, of Wyoming, to be the Secretary of Defense?

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 North Carolina [Mr. SANFORD] is absent on official business.

I further announce that, if present and voting, the Senator from North Carolina [Mr. SANFORD] would vote "yea."

Mr. SIMPSON. I announce that the Senator from California [Mr. ARMSTRONG], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Utah [Mr. GARN], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Idaho [Mr. MCCLURE] are necessarily absent.

I also announce that the Senator from Texas [Mr. GRAMM] is absent due to death in the family.

I further announce that, if present and voting, the Senator from California [Mr. ARMSTRONG], the Senator from Utah [Mr. GARN], and the Senator from Pennsylvania [Mr. HEINZ] would each vote "yea."

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

The result was announced—yeas 92, nays 0, as follows:

[Rollcall Vote No. 26 Ex.]

YEAS—92

| | | |
|---|---|---|
| Adams | Fowler | Metzenbaum |
| Baucus | Glenn | Mikulski |
| Bentsen | Gore | Mitchell |
| Biden | Gorton | Moynihan |
| Bingaman | Graham | Murkowski |
| Bond | Grassley | Nickles |
| Boren | Harkin | Nunn |
| Bradley | Hatch | Packwood |
| Breaux | Hatfield | Pell |
| Bryan | Heflin | Pressler |
| Bumpers | Helms | Pryor |
| Burdick | Hollings | Reid |
| Burns | Humphrey | Riegle |
| Byrd | Inouye | Robb |
| Chafee | Johnston | Rockefeller |
| Coats | Kassebaum | Roth |
| Cochran | Kasten | Rudman |
| Cohen | Kennedy | Sarbanes |
| Conrad | Kerrey | Sasser |
| Cranston | Kerry | Shelby |
| D'Amato | Kohl | Simon |
| Danforth | Lautenberg | Simpson |
| Daschle | Leahy | Specter |
| DeConcini | Levin | Stevens |
| Dixon | Lieberman | Symms |
| Dodd | Lott | Thurmond |
| Dole | Lugar | Wallop |
| Domenici | Mack | Warner |
| Durenberger | Matsunaga | Wilson |
| Exon | McCain | Wirth |
| Ford | McConnell | |

NOT VOTING—8

| | | |
|---|---|---|
| Armstrong | Gramm | McClure |
| Boschwitz | Heinz | Sanford |
| Garn | Jeffords | |

So the nomination was confirmed.

The PRESIDING OFFICER. The Chair recognizes the minority leader.

Mr. DOLE. Mr. President, I want to thank the majority leader for holding the vote which we do not normally do.

The distinguished Senator from Pennsylvania, Mr. HEINZ, who would have been here had it not been for a plane problem, would have voted in the affirmative. I thank the distinguished majority leader.

## THE TOWER NOMINATION

Mr. COHEN. Mr. President, this morning a Dallas Morning News item appeared with the bold headline which says: "FBI Memo Says Tower Abused Alcohol." I have serious concerns about any Member [revealing] an internal memo to the Director of the FBI concerning any individual under investigation. But according to this particular account, which apparently is reprinted from the New York Times news service, this particular memo was then used to say:

> It appeared to contradict assertions by the White House and Republican senators that the FBI report did not provide conclusive evidence that Mr. Tower, whom the Senate rejected last week for the Pentagon job, abused alcohol.

How anyone can judge from this particular memo that it provided conclusive evidence I do not know. The logic escapes me. Nonetheless, it is interesting to see how a headline like this can be used against a man who has been rejected.

Then we have another item that appeared in the Washington Post, which I thought was much more balanced. It says:

> The long FBI investigation into former senator John G. Tower found "a prior pattern of alcohol abuse" as well as "indications" that Tower had sharply cut back on his drinking in recent years. * * *

I think that is one of the dangers that has always been inherent with the use of internal memos or references to FBI reports as opposed to files. Great damage has been done to an individual based upon allegations contained in the internal memoranda that are provided for use by various personnel, including the Director of the FBI.

I think it is an unfortunate incident. I hope it does not set a precedent for future years. But a man has been maligned once again by a headline as a result of the improper use of that kind of memo.

## DEPARTMENT OF STATE

The PRESIDING OFFICER. Under the previous order, the clerk will report Executive Calendar No. 49, the nomination of Lawrence S. Eagleburger to be Deputy Secretary of State.

> The assistant legislative clerk read the nomination of Lawrence S. Eagleburger, of Florida, to be Deputy Secretary of State.

Mr. PELL. Today the Senate will consider the nomination of Lawrence S. Eagleburger to be Deputy Secretary of State.

Mr. Eagleburger is well known to the Senate and, as I stated during the committee hearing, well regarded for his past service in government, for his pragmatic approach to issues, and for his honorable and candid behavior in the rough and tumble of executive legislative interaction on the subject of American foreign policy. I believe that his experience and personal qualities could prove immensely valuable during a period in which the United States will be called upon to consider far-reaching changes affecting our relations with both longtime allies and longtime adversaries.

Since 1984, Mr. Eagleburger has been president of Kissinger Associates and a member of Kent Associates, which are both international consulting firms. During the committee hearings, questions were raised bout the activities of Kissinger and Kent Associates with respect to their foreign clients. Members were particularly concerned about whether Mr. Eagleburger ever represented foreign governments or acted as an agent for a foreign principal, which would have required him to register with the Justice Department under the Foreign Agents Registration Act. In response to specific questioning, Mr. Eagleburger stated that Kissinger and Kent Associates do not lobby or represent any client before any agency or official of the U.S. Government. They do not have any foreign government as a client. They do not act as an agent of any foreign principal in carrying out activities, including any political or propaganda activities, requiring it to register under the Foreign Agents Registration Act.

Another issue raised during the committee hearings centered on whether Mr. Eagleburger's representation of certain clients on behalf of Kissinger Associates and Kent Associates presented a conflict of interest with his responsibilities at the Department of State.

On that point, Mr. Eagleburger set out his recusal undertaking in a letter to the State Department's legal adviser of March 7, 1989. In that letter, Mr. Eagleburger makes clear that he will have no conflict of interests in his position as Deputy Secretary of State because he has terminated—or will terminate upon swearing in—each and every business and commercial affiliation he had. He has also divested himself of every equity interest that he held. Under the law, therefore, there will be no conflict because he will have no financial interests.

In order to avoid even the appearance of conflict of interests, Mr. Eagleburger has agreed to the following recusals:

First, Mr. Eagleburger will voluntarily recuse himself from any matter specifically involving Kissinger Associates or Kent Associates.

Second, Mr. Eagleburger will also recuse himself, for 1 year after appointment, from any matter specifically involving any client of those two firms for whom he provided in excess of $5,000 worth of services over the last 2 years.

Finally, throughout Mr. Eagleburger's Government service, he will recuse himself from participation, on a case-by-case basis, from any other particular matter in which, in his judgment, it would be desirable for him to do so in order to avoid the possible appearance of impropriety, despite the lack of any actual conflict of interest.

In accordance with this case-by-case recusal, Mr. Eagleburger has already stated that he will voluntarily recuse himself, for 1 year after appointment, from any matter specifically involving any client of Kissinger Associates or Kent Associates during the last 2 years, including those clients for whom Mr. Eagleburger did not provide any services.

In addition, Mr. Eagleburger's counsel has spoken with Dr. Kissinger and Dr. Kissinger has agreed to contact all foreign clients of Kissinger Associates during the last 2 years for whom Mr. Eagleburger did not provide any services to find out if they would agree to provide their names on a confidential basis to the chairman and the ranking minority member of the Senate Committee on Foreign Relations.

It should be noted that the above recusal commitment and disclosure actions by Mr. Eagleburger are purely voluntary. The committee did not mandate this action nor should this action be considered a precedent for future nominations. It was undertaken by Mr. Eagleburger as an effort to remove any and all appearances of a conflict of interest. His action is highly commendable and confirms my belief in his integrity and professionalism.

I have no doubt that Mr. Eagleburger will be an excellent Deputy Secretary of State and I urge my colleagues to vote in favor of his nomination.

Mr. HELMS. Mr. President, the nomination of Lawrence Eagleburger brings into focus the difficult dilemma which faces the administration in choosing the nominees: How to find experienced nominees who are able to leave their private interests behind on the doorstep when they come in to the new administration.

In Mr. Eagleburger's case, the dilemma was painfully acute because of the nature of his private activity. As president of Kissinger Associates and Kent Associates, he presided over lucrative operations. According to information submitted to the committee, Mr. Eagleburger earned the following amounts: $460,238 in salary and bonuses from Kissinger Associates; $213,872 in salary and bonuses from Kent Associates; $112,879 in severance pay from Kissinger Associates; and $130,000 in severance pay from Kent Associates;

In addition, two future payments, by agreement, will be made in July 1989 for services rendered before Mr. Eagleburger's resignation: $87,121 in further severance pay from Kissinger Associates; and $110,000 in further severance pay from Kent Associates.

Mr. President, by my addition, that amounts to $1,114,110 in 1 year, just from the provision of advice to clients. Pretty good inside work—and no heavy lifting. A point in his favor, at least with this Senator, is that he did it without becoming a lawyer.

Furthermore, there was another $300,000 to $400,000 from various other fees, dividends, and honoraria.

Obviously Mr. Eagleburger's clients must have thought that these fees were worth their while, because the clients kept coming back. But now Mr. Eagleburger is going back into Government to give the same kind of advice at a tiny fraction of his former fees.

Mr. President, Mr. Eagleburger's situation is unique. Most persons who come into government from private enterprise have been entrepreneurs, managers, lawyers, or experts in trade and commerce. It is not hard to separate themselves from the specifics of their former activities. That's easy for the public to understand.

But Mr. Eagleburger's career in private enterprise has been at a level that is beyond the ordinary practical experience of most citizens. They find it hard to understand exactly what he has been doing that is worth $1.4 million a year. They are not prepared to impugn his character, but they wonder whether the advice he might give to the President or the Secretary of State might be colored by the ongoing interests of these business firms, particularly the foreign firms, that have been paying enormous fees.

Mr. President, the committee discussed these matters frankly with Mr. Eagleburger, not only in the public sessions, but in private sessions. In addition, Mr. President, I discussed these matters privately with Mr. Eagleburger and with his lawyers, Mr. William D. Rogers and Mr. Kenneth Juster.

In preparing his papers for the Office of Government Ethics, Mr. Eagleburger publicly listed those clients of Kissinger Associates and Kent Associates with whom he worked to a value of more than $5,000. Mr. Eagleburger promised to recuse himself from any dealings with these former clients for 1 year. However, there were other clients of the two firms who were not listed because Mr. Eagleburger did not work with them directly. Nevertheless, Mr. Eagleburger testified that his salaries, bonuses, and severance pay were paid not from specific clients, but from the general revenues of the two firms.

This situation raised problems not only for me, but for some of my colleagues on this committee. In particular, the problem is colored by the fact that some of the clients were foreign industrial firms, whose interests may be at variance with the interests of the policy of the United States. Because of Mr. Eagleburger's high position in the Department of State, some of us felt that his role might be misunderstood. Speaking for myself only, I felt that the committee would be remiss in its duties to examine the suitability of the nominee, unless there were full disclosure of all clients that contributed to the nominee's remuneration, whether he worked with them directly or not.

If the nominee were going into any other department, the question of recusal would be a simple one and a practical one. A department that had contracts with specific companies headquartered in the United States would present a relatively easy problem. But the State Department deals worldwide. An issue that concerns a foreign company might conflict with U.S. policies in a way that would not be present in dealings with a domestic corporation operating under U.S. law.

A further complication is that each of the contracts which Kissinger Associates and Kent Associates had with their clients contained a confidentiality clause forbidding not only disclosure of the nature of the client relationship and the advice rendered, but even the very existence of the client relationship—without the permission of both parties.

As a result of the discussions we had with Mr. Eagleburger, he voluntarily offered to ask Dr. Kissinger to seek permission to disclose the names of the remaining clients, particularly the foreign clients, to this committee in a confidential manner; and he would further recuse himself also from any dealings with these former clients. The procedure to be followed would be similar to that followed in dealing with FBI files on nominees; namely, the names would be available only to the chairman and the ranking Republican member, in confidence. It is important to understand that we are talking about a mere handful of clients.

Mr. President, I am confident that Mr. Eagleburger's eloquence and Dr. Kissinger's eloquence will succeed in persuading these clients to be revealed to the committee in confidence. Mr. Eagleburger worked with the majority of the clients of the two firms, and they have already given permission to have their names publicly revealed.

So we are talking about just a few more, a very small number, whose fees contributed to Mr. Eagleburger's personal remuneration. This is not a case of a law firm with thousands of clients; the client base is very small, but the impact is greater because of the large fees involved. It should be recalled that Mr. Eagleburger was the president of Kissinger Associates, and therefore stood in a different relationship to the business of the firm than other employees.

Mr. President, as a result of Mr. Eagleburger's voluntary offer, I decided to support his nomination, and I will so cast my vote.

Mr. President, another aspect of the situation is the fact these firms, particularly Kissinger Associates, were engaged in political consulting for foreign principals. I raised the question during the hearings as to whether or not this kind of political consulting fell within the definitions of the Foreign Agents Registration Act.

Although Mr. Eagleburger's testimony suggested very strongly that the work done by Kissinger Associates fell almost exactly within the definition of political consultants in the Foreign Agents Registration Act, Mr. Rogers—not only counsel to Mr. Eagleburger, but a board member of Kissinger Associates—testified that Kissinger Associates had never submitted an inquiry to the Department of Justice as to its liability to register.

If Mr. Eagleburger inadvertently were acting as a foreign agent, the problem of disclosure of foreign clients and recusal is even more important. At a later date I shall analyze the issue in greater detail.

Mr. President, I ask unanimous consent that a list of purported clients of Kissinger Associates, as identified by the major news media, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HELMS. Mr. President, I ask unanimous consent that a copy of my letter to Mr. C. Boyden Gray, Counsel to the President, of March 1, 1989, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 2.)

Mr. HELMS. Mr. President, I note with regret that a member of the minority, Mr. HUMPHREY, was denied by committee vote the opportunity to have a committee report on Mr. Eagle-

burger and to present his additional views, despite the fact that he announced support for the nominee. In a matter as complex as the finances of Mr. Eagleburger, and further complicated by the unique ethical questions which the committee discussed at length, it is a pity that the deliberations and conclusions of the committee will not receive a printed report.

Mr. President, since there will be no printed report on the ethical questions, I ask unanimous consent that the bipartisan committee memorandum on this issue, prepared by staff for the committee discussions, be printed in the RECORD at the conclusion of my remarks so that Members will have the benefit of the facts and issues laid out therein.

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

(See exhibit 3.)

EXHIBIT 1

COMPANIES IDENTIFIED IN PRESS ACCOUNTS AS BEING CLIENTS OF KISSINGER ASSOCIATES

Enerjoprojeckt [Washington Post, Feb. 16, 1989].

Chase Manhattan Bank [The Washingtonian, Feb. 1989; New York Times, Jan. 24, 1989; Business Week, Dec. 2, 1985].

Shearson Lehman/American Express [The Washingtonian, Feb. 1989; New York Times, Jan. 24, 1989, Apr. 20, 1986; Houston Post, Apr. 22, 1986; Business Week, Dec. 2, 1985].

General Electric (Britain) [New York Times, Jan. 24, 1989; Business Week, Dec. 2, 1985].

Atlantic Richfield [The Washingtonian, Feb. 1989; Houston Post, Apr. 22, 1986; New York Times, Apr. 20, 1986; Time, Feb. 17, 1986; National Journal, June 22, 1985].

Montedison (Italy) [Houston Post, Apr. 22, 1986; New York Times, Apr. 20, 1986; Business Week, Dec. 2, 1985].

Fluor Corp. [Houston Post, Apr. 22, 1986; Time, Feb. 17, 1986; National Journal, June 22, 1985].

S.G. Warburg (Britain) [Time, Feb. 17, 1986].

Merck [Business Week, Dec. 2, 1985].

G.W. Warburg (Britain) [Business Week, Dec. 2, 1985].

International Energy Corp. [Houston Post, Apr. 22, 1986].

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EXHIBIT 2

COMMITTEE ON FOREIGN RELATIONS,
*Washington, DC, March 1, 1989.*

Hon. C. BOYDEN GRAY,
*Counsel to the President, The White House, Washington, DC.*

DEAR MR. GRAY: In order to assist in expediting the process with respect to the expected nomination of Lawrence S. Eagleburger to be Deputy Secretary of State, I request that you ask Mr. Eagleburger to prepare the following information for use by the Committee.

A description of Mr. Eagleburger's role as President of Kissinger Associates.

A list of all client relationships maintained by Kissinger Associates during the past five years in which Mr. Eagleburger served as President of the firm.

A description of Mr. Eagleburger's relationship and degree of involvement with each of those clients.

A list of the fees charged to, and the compensation received by Mr. Eagleburger on behalf of each of those clients.

A description of the services rendered by Mr. Eagleburger, and his colleagues, on behalf of each of those clients.

Additionally, I have read in the newspaper that Mr. Eagleburger may be considering recusing himself from matters involving former clients of Kissinger Associates. If that is accurate, it would also be useful to have a description of his intended recusal affecting each client.

I believe this information would save considerable time in connection with confirmation hearings of Mr. Eagleburger.

Many thanks for your assistance.

Sincerely,

JESSE HELMS.

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EXHIBIT 3

COMMITTEE ON FOREIGN RELATIONS,
*Washington, DC, March 13, 1989.*

MEMORANDUM

To: All Members.

Through: Jerry Christianson and James P. Lucier.

From: Dave Keaney and Bob Friedlander.

Subject: Conflict of Interest Issues—Nomination of Lawrence S. Eagleburger, Deputy Secretary of State.

On March 10, 1989, at 6 P.M. we met with Mr. Eagleburger at the Department of State for approximately 90 minutes to review various issues concerning his Committee Questionnaire and Office of Government Ethics Financial Disclosure Report. Also present, at Mr. Eagleburger's request, were attorneys William D. Rogers and Kenneth Juster, and Janet Mullins, Assistant Secretary of State for Legislative Affairs. The following subjects were discussed at that meeting.

KISSINGER ASSOCIATES AND KENT ASSOCIATES

In 1978, Kissinger Associates was created as an international consulting firm, reportedly with loans from various investment banks, including Goldman Sachs, E. M. Warburg and Pincus and Company. It is in the business of providing "global strategic—geopolitical—economic analysis" for a fixed fee reported to be in the range of $150,000 to $200,000 per client.

The firm is located in Washington, D.C. and New York. It has approximately 30 clients and is reported to have annual revenues of $5 million. Advice is always provided orally.

The firm is wholly owned and controlled by Henry Kissinger. All other individuals associated with the firm are salaried employees, including Mr. Eagleburger, who served as President and as a member of the Board of Directors. The primary associates are: Mr. Kissinger; Mr. Eagleburger; Brent Scowcroft, President Nixon's military aide and National Security Adviser to President Ford and President Bush; Alan Stoga, an economist, formerly of the First National Bank of Chicago, who served in staff jobs in the Department of Treasury under Presidents Ford and Carter; and Jeffrey Cunningham, formerly with Chase Manhattan Bank.

In addition to the primary associates, the firm employs approximately 25 support staffers.

The firm's Board of Directors includes: William D. Rogers, a former Under Secretary of State and now a Washington lawyer; Saburo Okita, former Japanese Foreign Minister; Pehr Gyllenhammar, chief executive officer of Volo; William E. Simon, former Treasury Secretary; Sir Y.K. Kan, former chairman of the Bank of East Asia; Robert O. Anderson, former chairman of Atlantic Richfield; Lord Roll, chairman of S.G. Warburg and Company; and Edward L. Palmer, former chairman of the executive committee of Citibank.

Kent Associates, an affiliate of Kissinger Associates, was created in 1986 and "renders advice on business affairs." Mr. Scowcroft is the only primary member of Kissinger Associates who did not work for Kent Associates.

A complete list of the Board of Directors of both Kissinger and Kent Associates is attached to this memo. (See Attachment I.)

The clients of Kissinger Associates enter into a contract with the firm that prohibits the disclosure of any information concerning this contractual arrangement. Mr. Eagleburger emphasized that he had been authorized to identify only those clients with which he had a consulting relationship. He was adamant in his refusal to discuss any specific details concerning his advice to any client. He believes that such disclosure would violate the firm's contractual obligation. A copy of his client list is attached to this memo, along with a sample of the contract clause prohibiting disclosure. (See Attachments II and III). He refused to identify other clients of the firm and maintained that he was excluded from specific information about them.

Mr. Eagleburger emphasized that Kissinger and Kent Associates "do not lobby or represent any client before any agency or official of the U.S. government. They do not have any foreign government as a client. They do not act as an agent of any foreign principal in carrying out activities, including any political or propaganda activities, requiring it to register under the Foreign Agents Registration Act. They take no financial interest in any of their clients."

While it has been reported that Mr. Kissinger gives free advice to foreign governments, Mr. Eagleburger stated that he does not provide such service. However, he did indicate that he has, on occasion, talked to foreign governments on behalf of a client.

BOARD OF DIRECTORS OR TRUSTEE

Mr. Eagleburger was a member of the Board of Directors or Trustee for the following for-profit private organizations: Alcatel; Bethlehem Rebar; BestMart; Josephson International; Mutual of New York; LBS Bank; and Global Motors, Inc. A list of the fees paid by these organizations and others is attached to this memo. (See Attachment IV.)

PENSIONS AND SEVERANCE PAYMENTS

Mr. Eagleburger received severance payments of $112,879 from Kissinger Associates and $130,000 from Kent Associates. In July 1989, he will receive the balance of these severance payments—$87,121 from Kissinger Associates and $110,000 from Kent Associates.

He has $27,000 in the Kissinger Associates Pension Plan (Fidelity Cash Reserves), which is fully vested. In addition to this plan, he will receive at age 65, $11,840 from the ITT Pension Plan for outside Directors. This is an unfunded plan with payments coming out of general corporate funds.

All U.S. Government pension payments will be suspended during the course of his service as Deputy Secretary.

CRIMINAL OR CIVIL INVESTIGATIONS, INDICTMENTS OR SUITS

Six various corporations, or divisions thereof, associated with Mr. Eagleburger have or are undergoing criminal or civil investigations, indictments or suits. Attach-

ment V provides Mr. Eagleburger's explanation of these cases.

RECUSAL COMMITMENT

Attachment VI is the recusal commitment of Mr. Eagleburger. This commitment has been reviewed by the Office of Government Ethics and is in full compliance with their regulations.

ISSUES INVOLVING CLIENTS

Mr. Eagleburger is reluctant to discuss any advice that he may have provided to a client of Kissinger and Kent Associates. However, Members should be aware of the following issues raised by a variety of press reports:

DAEWOO CORPORATION

In 1985, the Customs Service sued Daewoo International, a South Korean conglomerate, for $110 million in damages alleging that the company "dumped" cheap steel on the U.S. market to lure businesses away from American steel companies.

It has been reported that Daewoo has been selling American-designed M-16 rifles built in Korea to foreign countries in violation of a U.S.-Korean co-production agreement. Colt Industries, Inc. believes that its licensing arrangement has been violated. However, it has refrained from commencing litigation. According to a news article, a GAO report indicates that despite Colt's entreaties, the State Department has never filed an official protest with the South Korean government.

In 1972, Libya contracted to purchase 8 C-130 H's from the Lockheed-Georgia Company for $40 million. The State Department has refused to grant an export license to allow these aircraft to be exported to Libya. All Libyan assets, including these aircraft, have been frozen and placed under the control of the Department of Treasury's Office of Foreign Assets Control. On November 23, 1987, Korea and Libya signed a contract that would allow Korea to obtain these aircraft as repayment (credits) for a $61 million debt owed to Daewoo by Libya. A petition to release these aircraft is pending before Treasury.

During our interview, Mr. Eagleburger stated that he did not give advice to Daewoo on arms sales policy or the steel dumping issue. His lawyers intervened before we could ask about the C-130 issue.

HUNT OIL COMPANY

The Hunt Oil Company has drilling and refining operations in North Yemen and Jordan. This company was involved in a legal dispute over the acquisition of rights in North Yemen. According to news reports, Mr. Eagleburger provided an affidavit as an expert witness on political relationships in the area. His testimony supported Hunt's position, but according to news reports, his affidavit did not disclose that Hunt Oil was a client of Kissinger Associates. Hunt won the case by a summary judgment in a Texas state court.

UNION CARBIDE

Union Carbide recently settled its suit arising out of its fatal accident that occurred in 1984 in Bhopal, India.

Union Carbide is reported to maintain a subsidiary in South Africa.

SUGGESTED QUESTIONS

1. Recusal Commitment.—You have provided to the Department's Legal Adviser a proposed recusal undertaking.

Could you explain for the record this recusal commitment?

Why are you recusing yourself for only one year from matters specifically involving your previous clients and organizations on whose boards of directors or trustees you served?

2. South Africa.—I note that two of your previous clients, Union Carbide and Midland Bank, have subsidiaries in South Africa.

Did you provide any advice to these clients concerning the continuation of their operations in South Africa?

3. Future Relationship with Kissinger and Kent Associates.—The State Department regulations governing ethical responsibilities state the following:

Sec. 10.735-201—General.—

(a) Proscribed actions.—An employee shall avoid any action, whether or not specifically prohibited by the regulations in this part, which might result in, or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding Government efficiency or economy;

(4) Losing independence or impartiality;

(5) Making a Government decision outside official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government.

In light of the Department's regulations, how will you conduct yourself with respect to Kissinger and Kent Associates?

4. Commitment for Future Employment.—Do you have any commitment to return to Kissinger and Kent Associates after your government service?

Do you have any commitment to return as a member of the board of directors or as a trustee for any organization after your government service?

5. Kissinger Associates.—

While you were in the employ of Kissinger Associates, did you at any time lobby foreign governments?

[If answer is "no"]—Did you at any time give advice to foreign governments?

You say that Kissinger Associates provides services to its clients "of the general geostrategic consulting variety." Can you clarify this statement and be more precise in your explanation?

Could you explain the difference between Kissinger Associates and Kent Associates?

Isn't the difference between geopolitical and business strategy the difference between risk assessments and recommending government contracts?

6. Daewoo.—

Were you aware, as Under Secretary of State for Political Affairs, that charges were raised concerning the Korean Daewoo Corporation's dumping of steel on world markets and concerning the sale of American designed M-16 semi-automatic rifles in violation of commitments made to the U.S. government?

Did your advice to the Daewoo Corporation include the subjects of steel production and distribution, M-16 rifles, or C-130 air transport planes?

7. Board of Directors.—

Have you resigned from all the Board of Directors which you listed on your confirmation forms? If not, why not?

8. Global Matters and the Yugo.—

Who owns Global Motors? Who owns Yugo America?

Who manufactures the Yugo in Yugoslavia? Is it not the same state enterprise which is primarily engaged in arms production?

9. Enerjoprojeckt.—

The Washington Post in a story on Mr. Eagleburger, on February 16, 1989, identified what it claimed to be a number of Mr. Eagleburger's clients. In his OGE filing, Mr. Eagleburger says he was active in consulting with 14 clients, including all those cited in the Post article except for Enerjoprojeckt. The article described Enerjoprojeckt as "a Yugoslavia-based firm that eight years ago was the 16th largest engineering and construction company in the world with multimillion-dollar projects in Iraq, Kuwait and Gabon. The company ran into economic problems recently and no longer is a Kissinger client."

Did you consult with Enerjoprojeckt in connection with your work at either Kissinger Associates or Kent Associates?

If so, should this company be added to the list of companies from which you will recuse yourself?

10. Yugo.—

Jack Anderson on February 21, 1989, reported that the Yugo automobile was "built by a division of the huge conglomerate which is the backbone of the Yugoslavian arms industry. Among its clients are Iraq, Libya and East European countries."

Were you aware of the connection between the Yugoslavian arms industry, known as Zavodi Crvena Zastava, and its manufacture of the Yugo? If so, did you deem this connection acceptable?

The Anderson column also reports that the Yugo was "dumped" on the U.S. market—selling for $4,000 what cost $8,000 to produce—in an attempt to raise hard currency for the Yugoslavian economy.

Was this, in fact, a part of the Yugoslavian purpose in bringing the Yugo to the U.S. market? If so, did you find that purpose an acceptable one?

11. U.S. Loans to Yugoslavia.—

The New York Times reported on March 10, 1983 that then-Under Secretary of State Eagleburger was pressing U.S. bankers to increase their loans to Yugoslavia even though that was contrary to the official Administration policy as outlined by then-Treasury Secretary Don Regan. The Times reported:

"Defense Secretary Caspar W. Weinberger argues that loans to any of the [Eastern European] countries indirectly aid the Soviet Union. * * * But even some inside the State Department felt that Lawrence Eagleburger, the Under Secretary of State, went too far when he summoned executives of nine major banks to Washington last month to encourage them to keep lending to Yugoslavia even if they were severely rationing their other credits to Eastern Europe * * * Treasury Secretary Donald T. Reagan was described as 'quite upset' when he heard about it. In his view, the Government had no business intervening and should let the bankers manage their own affairs. If any intervention was necessary, that was a function of the Treasury, he is said to believe."

Did you meet with U.S. banking executives to urge their continued lending to Yugoslavia? Was this, in fact, a contradition of official U.S. policy as developed by the Treasury Department? If so, why would you take such a position?

12. LBS Bank Indictment.—

The LBS Bank of New York was indicted in December 1988, for allegedly laundering more than $1.4 million in drug trafficking profits in a sting operation of the U.S. Customs Service and the IRS. The Bank itself was indicted, as well as its Chairman of the Board, Mr. Vinko Mir, and four other individuals, including the Yugoslavian consul in Chicago. Mr. Eagleburger served as a

member of the Board of Directors of the bank.

What was your role in providing oversight or management for the bank?

The LBS Bank is described as being a "wholly owned subsidiary" of the Ljubljanska Banka, owned by the Yugoslavian government.

What considerations led you to serve as a director of the bank?

Did you see any potential conflict of interest in serving on the board of a bank that was a subsidiary of a state-owned bank in Yugoslavia?

Did you see any potential conflict of interest in serving on the board of a bank that was a subsidiary of a bank in a country to which you had served as Ambassador?

To what extent were you aware of the activities of Vinko Mir, the Chairman of the LBS Bank of New York, Inc.? To what extent were you aware of the Bank's alleged involvement in money laundering and filing false currency transaction reports?

How do you view your legal obligations under New York law as a member of the LBS Bank Board of Directors? Are you aware of the standard of care imposed upon bank directors by the state of New York (due diligence, reasonable care, exercised in good faith by an ordinarily prudent person in like circumstances)?

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ATTACHMENT I

MARCH 13, 1989.

BOARD OF DIRECTORS OF KISSINGER ASSOCIATES, INC.

The Honorable Henry A. Kissinger.
The Honorable William E. Simon.
Lord Peter Carrington.
Lord Eric Roll.
Sir Y.K. Kan.
Mr. Robert O. Anderson.
Mr. Pehr Gyllenhammer.
Mr. Edward L. Palmer.
Mr. William D. Rogers.
Mr. T. Jefferson Cunningham, III.
Mr. Alan J. Stoga.
Viscount Etienne Davignon.

BOARD OF DIRECTORS OF KENT ASSOCIATES, INC.

The Honorable Henry A. Kissinger.
Mr. T. Jefferson Cunningham, III.

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ATTACHMENT II

SCHEDULE D—PART II

Kissinger Associates, Inc. is an international consulting firm. It does not lobby or represent any client before any agency or official of the U.S. government. It does not have any foreign government as a client. It does not act as an agent of any foreign principal in carrying out activites, including any political or propaganda activities, requiring it to register under the Foreign Agents Registration Act. It takes no financial interest in any of its clients.

As an employee and officer of Kissinger Associates, I was active in consulting with the following clients: Anheuser-Busch; ASEA; Daewoo Corporation; L.M. Ericsson; Fiat, S.p.A; H.J. Heinz Company; Hunt Oil Company; Kriti Management, Inc.; ITT Corporation; Midland Bank; Three Cities Research; A.B. Volvo; Global Motors; and Union Carbide.

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ATTACHMENT III

SCHEDULE D—PART II

Kent Associates, Inc. is affiliated with Kissinger Associates and renders advice on business affairs. It does not lobby or represent any client before any agency or official of the U.S. government. It does not have any foreign government as a client. It does not act as an agent of any foreign principal in carrying out activites, including any political or propaganda activities, requiring it to register under the Foreign Agents Registration Act. It takes no financial interest in any of its clients.

As an employee and officer of Kissinger Associates, I was active in consulting with the following clients: Bell Telephone Manufacturing Co., Belgium; Coca-Cola; Global Motors, Inc.; and Midland Bank.

ATTACHMENT IV

1988 INTEREST AND DIVIDENDS

| Investment | Amount received |
|---|---|
| New Canaan Bank and Trust CD | $100 to $1000 (I). |
| Capital Guardian Trust IRA | $100 to $1000 (D). |
| Equitable Financial Companies IRA | $100 to $1000 (I). |
| USAA Tax Exempt High Yield Fund | $100 to $1000 (D). |
| Keogh Capital Guardian Trust | $5001 to $15,000 (D). |
| Keogh Plan—Connecticut Savings | $100 to $1000 (I). |
| Banyon Club Limited Partners | None. |
| Carlyle Limited Partners | $100 to $1000 (D). |
| Marriot Residence Limited | $100 to $1000 (R). |
| Smith Barney Tax Free Money Market | $1000 to $2500 (D). |
| Vanguard Technical Intl. (sold) | $1000 to $2500 (C). |
| ITT Corporation Common (sold) | $2500 to $5000 (C). |
| Cineplex Odeon Corp (sold) | $1000 to $2500 (C). |
| Global Motors (being sold) | None. |
| USX Corp Common (sold) | None. |
| Smith Barney Tax Exempt | $100 to $1000 (I). |
| Kissinger Associates Pension Plan | $1000 to $2500 (D). |
| Citibank Common | $100 to $1000 (C). |
| State Department Credit Union | None. |

*1988 Income*

| Corporation | Amount |
|---|---|
| ITT Corp. (director fee) | $84,759 |
| Alcatel (director fee) | 30,000 |
| Mutual of New York (director fee) | 36,860 |
| University of South Carolina (salary) | 50,000 |
| United States-Mexico Bilateral Commission (commissioner fee) | 10,000 |
| Josephson International (director fee) | 25,000 |
| Best Mart (director fee) | 5,000 |
| Institute for Defense Analysis (trustee fee) | 3,225 |
| LBS Bank (director fee) | 5,000 |
| British Broadcasting Corporation (interview) | 140 |
| Kissinger Associates, Inc. (salary/bonus) | 460,238 |
| Kent Associates, Inc. (salary/bonus) | 213,872 |
| Foreign Service retirement system (retirement payment) | 40,635 |
| Total 1988 | 964,729 |

1988 HONORARIA

| Entity | Reason | Date | Amount |
|---|---|---|---|
| Allied Signal | Speech | 2/26/88 | $2,500 |
| National Affairs | Book review | 3/14/88 | 200 |
| Tufts University | Interview | 6/07/88 | 700 |
| Anti-Defamation League | Speech | 6/08/88 | 1,000 |
| Mutual Benefit Life | do | 7/19/88 | 5,000 |
| Columbia University | Article | 12/19/88 | 1,000 |
| Honoraria total, 1988 | | | 10,400 |

*Severance Pay*

| Corporation | Amount |
|---|---|
| Kissinger Associates, Inc | $112,879 |
| Kent Associates, Inc | 130,000 |
| Kissinger Associates, Inc. (future agreement) | [1] 87,121 |

*Severance Pay*—Continued

| Corporation | Amount |
|---|---|
| Kent Associates, Inc. (future agreement) | [1] 110,000 |
| Severance pay total, 1988 | 440,000 |
| Total income 1988 (excluding investments) | 1,415,129 |

[1] July 1988.

ATTACHMENT V

PART E, No. 6

1. For approximately 2½ years, and until recently, I was one of five U.S. outside directors of the New York State chartered FDIC Bank which is wholly owned by a Yugoslav parent bank. This bank, LBS Bank of New York, and one of its inside directors, a Yugoslav national, has been subjected to a single criminal charge of conspiring to violate the law in respect of the filing of two allegedly false or inaccurate currency transaction reports.

I am informed that the case is pending in the U.S. District Court for the Eastern District of Pennsylvania.

I played no role whatsoever in the transaction in question, nor in any operation of the bank. I have not been approached or questioned by the authorities and do not anticipate being a witness in the case. I have been further assured by counsel to the Bank, who has inquired of the Government, that no wrongdoing whatsoever has been imputed to me.

2. In October 1988 ITT Corporation (of which I have been an outside Director since 1984) Gilfillan Division pleaded guilty to a single count of conspiracy to defraud the U.S. Air Force (18 U.S.C. § 371) by obtaining proprietary documents related to the procurement process through payment of illegal gratuities, *e.g.*, lunches, theatre tickets, liquor, and golf for government employees. Three other counts in the indictment charging conversion of government documents (18 U.S.C. § 641) were dismissed by the prosecutor. ITT was fined $200,000 (maximum penalty: $500,000).

3. ITT Blackburn was the subject of a criminal investigation relating to violations of the Iranian Boycott Regulations in 1980. This led to an indictment in December 1985 and a conviction of the Corporation in August 1986. However, on appeal, the 8th Circuit reversed, set aside the jury verdict, and dismissed the indictment on the ground that the grand jury had not intended to indict ITT Corporation when it named the Blackburn Division as a defendant.

4. Federal Electric Corporation, a subsidiary of ITT, has been the subject of an extended investigation by DCAA of its time charging and manning practices on the DEW Line and BMEWS service contracts. While this investigation could have led to a criminal proceeding, ITT has been informed by the investigator that his final report will *not* recommend referral to the U.S. Attorney and instead will conclude that a civil resolution is appropriate.

5. ITT Dialcom, an indirectly owned ITT subsidiary, since sold to British Telephone, was the subject of a criminal investigation in 1984–85 relating to mischarging of government telephone calls on several GSA contracts. Restitution was made by the company, and in 1985 the Department of Justice closed its investigation without seeking indictments of either the company or any individual.

As a member of the ITT Board I played no role whatsoever in the transactions in

question, nor in the operations of ITT or its subsidiaries.

6. In January 1989, Global Motors filed for reorganization under Chapter 11 of the federal bankruptcy laws. I am advised that a creditor of Global has now filed suit against the investment bank that acted as financial adviser to Global, certain of the individual members of that firm, Global's subsidiary, Yugo Credit, and the officers and members of the Board of Directors of Global. As an outside Director at the time of the transactions in question, I was apparently included as a defendant in that suit, though I have not yet been served. I understand that I am named in the complaint, not by virtue of any allegation that I was directly involved in the transactions in dispute, but by virtue of the legal theory that the directors are responsible for actions of the corporation, whether they were personally involved or not.

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ATTACHMENT VI

MARCH 7, 1989.

Re Recusal Undertaking.

ABRAHAM D. SOFAER,
*Legal Adviser, U.S. Department of State, Washington, DC.*

DEAR JUDGE SOFAER: From June 1984 through 1988, following almost 30 years in U.S. Government service, I was employed by Kissinger Associates, Inc. and, from December 1986 through 1988, by its affiliate Kent Associates, Inc. I resigned from those firms effective January 6, 1989. I own no stock and have no remaining financial interest in either firm. (I do have a vested interest in the Kissinger Associates, Inc. Pension Plan, which is fully funded through the Fidelity Cash Reserves mutual fund.) I will receive the final installment of severance payments from Kissinger Associates, Inc. and Kent Associates, Inc. in July 1989; these severance payments reflect services provided to, contributions to, and work performed for the firms before my resignation, and have been approved by the Office of Government Ethics.

As reflected in my Financial Disclosure Report, I have divested myself of every equity investment that I held. In addition, I have already resigned from or, if appointed as Deputy Secretary of State, will resign from every board of directors or trustees, or other active positions with private for-profit and non-profit organizations. This includes both compensated and uncompensated positions.

Accordingly, with two exceptions, I no longer have any financial holdings or private positions that could potentially create a financial conflict of interest with my prospective government position in violation of applicable conflicts of interest laws. The two exceptions are: 1) I intend to take leave without pay from my position as Visiting Distinguished Professor at the University of South Carolina; and 2) I have a right to receive a pension from ITT Corporation for my service on its board if and when I attain the age of 65.

If appointed as Deputy Secretary of State, I will recuse myself from any matter in which the University of South Carolina is a formal party or in respect of which it is known to me to have a direct and predictable financial interest. I will also recuse myself from any matter in which ITT Corporation is a formal party or in respect of which it is known to me to have a direct and predictable effect on my interest in the ITT pension plan for outside directors.

In addition, in order to avoid even the appearance of conflict of interest, I will voluntarily recuse myself from any matter specifically involving Kissinger Associates, Inc. or Kent Associates, Inc. I will also voluntarily recuse myself, for one year after appointment, from any matter specifically involving any client of those two firms with whom I actually consulted. As reflected in my Financial Disclosure Report, those clients are: Anheuser-Busch; ASEA; Bell Telephone Manufacturing Co., Belgium; Coca-Cola; Daewoo Corporation; L.M. Ericsson; Fiat, S.p.A; H.J. Heinz Company; Hunt Oil Company; Kriti Management, Inc.; Midland Bank; Three Cities Research; A.B. Volvo; Global Motors, Inc.; and Union Carbide.

Again to avoid even the appearance of conflict, for one year after appointment I will voluntarily recuse myself from any matter specifically involving any for-profit private organization on whose board of directors or trustees I served, or with which I served in any other active capacity, since January 1, 1987. As reflected in my Financial Disclosure Report, these private organizations are: Alcatel; Bethlehem Rebar; Best-Mart; Josephson International; Mutual of New York; LBS Bank; and Global Motors, Inc. (The recusal on the latter two may go beyond one year, as set forth below.)

Finally, throughout my government service, I will recuse myself from participation, on a case by case basis, from any other particular matter in which, in my judgment, it would be desirable for me to do so in order to avoid the possible appearance of impropriety, despite the lack of any actual conflict of interest. I believe that this general policy, to which I am committed, will avoid not only the occurrence of any actual conflict of interest, but even the appearance of any conflict between my duties as an officer of the government and my personal interests.

In this regard, in light of the litigation regarding LBS Bank and Global Motors, Inc., I will voluntarily recuse myself as long as the litigation is pending from all matters specifically involving not only those U.S. companies but also the parent bank of LBS, Ljubijanska Bank of Yugoslavia, and the Yugo car marketed by Zavodi Crvena Zastava of Yugoslavia and its affiliates.

If appointed as Deputy Secretary of State, I will provide the Secretary of State, the Executive Secretary, and other appropriate officials with a list of entities subject to my recusal commitment and instruct them in writing to handle all matters specifically involving the above-listed entities.

Sincerely yours,

LAWRENCE S. EAGLEBURGER.

Mr. DOLE. Mr. President, I am pleased to join in urging the confirmation of Larry Eagleburger as Deputy Secretary of State.

During his career in the State Department, he was an outstanding diplomat—one of those who understood both our foreign relations, and how Washington works.

Since leaving our diplomatic service, he has been active in the business world, and in writing and speaking on foreign affairs. He has also been called upon from time to time to contribute to our diplomatic efforts, for example, through his leadership role in a panel former Secretary Shultz set up on southern Africa.

In short, he's got the experience and the talent to do the job.

He also brings great balance to the very senior levels of the State Department, being from the Foreign Service and with a long background in our foreign affairs. He obviously has the trust of the President and Secretary Baker, and will join with them, General Scowcroft, DICK CHENEY and others to form an outstanding foreign policy team.

I'm pleased that the Foreign Relations Committee gave him a clean bill of health and a unanimous vote, and I hope and urge the full Senate to do the same now.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Lawrence S. Eagleburger, of Florida, to be Deputy Secretary of State?

So the nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider both nominations, that is, of RICHARD B. CHENEY and Lawrence S. Eagleburger, are tabled en bloc, and the President will be notified of the Senate's action.

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## LEGISLATIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator BRADLEY be added to the cloture motion on the motion to proceed to House Report 1231.

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

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## MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business not to extend beyond 3 p.m. with Senators permitted to speak therein.

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

Who wishes to be recognized?

The Chair recognizes the Senator from Arkansas.

(The remarks of Mr. PRYOR pertaining to the introduction of legislation appear in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Idaho.

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

## IMPORTATION OF SEMI-AUTOMATIC FIREARMS

Mr. SYMMS. Mr. President, I wish to address a matter which I think is of great importance regarding the importation of so-called semiautomatic weapons.

This week, the Washington Times carried a front-page story with the following headline: "Bennett Moves on Assault Rifles, Consults Barry." That pretty aptly sums up the substance and symbol of the actions taken Monday by our new drug czar, Bill Bennett, in his first day on the job.

I have to say that this Senator, having watched Bill Bennett serve the President very ably in the last administration as Secretary of Education, was stunned to see the headlines and to hear the decision made by the administration on imported semiautomatic weapons. I think it was a very bad decision and sends the wrong signals, hits the wrong target and only adds fuel to the apprehension and concerns of many Americans.

Mr. Bennett first announced an immediate suspension on the importation of assault-type weapons which, as all innocent victims of the media hype on this subject must now believe, are the root cause of drug-related violence and most other maladies across the country.

It is no wonder people feel that way because that is the impression given daily in the newspapers, on television, and on radio that somehow assault rifles are causing the drug problem in the United States.

After announcing the ban, Mr. Bennett went downtown to see the District's Mayor Barry, leader of the anti-crime and drug campaigns in what has become, under that leadership, the Nation's most murderous city. No doubt, Czar Bennett was taking notes on the Mayor's equally well-reasoned and effective drug crime programs. I say that with tongue-in-cheek, but I think this serious subject should be more carefully considered as the new drug czar starts on his road to serve the country and this President.

What strikes me most readily and violently about this import ban is the appearance that the Bush administration has brought into the argument of the liberal gun control crows that says it is the guns rather than the criminals our laws must protect us against.

Mr. President, it is an old argument. Many of the rifles held by Americans are semiautomatic rifles, semiautomatic shotguns. That has not changed. What has changed is this country, through soft criminal justice, has allowed people to get away with and profit from illegal activities, including selling drugs and murder.

I know President Bush does not buy the illogical gun control argument, but the ban announced this week needlessly leaves the appearance that gun control advocates have won the debate even before the debate starts.

Banning the importation of certain firearms to keep criminals from using them only works if criminals get their firearms through legal channels. How many people in this Chamber think that a drug pusher in the District of Columbia or Los Angeles or Cleveland, OH, or in any other city is going to worry about whether he gets his gun through a legal channel or an illegal channel?

Obviously, most criminals do not get their guns—automatic, semiautomatic, single action—legally. They buy them from the black market, which will exist and prosper notwithstanding any law restricting the availability of legal firearms.

So the import ban on semiautomatic weapons will only affect law-abiding gun owners. It is an old story, Mr. President, but the logical truths never change.

I must say, what a disappointment to see Colt manufacturing at the drop of a hat cave in on this issue. It is obvious to this Senator the manufacturing of guns must not be a very large portion of the profits of Colt Industries or they would not rush—what I call wet finger politics—to do something they think will make them look good in the eyes of the American people and then go ahead and manufacture other things.

Obviously, manufacturing firearms is a small part of Colt Industries today, otherwise they would not do this. It is disappointing to see a major corporation led by very able people cave in on the principles of constitutional law, the rights of individuals in order to get on the bandwagon with the political people in Washington, DC.

I would just say to Bill Bennett, President Bush, my colleagues in the Senate, and other Americans who might have an interest in this, if the drug kingpins can smuggle into the country thousands of pounds of cocaine, marijuana, and other illegal drugs which have long been the target of expensive Federal interdiction programs, why should anyone believe that they will not be able to smuggle in as many semiautomatic weapons as they want no matter what the U.S. policy is regarding the legal importation of these weapons? The drug dealers did not bring them in legally in the first place. Who thinks that they are going to be able to stop them?

Aside from the merely practical considerations regarding the uselessness of this import ban as a crime control measure, there are the much more important constitutional questions at issue here. I believe an indefinite suspension on the importation of firearms clearly infringes on the right to keep and bear firearms guaranteed in the second amendment. If the Government can prohibit private citizens access to certain types of firearms, what is there to prevent the same Government at some point from taking similar actions against all firearms? Where is the constitutional line drawn here?

If you read the history of the second amendment, Mr. President, you find it was not only a right of citizens to have guns, gun ownership was encouraged by the States and some States even provided the guns for people. They wanted the citizens to be armed with rifles that could be included in a defense for the country with the Continental Army. They wanted citizens to have the same weapons and abilities as the military.

I would remind my colleagues and those who may be listening across the Nation that there is no definition in law or common use of the term assault-type weapon which was the term used by Mr. Bennett and widely repeated in the media. Exactly what are assault-type weapons? Do they include all semiautomatic guns? If not, why not? If so, how long will it be before Congress or the administration are considering an import or manufacturing ban on such weapons.

I understand the concern many people feel about hoodlums in big cities, who are involved in the drug trade, gang warfare, et cetera, carrying weapons that can raise great havoc with innocent bystanders if they happen to get in the line of fire.

But I also think we should remember that when Adolf Hitler was deciding whether to take Switzerland or France, the German staff told the Fuhrer that taking Switzerland would require a million troops, more than a year's time, and hundreds of thousands of casualties because everyone in the country was armed. They all had the weapons in their homes. They were prepared to organize the militia. They would have to go house to house at great cost of casualties in order to do that. He said how about France? They said it will take 6 weeks and less than 5,000 casualties. So obviously they took France.

Switzerland managed to sit through that tragic Second World War and maintain neutrality. One of the reasons was individual Swiss citizens were prepared to defend themselves against any invasion.

I support the second amendment to the Constitution because it guarantees people's ability to defend themselves, their property, and their families. The burden of providing that protection is too great to be borne solely by the local police. The police cannot be everywhere. Three thousand times a day in this country someone defends their home, their property, their family, and their lives with their own firearm. That is often forgotten.

But setting that aside, 20 to 30 million Americans own semiautomatic weapons. I wonder how many of them are not law-abiding citizens. I would venture to say 99.9 percent of those people are law-abiding citizens. I wonder how long it will be before the political winds will give license to those who would ban the manufacture and sale of all semiautomatics under the guise of the fight against crime knowing that too few people will rise up to protect their right to keep and bear arms.

I have referred many times in the past to a fine report entitled "The Right to Keep and Bear Arms" produced in 1982 by the Senate Subcommittee on the Constitution. I commend it again to the attention of my colleagues. Senator HATCH, the subcommittee chairman, at that time wrote some very important introductory remarks reflecting on the history and purpose of the second amendment and the weight of the historical evidence against gun control as a means toward crime control. I want to quote our good friend from Utah, Senator ORRIN HATCH. I hope that the new administration will listen carefully to these important points of Senator HATCH.

If gun laws in fact worked, the sponsors of this type of legislation should have no difficulty drawing upon long lists of examples of crime rates reduced by such legislation. That they cannot do so after a century and a half of trying—that they must sweep under the rug the southern attempts at gun control in the 1870-1910 period, the northeastern attempts in the 1920-1939 period, the attempts at both federal and state levels in 1967-1976—establishes the repeated, complete and inevitable failure of gun laws to control serious crime.

The inevitable failure of gun laws to control serious crime, Mr. President. Serious crime can and should be controlled, capital punishment and mandatory sentencing laws would be a good start in that direction. I repeat that, Mr. President. If we want to do something about the use of assault rifles by drug dealers and kingpins, what this Congress should do is enact legislation with tough mandatory sentencing and capital punishment for these criminals. Gun control does not limit, never has limited crime. Gun control only limits freedom.

Mr. President, I ask unanimous consent that the introductory remarks of Senator HATCH which I referred to be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. SYMMS. I commend the Senator from Utah for the excellent report that he produced, and I close with another powerful quote of the chairman of the subcommittee, ORRIN HATCH:

When I became chairman of the Subcommittee on the Constitution, I hoped that I would be able to assist in the protection of the constitutional rights of American citizens, rights which have too often been eroded in the belief that government could be relied upon for quick solutions to difficult problems.

Both as an American citizen and as a United States Senator I repudiate this view. I likewise repudiate the approach of those who believe to solve American problems you simply become something other than American. To my mind, the uniqueness of our free institutions, the fact that an American citizen can boast freedoms unknown in any other land, is all the more reason to resist any erosion of our individual rights. When our ancestors forged a land "conceived in liberty", they did so with musket and rifle. When they reacted to attempts to dissolve their free institutions, and established their identity as a free nation, they did so as a nation of armed free men. When they sought to record forever a guarantee of their rights, they devoted one full amendment out of ten to nothing but the protection of their right to keep and bear arms against government interference. Under my chairmanship the Subcommittee on the Constitution will concern itself with a proper recognition of, and respect for, this right most valued by free men.

Mr. President, I hope those words give pause to administration officials and Members of this body who might otherwise be too willing to erode individual liberties in a vain attempt to appease the justifiable public outcry against the growing tide of drug-related violence. Let us take firm, decisive action against drug kingpins, drug dealers and users, and anyone who uses a gun in the commission of a crime. Lock them up without parole and provide an effective capital punishment statute that brings swift justice to those who threaten innocent lives with impunity. Do everything possible to make our families and our homes safer without eroding the individual liberties that make this Nation, this people a beacon of hope the world over.

EXHIBIT 1

PREFACE

"To preserve liberty, it is essential that the whole body of the people always possess arms, and be taught alike, especially when young, how to use them." (Richard Henry Lee, Virginia delegate to the Continental Congress, initiator of the Declaration of Independence, and member of the first Senate, which passed the Bill of Rights.)

"The great object is that every man be armed . . . Everyone who is able may have a gun." (Patrick Henry, in the Virginia Convention on the ratification of the Constitution.)

"The advantage of being armed . . . the Americans possess over the people of all other nations . . . Notwithstanding the military establishments in the several Kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the people with arms." (James Madison, author of the Bill of Rights, in his Federalist Paper No. 26.)

"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." (Second Amendment to the Constitution.)

In my studies as an attorney and as a United States Senator, I have constantly been amazed by the indifference or even hostility shown the Second Amendment by courts, legislatures, and commentators. James Madison would be startled to hear that his recognition of a right to keep and bear arms, which passed the House by a voice vote without objection and hardly a debate, has since been construed in but a single, and most ambiguous, Supreme Court decision, whereas his proposals for freedom of religion, which he made reluctantly out of fear that they would be rejected or narrowed beyond use, and those for freedom of assembly, which passed only after a lengthy and bitter debate, are the subject of scores of detailed and favorable decisions. Thomas Jefferson, who kept a veritable armory of pistols, rifles and shotguns at Monticello, and advised his nephew to forsake other sports in favor of hunting, would be astounded to hear supposed civil libertarians claim firearm ownership should be restricted. Samuel Adams, a handgun owner who pressed for an amendment stating that the "Constitution shall never be construed . . . to prevent the people of the United States who are peaceable citizens from keeping their own arms," would be shocked to hear that his native state today imposes a year's sentence, without probation or parole, for carrying a firearm without a police permit.

This is not to imply that courts have totally ignored the impact of the Second Amendment in the Bill of Rights. No fewer than twenty-one decisions by the courts of our states have recognized an individual right to keep and bear arms, and a majority of these have not only recognized the right but invalidated laws or regulations which abridged it. Yet in all too many instances, courts or commentators have sought, for reasons only tangentially related to constitutional history, to construe this right out of existence. They argue that the Second Amendment's words "right of the people" mean "a right of the state"—apparently overlookng the impact of those same words when used in the first and Fourth Amendments. The "right of the people" to assemble or to be free from unreasonable searches and seizures is not contested as an individual guarantee. Still they ignore consistency and claim that the right to "bear arms" relates only to military uses. This not only violates a consistent constitutional reading of "right of the people" but also ignores that the second amendment protects a right to "keep" arms. These commentators contend instead that the amendment's preamble regarding the necessity of a "well regulated militia . . . to a free state" means that the right to keep and bear arms applies only to a National Guard. Such a reading fails to note that the Framers used the term "militia" to relate to every citizen capable of bearing arms, and that Congress has established the present National Guard under its power to raise armies, expressly stating that it was not doing so under its power to organize and arm the militia.

When the first Congress convened for the purpose of drafting a Bill of Rights, it delegated the task to James Madison. Madison did not write upon a blank tablet. Instead, he obtained a pamphlet listing the State proposals for a bill of rights and sought to produce a briefer version incorporating all the vital proposals of these. His purpose was to incorporate, not distinguish by technical changes, proposals such as that of the Pennsylvania minority, Sam Adams, or the New Hampshire delegates. Madison proposed

among other rights that "That right of the people to keep and bear arms shall not be infringed; a well armed and well regulated militia being the best security of a free country; but no person religiously scrupulous of bearing arms shall be compelled to render military service in person." In the House, this was initially modified so that the militia clause came before the proposal recognizing the right. The proposals for the Bill of Rights were then trimmed in the interests of brevity. The conscientious objector clause was removed following objections by Elbridge Gerry, who complained that future Congresses might abuse the exemption to excuse everyone from military service.

The proposal finally passed the House in its present form: "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.:" In this form it was submitted into the Senate, which passed it the following day. The Senate in the process indicated its intent that the right be an individual one, for private purposes, by rejecting an amendment which would have limited the keeping and bearing of arms to bearing "For the common defense".

The earliest American constitutional commentators concurred in giving this broad reading to the amendment. When St. George Tucker, late Chief Justice of the Virginia Supreme Court, in 1803 published an edition of Blackstone annotated to American law, he followed Blackstone's citation of the right of the subject "of having arms suitable to their condition and degree, and such as are allowed by law" with a citation to the Second Amendment, "And this without any qualification as to their condition or degree, as is the case in the British government." William Rawle's "View of the Constitution" published in Philadelphia in 1825 noted that under the Second Amendment: "The prohibition is general. No clause in the Constitution could by a rule of construction be conceived to give to Congress a power to disarm the people. Such a flagitious attempt could only be made under some general pretense by a state legislature. But if in blind pursuit of inordinate power, either should attempt it, this amendment may be appealed to as a restraint on both." The Jefferson papers in the Library of Congress show that both Tucker and Rawle were friends of, and corresponded with, Thomas Jefferson. Their views are those of contemporaries of Jefferson, Madison and others, and are entitled to special weight. A few years later, Joseph Story in his "Commentaries on the Constitution" considered the right to keep and bear arms as "the palladium of the liberities of the republic", which deterred tyranny and enabled the citizenry at large to overthrow it should it come to pass.

Subsequent legislation in the second Congress likewise supports the interpretation of the Second Amendment that creates an individual right. In the Militia Act of 1792, the second Congress defined "militia of the United States" to include almost every free adult male in the United States. These persons were obligated by law to possess a firearm and a minimum supply of ammunition and military equipment. This statute, incidentally, remained in effect into the early years of the present century as a legal requirement of gun ownership for most of the population of the United States. There can be little doubt from this that when the Congress and the people spoke of a "militia", they had reference to the traditional concept of the entire populace capable of bearing arms, and not to any formal group such as what is today called the National Guard. The purpose was to create an armed citizenry, which the political theorists at the time considered essential to ward off tyranny. From this militia, appropriate measures might create a "well regulated militia" of individuals trained in their duties and responsibilities as citizens and owners of firearms.

If gun laws in fact worked, the sponsors of this type of legislation should have no difficulty drawing upon long lists of examples of crime rates reduced by such legislation. That they cannot do so after a century and a half of trying—that they must sweep under the rug the southern attempts of gun control in the 1870-1910 period, the northeastern attempts in the 1920-1939 period, the attempts at both Federal and State levels in 1965-1976—establishes the repeated, complete and inevitable failure of gun laws to control serious crime.

Immediately upon assuming chairmanship of the Subcommittee on the Constitution. I sponsored the report which follows as an effort to study, rather than ignore, the history of the controversy over the right to keep and bear arms. Utilizing the research capabilities of the Subcommittee on the Constitution, the resources of the Library of Congress, and the assistance of constitutional scholars such as Mary Kaaren Jolly, Steven Halbrook, and David T. Hardy, the subcommittee has managed to uncover information on the right to keep and bear arms which documents quite clearly its status as a major individual right of American citizens. We did not guess at the purpose of the British 1689 Declaration of Rights; we located the Journals of the House of Commons and private notes of the Declaration's sponsors, now dead for two centuries. We did not make suppositions as to colonial interpretations of that Declaration's right to keep arms; we examined colonial newspapers which discussed it. We did not speculate as to the intent of the framers of the second amendment; we examined James Madison's drafts for it, his handwritten outlines of speeches upon the Bill of Rights, and discussions of the second amendment by early scholars who were personal friends of Madison, Jefferson, and Washington and wrote while these still lives. What the Subcommittee on the Constitution uncovered was clear—and long-lost—proof that the second amendment to our Constitution was intended as an individual right of the American citizen to keep and carry arms in a peaceful manner, for protection of himself, his family, and his freedoms. The summary of our research and findings forms the first portion of this report.

In the interest of fairness and the presentation of a complete picture, we also invited groups which were likely to oppose this recognition of freedoms to submit their views. The statements of two associations who replied are reproduced here following the report of the Subcommittee. The Subcommittee also invited statements by Messrs. Halbrook and Hardy, and by the National Rifle Association, whose statements likewise follow our report.

When I became chairman of the Subcommittee on the Constitution, I hoped that I would be able to assist in the protection of the constitutional rights of American citizens, rights which have too often been eroded in the belief that government could be relied upon for quick solutions to difficult problems.

Both as an American citizen and as a United States Senator I repudiate this view. I likewise repudiate the approach of those who believe to solve American problems you simply become something other than American. To my mind, the uniqueness of our free institutions, the fact that an American citizen can boast freedoms unknown in any other land, is all the more reason to resist any erosion of our individual rights. When our ancestors forged a land "conceived in liberty", they did so with musket and rifle. When they reacted to attempts to dissolve their free institutions, and established their identity as a free nation, they did so as a nation of armed freemen. When they sought to record forever a guarantee of their rights, they devoted one full amendment out of ten to nothing but the protection of their right to keep and bear arms against government interference. Under my chairmanship the Subcommittee on the Constitution will concern itself with a proper recognition of, and respect for, this right most valued by free men.

ORRIN G. HATCH,
*Chairman, Subcommittee on the Constitution.*

JANUARY 20, 1982.

Mr. LEVIN. Mr. President, I would like to point out an area of concern with regard to Mr. Eagleburger's employment with Kissinger Associates, that I feel should have been addressed, particularly in light of the recent rejection of former Senator John Tower to be Secretary of Defense. Mr. Eagleburger served in 1984 as Under Secretary of State for Political Affairs in the State Department. One month after he left that post he went to work for Kissinger Associates. Kissinger Associates is an international consulting firm in the business of providing "global strategic—geopolitical—economic analysis" to its clients for a fixed annual fee reported to be in the range of $150,000 to $200,000.

In his previous job in the State Department, Mr. Eagleburger was presumably privy to highly confidential information regarding various policies, proposals, and negotiations critically important to the U.S. Government. Within a month after leaving the State Department, Mr. Eagleburger joined Kissinger Associates to serve as a consultant to private companies on geopolitical issues. Apparently Mr. Eagleburger refused the Foreign Relations Committee's request to discuss specific details concerning his advice to any of the Kissinger clients.

I believe the Foreign Relations Committee should have asked Mr. Eagleburger whether the issues on which he advised his Kissinger Associate clients were the same issues on which he had access to inside information as a top State Department employee. Apparently he was not asked that question, but I think it is an important one in assessing his sensitivity to the ethical issues involving the use of inside information.

I am not suggesting here that Mr. Eagleburger was in the same situation

as Mr. Tower and therefore should not be confirmed. We know that Mr. Tower not only sold his advice on the probable outcome of the START talks to private clients with a direct product interest in those talks. Mr. Tower's advice had been enlightened by his service as the lead negotiator on those START talks. We also know that Mr. Tower said he did not see any appearance problem with what he did. One of his principal assignments as the new Secretary of Defense would have been to address, in part, the issues of integrity in the defense procurement process and particularly the effect of the revolving door on public confidence in that system.

I think we should have obtained more information from Mr. Eagleburger in this area, and I regret that we did not do so.

I do want to say, however, that I am pleased that Mr. Eagleburger has seen fit to address the appearance problems stemming from his prior association with Kissinger Associates as he enters the State Department. He has terminated his financial relationship with that firm and agreed to recuse himself from any matters having to do with his former clients. That action evidences an appropriate sensitivity to the demands and importance of maintaining the public's confidence in public officeholders.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

## COLLEGE OF SIENA BASKETBALL VICTORY

Mr. D'AMATO. Mr. President, on a note of some levity, and happiness, I might note that the College of Siena set a proud tradition. It is a small educational institution located outside the capital of the great State of New York, in Albany. It is an institution that my oldest son, Daniel, was fortunate enough to have the opportunity to attend and attends today. He and a number of his fellow students have not been able to attend one of their basketball games over the past 10 or 11 games because of a measles epidemic in the region among students. So consequently this team played their last 10 or 11 games without any spectators.

They won quite an unusual game at the last second against Boston University by one point, with 2 seconds remaining in the game. And they were given little if any chance, the institution with less than 3,000 students, to make it to the NCAA's, but they confounded the experts, won their tournament and indeed did get that grand opportunity.

And, oh, how the papers and pundits cried out this morning as they echoed the results of last night's triumphant win by Siena, that small but spirited school, which had an opportunity to play its first game and its last dozen before a crowd. It played mighty Stanford.

Mr. President, I am pleased and delighted to point out to this august body that once again that small but undaunted school and its team emerged victorious. Once again, as the clock ticked down to the end with 2 seconds remaining, they scored the final 2 points, two free throws and beat Stanford 82 to 78.

So we salute Siena as we take this brief hiatus and go into our recess. We will look back at least at this first tournament that they have been able to enter in the NCAA's and this great victory. Who knows what will take place at the end of this. Maybe the mighty Hoyas of Georgetown will have an opportunity to meet these undaunted giants from the small school of upstate New York. Who knows what might take place?

That I will review at another time.

## ST. PATRICK'S DAY

Mr. HEFLIN. Mr. President, it is interesting to note that St. Patrick's Day is a holiday that is celebrated only in Ireland and the United States. On this day, the color green is worn in both countries.

Ireland and the United States share many other bonds besides the recognition of this day. There is a deep love for individual freedom and liberty now and in the history of both countries.

In the early years of America, another bond which existed between the two countries was a common enemy—the English crown. Americans and Irishmen both experienced the tyranny of the English King, and the oppression of British troops. Our forefathers were able to remove the yoke of the British rule in the Revolutionary War, and eliminate the harassment of the English crown in the War of 1812. In Ireland in 1798, there was a similar effort. A group of men formed a resistance that was known as the United Irishmen. To demonstrate their allegiance to their cause and to one another, they wore the color green. Although this band of Irishmen fought valiantly, they were defeated by the much larger army commanded by General Charles Cornwallis.

After Cornwallis' victory in Ireland, the British tried to break the Irish spirit by declaring that the wearing of the color green was forbidden by law. Many songs and poems were written to protest such tyranny. I recall parts of a poem that was entitled "The Wearin' O' the Green":

O Paddy dear, an' did ye hear the news that's goin' round?
The shamrock is by law forbid to grow on Irish ground!
No more Saint Patrick's Day we'll keep, his colour can't be seen
For there's a cruel law again the wearin' o' the green

It is hard to believe that just as our forefathers were beginning to enjoy the rights for which they had fought, men and women in Ireland were being imprisoned and some hanged for wearing of the green. For the wearing of the green was symbolic of their individual resistance. Many had to leave their homeland to escape death, imprisonment, oppression, and tyranny. They sought freedom in this country where freedom of speech, religion, expression, and assembly prevailed, and where one of the purposes of our Government was the protection of the individual against governmental tyranny.

The following final stanza of this poem, as paraphrased, mirrors the fleeing Irishmen's hopes:

But if at last our colour should be torn from Ireland's heart,
Her sons with shame and sorrow from the dear old isle will part;
I've heard a whisper of a country that lies beyond the sea,
Where rich and poor stand equal in the light of freedom's day.
O Erin, must we leave you, driven by a tyrant's hand?
Must we ask a mother's blessing from a strange and distant land?
Where the cruel cross of tyranny shall nevermore be seen
And where, please God, we'll live and die still wearin' o' the Green.

Although this poem is Irish, it underscores the love of liberty that exists in America. Because of the bravery, the determination, and the sacrifice of our forefathers, the United States stands today as a citadel of freedom and liberty in a world in which most of the world's population is still burdened with totalitarianism and oppression.

The Irish have contributed much to our Nation. They have fought in our wars, and have served our communities. They have added to America's enjoyment with their stories and fun-loving, often lifting depressed spirits. Finally, they have become great Americans who still love their Irish heritage. The sons of St. Patrick have reminded Americans of the true importance and value of individual rights and they have always been among the first to rise to the defense of this Nation.

So, on this St. Patrick's Day, let us remember our Irish heritage, and those who fought in the old country for freedom and liberty. And let us proudly wear the green. But, dear God, let us never forget that, above all else, we are Americans—and Americans strong and free.

Mr. D'AMATO. Mr. President, I commend the distinguished senior Senator from Alabama on his poignant remarks. They are momentous. It certainly was educational to this Senator and to anyone who has an opportu-

nity to hear the Senator's remarks, and to those who may have the opportunity to read them as recorded.

## "DANGO" AT THE BASES

Mr. MURKOWSKI. Mr. President, I rise before my colleagues today to address a matter that has been of longstanding interest in our security and trade relations with our good friends in Japan.

First of all, I want to express my concern over the status of efforts which have been made by many in this body, as well as the previous administration, to encourage the Japanese to open up their markets for construction services. Last year, in an effort to address a portion of the tremendous imbalance in our bilateral trade and construction services and, I might add as an addendum, Japanese exports, in other words, Japanese construction services in the United States currently exceed $2.2 billion. Yet, counter to that, United States construction services in Japan currently total just $7 million. So it is quite clear that the Japanese appropriately so, have found the markets in the United States for architectural engineering, design, and building supplies to be quite profitable and, to the tune of $2.2 billion, they are a significant factor.

The only difficulty is the lack of equity, Mr. President, and the fact that we have only been able to do about $7 million in Japan.

Now, the United States and Japan entered into an arrangement aimed at removing some of the procedural barriers to United States firms entering the Japanese market. Almost 1 year after that agreement, there is evidence today that bid rigging, boycotts of American firms, and other roadblocks continue to pose major obstacles for United States firms attempting to enter into the Japanese construction market.

The Senator from Alaska happens to believe that the markets of the United States are open in the area of construction. All we ask for is reciprocity. This is not an effort to bash Japan by any means. What I am concerned with is a situation in which the ultimate losers are both the Japanese and the American taxpayers who are footing the bill for overpriced construction projects in our various countries. Specifically, I am concerned over current bid rigging activities by Japanese construction firms on United States military bases in Japan and our own Department of Defense's tolerance for blatant violations of our Federal procurement regulations in contracts that add up to millions of dollars.

For example, Mr. President, in May of last year, the Japanese Fair Trade Commission began an investigation, at last, into longstanding allegations of dango. That is the Japanese term for bid rigging, which simply means, in effect, that there is not a competitive bid but generally an understanding among the contractors that are basically in line on kind of a take-a-turn basis as to who gets the bids. Well, this was a case of bid rigging at Yokosuka Naval Base in Japan. This is a U.S. naval base. The investigation involved 140 Japanese construction firms who were members of an organization called "Seiyukai" or "Friends of the Stars and Stripes." Now, it is interesting to note that the JETC, or the Japanese Fair Trade Commission, was investigating evidence that the Seiyukai served as a forum in which winning bids were rotated among the member firms for contracts that were being let at the base. In September of 1988, the JFTC notified the U.S. Navy that the investigation was underway. In December, the JFTC issued warnings to 70 of the Japanese construction firms and fined the other 70 for bid-rigging activities occurring over a 3½-year period. The JFTC recommended that the 70 firms that received fines be banned from bidding on Japanese Government projects for a 6- to 9-month period, a rather significant penalty, Mr. President. The JFTC's recommendation, however, was strongly opposed by the Japanese Ministry of Construction and the Japanese construction industry. The Ministry of Construction would only agree to bar the 70 firms for a 1-month period from December 8, 1988, to January 8, 1989. Mr. President, it is well known that December to January is the slowest time of year for the construction industry in Japan. The short duration of the ban guaranteed that it would have little impact on the firms, and insured that all the contractors would be eligible to bid on the next major public works project—the $10 billion Trans-Tokyo Bay Bridge-Tunnel—one of the projects covered by the United States/Japan construction agreement.

United States firms say that in addition to engaging in dango or bid-rigging, Japanese general contractors have warned their subcontractors not to work for United States firms or they will be blacklisted in Japan. In an article which appeared in the October 1988 edition of the magazine Business Tokyo, one United States firm, Pacific Architects and Engineers, who had been doing business in Japan for nearly 30 years, indicated that fear of reprisals is so great that a Japanese subcontractor working for PAE on a contract for toilet facilities at Yokosuka had his employees wear PAE's uniforms so it would not be known his firm was doing work for an American contractor. Well, Mr. President, I think you would agree it is a serious problem.

Mr. President, boycotts are also a violation of Japanese domestic laws, but again, enforcement is not used as an effective deterrent. This raises serious doubts about whether the construction agreement alone will result in fair access for United States firms in Japan's market for construction services.

What is even more disturbing is the U.S. Navy's rather lax attitude towards these violations. In December 1988, when I learned of the JFTC's action, I contacted our Embassy in Tokyo, which is responsible for monitoring implementation of the construction agreement, to request any information they had regarding the case. Over months later, on February 20, the Embassy responded by sending me press clips from Japanese language newspapers. I again contacted our Embassy to express my dissatisfaction with this initial response, and asked that I be provided with the names of the firms that were fined. I also asked the Embassy to find out what, if any action the Department of Defense or the Navy had taken to bar the Japanese firms involved or to investigate allegations of bid rigging at other United States military facilities in Japan. I was then referred to the Navy's Assistant Secretary for Shipbuilding and Logistics in the Pentagon. I wrote to the Assistant Secretary to request as much information as possible regarding the Navy's actions on the case. While I have not received a response in writing, I have learned from the Assistant Secretary's office that, despite the fact that the Navy was formally notified by the Japenese Government of the possible violations in September 1988, and was given the names of the 70 violators in December, his office in Washington was not notified of the outcome of the JFTC investigation until January 30, 1989—2 months after the information was supplied by the Japanese Government. I suspect that had I not been persistent in pressing to find out what was being done about the case, Washington may never have been notified.

Today, over 4 months after formal action was taken by the Government of Japan, the United States Navy still has not decided whether or not to bar the guilty firms from bidding on other projects at the bases.

I believe it is appropriate to note that some of the firms involved are the largest construction firms in Japan. The JFTC will not publicly release the names of all 70 firms that were fined for bid rigging activity until its annual report is published in the spring of 1990. However, the JFTC was required to make public the names of the firms listed on the Tokyo Stock Exchange. Fifteen of the largest construction companies in Japan fell into this category including firms such as Shimizu, Chioda, Taisei, Hitachi, and Kajima—all of whom have active operations in the United States.

It would appear that the Navy is more concerned with getting projects built than with enforcing procurement regulations. This is simply outrageous. If there is one place in Japan where United States construction firms should be assured that they will be bidding in a fair and competitive environment it should be at our bases. This experience could prove invaluable as our firms seek to expand their operations in Japan, the second largest construction market in the world.

Mr. President, it is in our economic and security interests to insure that there is fair bidding for contracts at our bases overseas. We must insure that our limtied resources are used in the most cost efficient way possible. The expanded presence of U.S. firms could result in dramatic decrease in the cost of construction services at the bases. As an example, I would like to submit for the RECORD a copy of bids that were submitted for the toilet facility at Yokosuka which I mentioned earlier. The U.S. Government estimated the project would cost 9,200,000 yen—approximately $70,000. PA&E, the only U.S. firm to submit a bid, was the low bidder at 9,989,000 yen—approximately $72,000. Of the 17 other bids, all submitted by Japanese construction firms, the next lowest bid was almost double the Government's estimate: 17,480,000 — approximately $140,000. Had PA&E not been successful in convincing the Japanese subcontractor to work for them, the Navy would have paid almost double what they did for the facility.

Numerous U.S. firms familiar with the situation at the bases say that absence of truly competitive bidding has meant that we are paying far too much for construction on the bases. The situation is exacerbated by the close relationship between the Japanese nationals working in the base procurement and the Japanese construction industry.

Mr. President, I want to reiterate that I am not raising this issue in an attempt to "bash Japan." It is United States and Japanese taxpayers who are footing the bill for overpriced construction projects. I am urging the Japanese Government to strengthen enforcement of Japanese domestic laws prohibiting such anticompetitive practices as dango and subcontractor boycotts as part of their commitment to open up their market to United States construction services in the same manner in which United States markets are opened to Japanese construction firms doing business in the United States. In addition, to address the problem at our bases overseas, I am considering legislation to mandate that the procurement offices be staffed by U.S. citizens. I am satisfied that we have enough military personnel and military wives available to staff these positions in Japan rather than employ Japanese nationals on our bases.

I am also urging the Department of Defense to investigate allegations of bid-rigging at other U.S. bases and to take swift action to bar those firms that have already been found guilty of these anticompetitive practices.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of Japanese construction companies which I mentioned in my statement on the dango practices of Japan.

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

Project: Construct toilet facility, contract No. N62836-86-0275.
Bid date: 17 March 1987.
Location: U.S. Naval Facility Engineering Command, Yokosuka, Japan.
Competitive bid results.
Compnay name, bid price.
Inoya Kogyo, 17,900,000 yen.
Nihon Tatemono, 18,280,000 yen.
Shonan Shoko, 17,800,000 yen.
Sogo Kensetsu, 18,800,000 yen.
Kyoritsu Plant Construction, 18,000,000 yen.
Hanazaki Sangyo, 19,860,000 yen.
Rinkai Construction, 18,500,000 yen.
Hissei Koji Company, 18,470,000 yen.
Takenori Company, 19,820,000 yen.
Kyodo Construction, 20,000,000 yen.
Sato Gumi Construction, 18,200,000 yen.
Nakamura Gumi, 19,000,000 yen.
Ebara Sangyo, 19,830,000 yen.
Mitaka Kogyo Sho, 18,500,000 yen.
Nagisa Kogyo, 17,480,000 yen.
Taiken Kohyo, 18,160,000 yen.
PAE International,[1] 9,989,317 yen.
U.S. Government estimate, 9,200,000 yen.

The PRESIDING OFFICER. The Senator from Pennsylvania, [Mr. HEINZ].

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

## WHITE HOUSE CONFERENCE ON HOMELESSNESS ACT

Mr. HEINZ. Mr. President, I am pleased to cosponsor the White House Conference on Homelessness Act. Our failure to provide Americans with adequate food and shelter is more than an embarrassment to this country; unless addressed, homelessness will drain us of the human potential needed to remain a great nation.

Responding to homelessness requires meeting immediate human needs. But to achieve long-term success, we must recognize the complicated factors fueling the alarming growth of the number of homeless Americans, estimated by some to include 1 million people each night.

Approximately 60,000 people in my home State of Pennsylvania had only a curb-side address in 1987. These statistics alone are appalling. When we match number for number with a homeless man, woman or child, whose existence is defined by the struggle to survive one more night on the street, the statistics are truely horrifying.

Two weeks ago, I visited three Philadelphia city shelters with Housing and Urban Development Secretary Jack Kemp, and we witnessed first hand the personal tragedy of homelessness. As I spoke with homeless men and women, I heard stories of disbelief, humiliation, anger, and hopelessness. Our Nation's homeless are needy of more than food and shelter, they are needy for the opportunity to regain their dignity and start again.

The homeless are not simply people who have been turned out of mental institutions without adequate community based services or supervision. Homeless America is a cross section of individuals teetering on the brink: Those addicted to drugs and alcohol, poor families with children, the unemployed, the disabled. Homelessness magnifies those elements of crisis that threaten not just poor America, but our entire Nation—crime, drug abuse, shortages of affordable housing, mental illness, lack of job training and health care, and declining public education.

The solution to homelessness will be most successfully developed by addressing the range of factors that contribute to the homeless problem, and must be the shared responsibility of Federal, State and local government. No matter how much leadership is provided in Washington, no matter how effective one city's efforts to end the homeless problem, new and existing programs cannot succeed without a united approach that will have staying power.

The White House Conference on Homelessness is a catalyst for achieving this unity. The conference will bring together those individuals responsible for combating homelessness in their own communities, and will provide a valuable forum for shaping coherent, national homelessness policy.

Mr. President, I strongly support the White House Conference on Homelessness Act. It is clearly time for all of us to combine our economic and intellectual resources to respond to the immediate and long-term needs of this Nation's homeless.

Mr. BYRD address the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I yield to the distinguished Senator from Vermont. I ask I may be protected of my right to the floor.

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

[1] Sole American firm bidding.

## GEORGE A. McINTYRE

Mr. LEAHY. Mr. President, this past spring, Norwich University of Vermont recognized a very honored gentleman and dear friend. Dr. George A. McIntyre of Montpelier, VT, received an honorary Doctor of Humanities degree at the commencement exercises of Vermont College.

Dr. McIntyre has been my family's doctor for as long as I can remember. All the Leahys have come to depend on him for his patience, caring, and advice. I have literally known him all my life as he is the physician who delivered me on March 31, 1940.

George McIntyre, a native of Burlington, VT, earned both a bachelor of science and an M.D. from the University of Vermont. He served as an Army physician from 1942 until 1946, primarily in New Guinea and the southern Philippines. He was an attending physician at Heaton Hospital and its successor the Central Vermont Hospital for 46 years, and he was the attending physician at Vermont College for 31 years during the administrations of four Presidents.

Dr. McIntyre pursued postgraduate education at the New York Postgraduate Hospital, the University of Chicago, the Billings General Hospital and St. Luke's Hospital in Chicago. He is a member of the Washington County Medical Society, the Vermont State Medical Society, and the American Medical Association.

After his retirement as an active physician, he was the director of the library at the Central Vermont Hospital, the president of the Washington County Cancer Society, the editor of the newsletter for the Lake Mansfield Trout Club and a member of "The Club," a Montpelier literary association. He is the author of a history of Christ Church of Montpelier.

## A NEW POLICY IN CENTRAL AMERICA

Mr. LEAHY. Mr. President, 5 years ago the Kissinger Commission issued its report on Central America. It described a region in crisis, fueled by poverty and repression, and exacerbated by Soviet, Cuban, and Nicaraguan support for insurgencies in El Salvador and Guatemala.

The Commission rightfully saw that crisis as a threat to our own security. It recommended a huge increase in economic aid—$1.2 billion per year for 5 years—to salvage the declining economies and institutionalize democracy.

It also called for major increases in military aid to El Salvador and Honduras, continued military and other pressure on Nicaragua, and diplomatic efforts to achieve a regional peace settlement.

With this massive influx of aid the Commission hoped the Central American countries would be on their way to economic recovery. Economic growth of 6 percent a year was forecast. Per capita incomes were expected to recover to their 1980 level by the end of the decade. Military aid would help hold off the insurgencies until growing economies and democratic governments removed the basis for the conflicts.

Congress gave the Reagan administration virtually everything it asked for to carry out the Commission's recommendations. Almost $5 billion in American tax dollars have poured into Central America since 1984, placing it in per capita terms second only to Israel as the top recipient of United States aid.

Mr. President, there has been some progress in some areas. There are elected governments in nearly all the Central American countries. But much of this progress is more superficial than real.

The hard truth is that after 5 years of extraordinary assistance to Central America, economic recovery and genuine democracy are still a distant hope for the majority of its people. Despite glowing reports by the State Department, last year El Salvador and Honduras had negative growth rates. Yet, together these two countries, with less than 10 million population combined, received 62 percent of our aid to the entire region.

By any standard whatsoever, Mr. President, this is a tragedy.

A tragedy because millions of Central Americans still lack the barest necessities of life, while their children play in the streets next to mutilated corpses.

A tragedy because so many millions of scarce American foreign aid dollars have achieved so little, at the same time other important aid programs were underfunded. The generosity of the American people has been misused, wasted and, in some cases, stolen by the very governments we were trying to help.

There are many reasons for this failure. Some, perhaps most, can be traced to the Central Americans themselves—rampant official corruption at the highest levels; a long history of military rule; contempt for democracy by the ruling elites; unparalleled brutality by the security forces against their own people; selfishness and cruelty by an oligarchy that remains blind to the urgent need for fundamental change; a refusal to adopt the economic reforms that are the key to progress.

Others are due to factors largely outside their control—high interest rates on a foreign debt that saps the region's wealth like a festering sore. Falling commodity prices, low investment, inflation, lack of capital, extreme unemployment and underemployment, lack of technical skills—all have combined to crush the hopes for economic growth.

Yet beyond these reasons—and worsening their impact—has been an American policy badly flawed from the start. I believe our country has followed, with the best of intentions combined with poor understanding of Central American realities, a policy which, on the whole, has actually fueled tensions and instability.

Rather than attempting to remove the root causes of social, political and economic conflict, we have instead tried to defeat insurgencies militarily. While we have paid lip service to the ideals of democracy, social reform, economic growth and justice, we have put our best efforts into winning a military victory.

What have we reaped, after nearly a decade of war, immense amounts of military and security assistance, untold thousands of deaths, an influx of hundreds of thousands of refugees, and deep internal divisions in our own country? We have a hostile Nicaragua, a dependent Honduras, and an El Salvador that is ravaged by an unwinnable war.

It is time to admit frankly that despite the Kissinger Commission's emphasis on economic recovery, the real thrust of our policy has been military.

In El Salvador, the goal of the Reagan administration became first and foremost military victory over the FMLN leftist guerrillas. Other parts of American policy have been subordinated to this overriding goal, including our efforts to institutionalize democracy, reform the military, and rebuild a shattered economy.

The policy toward Nicaragua was its own undoing, as the Reagan administration resorted to illegal arms sales and deception to get around the law and the will of Congress. Our own country became as badly divided as the fractious Contra leadership.

Mr. President, it is beyond question that the United States has vitally important interests in Central America. We all know what those are—economic development, democratic government, human rights, and an end to Soviet and Cuban interference. Republicans and Democrats are united in our commitment to advance those interests.

The question which has divided us, is how?

From my perspective, if our goal was to encourage democracy in Nicaragua and reduce Soviet influence there, it did not make sense to cut ourselves off from that country by imposing a trade embargo.

It did not make sense to support a disjointed, discredited rebellion based on the old Somoza National Guard. That simply gave the Sandinistas a justification to import huge amounts of Soviet arms and impose a state of emergency curtailing the very political

and human rights we were trying to protect.

If our goal was to fight poverty and nurture democracy in El Salvador, it did not make sense for us to provide unstinting support to that government without requiring—really requiring, not just urging—an end to military abuse of human rights, a sharp reduction in official corruption, and a genuine effort to find a political settlement.

It did not make sense to give hundreds of millions of dollars in weapons to a military that considered itself above the law and acted that way, without requiring—not just suggesting or requesting—the prosecution or at least the removal of the individuals responsible for flagrant abuses of human rights.

The policy has been a costly failure. Costly in human suffering, and in American tax dollars.

The Sandinistas are still in Managua. The rebels in El Salvador are still capable of waging war all over the country.

We are paying the price for this failure, and not only in foreign aid dollars. Refugees are flooding our southern cities, not to mention 60,000 Salvadorans and Nicaraguans in Washington, DC alone.

Law enforcement and social services throughout this country, already unable to control a drug epidemic and care for thousands of homeless families, are overwhelmed.

And the historic resentment of many Central Americans toward their "Yankee" northern neighbor for meddling in their affairs is as intense as ever. Even in Honduras our embassy was the target of a violent demonstration last year.

Mr. President, today we are at a crossroads.

We and the Central Americans share a hemisphere of great contrasts and inequities. The United States is vastly more powerful, and we have not always used our power wisely. The Central Americans are trying hard to stabilize their relationships with each other, and to limit the power of the United States within mutually acceptable bounds.

Even during the Reagan years, despite billions of dollars of aid, our ability to dictate events in the region was shrinking. Thirty years ago the United States accounted for three-quarters of all foreign investment in the Latin countries. Today it is about one-quarter.

Multilateralism is becoming the name of the game there as it is everywhere. The Japanese and Europeans are competing hard right under our noses.

Yet it is we who have the most to gain in fighting drugs, supporting democracy, promoting trade, saving tropical rain forests, controlling migration. We need to recoup valuable time lost, by replacing ideological and partisan division with reason, compromise, and shared objectives.

The Bush administration must seriously ask what it wants in Central America—peace through negotiated political settlements, security agreements, and cooperation with independent governments? Or, and this really is the alternative, continued war through proxy armies, corrupt and subservient governments, dependent economies and alienated populations?

Secretary of State Baker has asked Congress to join the administration in designing a new Central American policy and I welcome that offer. I have joined my colleagues, Senators KASTEN, DODD, and LUGAR, as the chairmen and ranking members of the Foreign Operations Subcommittee and the Western Hemisphere Subcommittee, in writing the Secretary of State that we stand ready to sit down with him to try to find common ground.

I am encouraged by the initial signs of moderation and flexibility by the Bush administration. Secretary Baker has said the administration will not seek new military aid for the Contras. President Bush has called for a bipartisan approach to Central America. Vice President QUAYLE pressed the Salvadoran Government on human rights, and warned that failure to improve its record could lead to reduction in United States aid. The administration urged President Duarte to give serious consideration to the FMLN peace offer recently, and the administration praised the Duarte counteroffer.

Clearly, the Bush administration is not the Reagan administration. Ideology appears not to drive fundamental policy decisions, certainly not to the degree it did in the Reagan White House.

I have always believed that a sound foreign policy must be cooperatively arrived at and broadly supported by both parties. I have told Secretary Baker I will do everything I can in my new role as chairman of the Subcommittee on Foreign Operations to help achieve that kind of policy if it is at all possible without compromising my deeply held views.

We must begin by finding a common point of reference. We need to explore together honestly and without finger pointing what went wrong, and how Central America today is different from what it was 8 years ago when we started down our present course. We need to seriously ask how recent changes in the Soviet Union may be relevant here. We must weigh far-reaching economic changes sweeping the world, including the massive burden of debt, adverse terms of trade and collapse of economic growth throughout the Third World.

Only then will we be ready to design a policy toward Central America that is tailored for the future rather than the past.

A great deal has happened already.

A month ago, the five Central American presidents agreed to a plan to disband the Contras in Honduras and give them amnesty in Nicaragua in return for the release of political prisoners held by the Sandinistas, democratic reforms, and a guarantee of early elections in Nicaragua with international observers.

The Central American presidents have invited the United Nations to provide observers to monitor the borders of hostile nations to prevent clandestine support of insurgencies.

The United States can regain the initiative by finding a decent, honorable way to end the Contra policy. It is clear they are not going to get any more arms. Having created the Contras, we should now help them resettle, inside Nicaragua, if possible, or to a third country, if necessary. But we should be clear to them the war is over.

Turning to the Nicaraguans themselves, we should formulate a broadly supported, clear policy: an end to the Soviet and Cuban military connection; a binding commitment to the nonintroduction of Soviet or Cuban forces, bases or offensive weapons; binding commitments to leave their neighbors alone. If necessary, we should consider, in accordance with our constitutional processes, security guarantees to Nicaragua's neighbors.

We should be prepared to hold out inducements for compliance and progress toward pluralism and democracy, including the prospect of significant American and international economic assistance, participation in the Caribbean Basin Initiative, enhanced trade and investment, our support in rejoining the community of nations, and other positive measures.

In El Salvador, the Reagan administration said we had to fight the war in order to consolidate democracy. But while we financed the war, we tolerated the undermining of faltering steps toward democracy in a country with no tradition of civilian government. Very bluntly, without strong American pressure on the government to seek a political solution, without an American demand to an end to political corruption and institutionalized incompetence, without American insistence that the military respect the law, there was no way a weak, uncertain democratic center could emerge from the bloodshed.

But even in El Salvador, there is new hope, something on which a new American approach oriented toward a political solution might be built. Two weeks ago the guerrillas offered for the first time to forgo their longstand-

ing demand for power sharing in the government prior to participation in elections. They promised to respect the outcome of elections held under the existing Salvadoran Government. The FMLN proposes that the elections be delayed 6 months so they can participate, and they offer a 60-day truce to allow the elections to take place without violence.

President Duarte, after initial hesitation, and with U.S. encouragement, offered to postpone the elections 6 weeks.

I deeply regret that the FMLN proposal and President Duarte's counteroffer have not led to agreement to reschedule the elections and to begin a truce.

Nevertheless, the FMLN proposal and the Duarte counterproposal has changed the Salvadoran political landscape. FMLN willingness to join the political process and respect the outcome of elections could be a significant break in the Salvadoran tragedy. It represents changes in the basic FMLN position which the rebels cannot easily reverse. It is also important because it has led to contacts between the rebels and the Salvadoran political parties. From this could begin a dialog, and eventually a process that could offer an alternative to endless war.

I do not believe the FMLN regards itself as beaten on the battlefield, or is ready to give up its pursuit of power in El Salvador. But it is possible that, under the right conditions, they are prepared to shift their struggle to the political arena and seek a respite from the fighting. The key, which should be our aim, is to get a process in place which makes the sides sit down at the bargaining table instead of planning new military attacks.

But whatever the outcome of this possible opening, the United States has a major role to play in resolving the conflict in El Salvador, as it does throughout the region. We agree on what our goals are. They were President Duarte's goals and they are President Arias' goals—economic reform and the institutionalization of democracy.

We do not need to change our goals, we just need to get serious about them. We have got to be willing to tell the political and military leaders in El Salvador our aid will be cut if they do not build democracy and eliminate abuses. We have got to make clear to them that there is a consensus in the United States that a political solution—not military victory—is our policy for ending this war. We should make them understand that the American people will not finance endless war to maintain a corrupt oligarchy and a savage military in power.

I hope President Bush has learned from the past. We are a great country not just because of our military strength, not just because of our economic power, but because of the force of our ideals and what we stand for. We just have failed to insist on what we believe in.

We are the longest existing democracy. We believe in the rule of law. We believe in helping people in need. People whose human rights are respected, who are part of the political process, will stand up for democracy. Let us design a policy worthy of all the Americas.

Mr. President, once again I wish to express my appreciation to the distinguished senior Senator from West Virginia, the President pro tempore, for his customary courtesy in yielding me this time.

Mr. BYRD. Mr. President, may I assure my friend that he is welcome.

## FLORENCE KING'S RETIREMENT

Mr. BYRD. Mr. President, as I sometimes do when a particularly faithful and helpful member of my staff retires, I would like to make a statement of gratitude to one such staff aide, Mrs. Florence H. King, who is retiring from Capitol Hill at the end of this month.

Mrs. King has served on my staff for more than two decades primarily in the capacity of case worker specializing in student aid, education, and health issues. In all these efforts, Florence made important contributions to the lives of countless numbers of my constituents and their families throughout West Virginia.

She is the widow of the late Lt. Col. Robert C. King, Sr., retired. Florence joined my staff shortly after her husband's death.

A native of Philadelphia, throughout her marriage to Colonel King, Florence traveled around the world with her husband and family as Colonel King fulfilled his duties in the U.S. Army Medical Corps. The Kings were stationed variously in Puerto Rico, Trinidad, Japan, and West Germany, and during that time Mrs. King found time to lend her talents to teaching kindergarten to military dependents.

She is deservedly proud of her four sons, who in some way boast service-related careers.

Florence's eldest son, Robert, Jr., works for the Veterans' Administration here in Washington.

Lt. Col. Peter King serves with the U.S. Air Force and is stationed in London, England.

Her son Anthony is a civilian employee of the U.S. Navy at the Philadelphia shipyards.

And Anthony's twin brother, Sfc. Jeffrey King, is stationed with U.S. Army Special Forces in West Germany.

Not surprisingly, Florence is a grandmother and counts nine grandchildren who can distract her and call on her special affection in her retirement.

I know that Florence will also otherwise make the most of her time in her retirement as well. Among her hobbies, she numbers golf, bridge, and art, as well as gardening, in which she hopes to advance her expertise by participating in an experimental rose program with a major plant company, I am told.

As her employer over these two decades, I want to express my appreciation to Mrs. King for her 20 years-plus of service as a valuable member of my staff. Moreover, as a fellow American, I want to express to Mrs. King my admiration for the contributions that she made as a service wife, laboring as she did for many years beside her military husband in distant and foreign places, and in rearing four sons to take their places as patriotic and responsible citizens of our country.

Upon her retirement, I hope that Florence King will take with her my best wishes for a rich and rewarding, useful life ahead, and for the rewards of selfless, giving life that has contributed to America a family of sterling character and civic, patriotic pride.

Mr. President, my good friend, Senator MATSUNAGA, is on the floor. I do not want to keep him waiting. I still have another statement. I ask unanimous consent that I may yield to him without losing my rights to the floor.

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

Mr. MATSUNAGA. Mr. President, I thank the distinguished President pro tempore for yielding.

## ST. PATRICK'S DAY

Mr. MATSUNAGA. This being St. Patrick's Day, as you can plainly see I am wearing a green tie, and I do that because I am really one-quarter Irish. People look at my face and say, "How can you be?" Well, I have a grandson who is half Irish. I made him half Japanese by descendancy and he made me quarter Irish by ascendancy. That is how I happen to be quarter Irish. So happy St. Patrick's Day to all who are Irish.

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

Mr. President, I thank the distinguished President pro tempore for yielding. I now return the floor to him.

Mr. BYRD. Mr. President, I thank my friend, the happy Irishman whose name is "SPARKY PATRICK" MATSUNAGA.

## EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, has the time for morning business expired?

The PRESIDING OFFICER (Mr. ROBB). Under the order, 3 o'clock is the time set for the expiration of morning business. Unanimous consent can be requested to extend if the President pro tempore desires to do so.

Mr. BYRD. Mr. President, I thank the Chair.

I ask unanimous consent that morning business may be extended—I see Senator LAUTENBERG on the floor as well. I will need 10 minutes, I suppose.

Mr. LAUTENBERG. If the President pro tempore will yield, I ask if he would include in that unanimous consent about 10 minutes beyond that for my statement.

Mr. BYRD. Very well. I ask unanimous consent that morning business may be extended under the same conditions for an additional 20 minutes.

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

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

## EXTENSION OF TIME FOR MORNING BUSINESS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the period for morning business be extended to no later than 3:30, so that we can be sure that we cover the business that I have at hand, including what I believe will be a response from the Republican side.

The PRESIDING OFFICER. Without objection, the time for morning business will be extended to 3:30.

The Senator from New Jersey has the floor.

## SECURITY OF AIR TRAVEL

Mr. LAUTENBERG. Mr. President, very soon I am going to be sending a Senate resolution to the desk on behalf of myself, Senator HOLLINGS, Senator FORD, Senator BRADLEY, Senator MIKULSKI, Senator D'AMATO, Senator HEINZ, Senator SARBANES, and Senator MOYNIHAN.

This resolution calls on the President to appoint a commission to investigate the events surrounding the bombing of Pan Am 103 over Lockerbie, Scotland.

The time has come to get the full story. The revelations of these past couple days make it clear that we in the Congress and the public have not received the full story. It was revealed yesterday that our Government and the British Government knew, had solid information about the possibility, that terrorists might hide explosives in an attack on a commercial flight just prior to the Pan Am tragedy.

The aviation officials had specific details on the type of device that might be used—in fact, the type of device that was used. What was done? What steps did our carriers take? What did our aviation officials tell them to do? The answer is, we do not know, and we should know. It has been almost 3 months since Pan Am 103 was destroyed, taking 270 innocent lives.

In that time, families and friends of the Pan Am 103 victims have been frustrated in their attempts to find out how their loved ones were murdered, and why more could not have been done to try to prevent that. I share their frustration.

Three days ago, my Transportation Appropriations Subcommittee held a hearing to investigate the events preceding and following the bombing. The inability of the FAA and the State Department to explain their policies and procedures for dealing with terrorist threats was beyond comprehension. At no time did FAA officials tell us what we now know they knew.

Mr. President, at our hearing, a hearing of over 4 hours, we explored the events that led up to the Pan Am bombing. We explored the matter of a telephone threat. We reviewed it in detail. Yet FAA said nothing about a November bulletin to air carriers, the bulletin that warned them about the possibility of a radio cassette tape player containing a bomb, a bomb with a barometric device that would trigger the explosion in the air.

Mr. President, I asked Mr. Ray Salazar—he is the chief of security at FAA—directly what was known. I am quoting now from our hearing. I asked: "Well, is it being suggested that that"—referring to telephone threats—"was the only warning that might have come?"

The quote goes on, "And again now we have dismissed that warning as a significant warning. Did we have any other information that indicated to FAA or Pan Am or our State Department that something else was coming?"

Now, I repeat, what I asked was, did we have any other information that indicated to FAA to Pan Am or our State Department that something else was coming? This was in the context of a warning about an explosive device or a terrorist attack.

The security chief of FAA, Mr. Salazar, said: "No, sir, nothing preceding the event that led Pan Am 103."

Mr. President, I ask unanimous consent that a page of the transcript of the hearing of that day be printed in the RECORD.

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

TRANSCRIPT OF MARCH 14, TRANSPORTATION APPROPRIATIONS SUBCOMMITTEE HEARING ON AVIATION SECURITY

Senator LAUTENBERG. But once it was established or it was believed that this was not going to be the route taken by the terrorists, what changed, if anything, before the fateful day in terms of precaution of procedure to continue the pressure against the possibility of a terrorist attack?

Mr. SALAZAR. We did not discount the tactic, sir. What we did discount was the individual that telephoned the threat. This individual has a history of being a known hoax maker. And that was what we learned subsequently to our publication of the bulletin.

Senator LAUTENBERG. Well, is it being suggested that that was the only warning that might have come? And, again, now we have dismissed that warning as a significant warning, did we have any other information that indicated to FAA or Pan Am or our State Department that something else was coming?

Mr. SALAZAR. No, sir, nothing preceding the event that led to Pan Am 103.

Mr. LAUTENBERG. Mr. President, it is intolerable to have important information withheld from the Congress. It is intolerable to have information withheld from the families and the friends of the victims of Pan Am 103. It is worse to think that valuable information about possible threats might have gotten trapped in bureaucratic channels.

After all this time, the families and friends of the victims of Pan Am 103 still have not heard one word from the White House—it is almost 3 months—not a word of condolence, not a word of explanation, not a word of commitment that this administration will do what it can to prevent future tragedies like Pan Am 103.

Mr. President, this resolution calls on the President to appoint a commission to investigate the Pan Am 103 bombing. We want to know just what was known, when it was known, and by whom.

It is also clear that we need a full review of American policies for dealing with threats to aviation. You do not need a road map to follow the flow of information about threats to aviation security. And it seems to me there are too many detours and too many dead ends.

The appointment of an independent commission would provide us with a means to review those policies.

It is important to know if inadequacies in those policies may have reduced our chances to avoid the tragedy over Lockerbie, Scotland. It is essential that we identify shortcomings, so that everything possible is done to prevent more tragedies like Pan Am 103.

As I said before, it is almost 3 months since that tragic bombing, and we still do not have the full story from our Government and the air carriers about what they knew, when they knew it, and what they did about it. I think it is time for an independent

special commission that will open up the files and provide the answers.

Mr. President, I believe that the Senate should act today on this resolution. The time has come for answers. The Senate is about to go into a 2-week recess. This is a simple resolution, but an important one. We must act now if we are to be true to the memories of the deceased and to those who survive who want to save others from the grief that they experienced.

This resolution has been cleared on the Democratic side, and I understand that there may be an objection from the Republican side. We will wait to hear from them. If there is, it will be a terrible disappointment. This is a sense-of-the-Senate resolution. We do not need hearings to know that a great tragedy occurred. We do not need hearings to know that the full story has yet to be told. It has been in all the newspapers. It has been on television. It has been on radio. We do not need hearings to know. The full story has yet to be told, and we do not need hearings to know that we need answers and we need it from an independent review.

The resolution calls on the President to appoint an independent commission. It calls on the President to give us the full story of Pan Am 103 and a complete review of how this Government tries to assure the safety of air travelers.

Mr. President, I spoke to Secretary of Transportation Skinner this morning. He told me about his own plans for an internal review. I applaud that initiative, but I would like to make two points.

First, given the kind of information that we now know has been withheld from the Congress and the public and perhaps even from the Secretary of Transportation himself, we ought to have that independent review if we are going to have the confidence that we have finally gotten the full story.

Second, I would add that the transportation agency is not the only agency involved here. The State Department is involved in gathering and disseminating intelligence information related to a terrorist's threat on aviation security.

This problem crosses the departmental lines. It goes beyond a review that might be conducted within the Department of Transportation.

And that is why we need an independent Presidential review of how this Government is going to protect the flying public.

Mr. President, I held a hearing, as I said, of my Transportation Subcommittee of Appropriations this week.

The victims' families were brutalized more than once. First, the shocking news that their children, their brothers, their sisters, their sons and daughters were destroyed in a tragedy over Scotland, and now it is suggested that perhaps there was advance information of this event occurring.

This was so brazenly handled after the tragedy with total distance from our Government to the victims of this crash. They did not know who to go to. They got mealy-mouthed answers from the State Department. The State Department referred them to Pan Am.

In one instance, a man testified at my hearing that he was advised sometime after the bombing occurred that he could pick up his shipment at the cargo area at JFK Airport, the Pam Am cargo area. His shipment was the remains of his brother described as a shipment.

I cannot believe that we cannot get unanimous consent to ask the President of the United States, to form a commission of his choice, to form it quickly, and to get on with responding to the American public and in particular the families, the friends, of those who died we believe now needlessly in that accident.

Mr. President, I was hoping for unanimous consent to have this sense-of-the-Senate resolution acted on. This is not legislation. It has I understand been cleared on the Democratic side and I would ask the acting Republican leader if there is any objection to that unanimous consent to have this introduced and acted upon.

Mr. SIMPSON. Mr. President, on this side of the aisle, and I speak on behalf of the leader, we have an objection to be rendered toward this unanimous-consent request. It has nothing to do with the tragedy or the passion of discussion of the tragedy. We know those things.

There is not a single one of us here who thinks this is the way that a civilized people should conduct their business, but we do have one or two of our Members who feel that this should go through the committee hearing process and I think it surely will very swiftly because Chairman HOLLINGS is a cosponsor of this resolution. Members of the Commerce Committee want consideration of this in committee.

So I respectfully object to the unanimous consent request, not with any attempt to denigrate or dilute the issue. It is a simple matter of trying to follow the procedures of the Senate and for that reason I object.

Mr. LAUTENBERG. Mr. President, I thank the acting Republican leader.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that we extend morning business by another 10 minutes.

The PRESIDING OFFICER. Without objection, morning business will be extended for another 10 minutes.

Mr. LAUTENBERG. Mr. President, the acting Republican leader, someone I know and someone I work with on many things, has differing opinions on occasion, but always with an objective in mind to do the right thing. I respect his comments that he was not objecting based on the substance, but based, as I understood it, on the process.

Mr. President, we do not need the process to tell us that 270 people were murdered in the skies in an American airplane. An extension of our country was in the sky over Scotland. We do not need a hearing to tell those people that got that awful news that day, December 21, just before Christmas. They do not have to be reminded that they lost, in one family from New Jersey, two twin 20-year-old sons. They do not have to be reminded that a father lost a 16-year-old daughter in that crash. They do not have to be reminded that breadwinners from their families were taken from them. They do not have to be reminded that a father who stood at that hearing and said, "My son, a lieutenant in the American Army, proudly serving his country, died in that crash."

They do not have to be reminded that the British Government and the West German Government notified people, notified airlines, notified airport authorities. The FAA, our own FAA, sent out a bulletin. It went to the following people—and the date, by the way, was November 18. This bombing, I remind everybody, took place on December 21. They sent it out to all the FAA regions. They sent it to the Airport Transport Association. They sent it to the National Air Carrier Association. They sent it to FAA representatives in Berlin, Dakar, London, Paris, Rome, Tokyo, and Rio, all over the place. But they did not do what they could have, in my view, to alert Pan Am—perhaps we ought to find out—to what was coming on that airplane.

The German Government sent out a picture, a colored photograph, of something called—would you believe the irony of this—the Toshiba bombeat. That is the name of the audio cassette player—b-o-m-b-e-a-t; a bombeat. Because the West German Government saw this as a new device. They called it an improvised explosive device. They saw it. They knew it was in the hands of terrorist organizations. They cautioned their own airlines. They cautioned others: Be careful, be on the lookout for this kind of thing.

So, Mr. President, when I discussed this with Senator HOLLINGS, who is the chairman of the Commerce Committee, when I discussed it with Senator FORD, who is the chairman of the Aviation Subcommittee of the Commerce Committee—and I think the distinguished occupant of the Chair also serves on that committee—when I discussed it with those two leaders, they did not tell me they wanted to hold it up for process. They did not tell me it was their turf that was being invaded.

They said, "We have to solve this problem. We owe it to these people." And their response was immediate.

The Republican side had a chance to review this. We are going to be out of here for 2 weeks. Everybody knows it. That is no secret. So we want these people to sit on their hands and wait once again for a phone call, the phone call that never came from this administration. They are going to have a vigil out in front of the White House at the beginning of April. Do we want them to sit out there and say, "No, no, your Government is inactive because the process has not been appropriately observed. We want to go through hearings. We want to be sure that that airplane was knocked out of the sky. We want to be sure that those people are dead. We want to be sure that those families experienced the grief that they did."

That is what we are saying, Mr. President. This perhaps is a futile discussion, but it is something I had to get off my chest because I have sat with those families. Many of them came from New Jersey; a lot of them from New York; a lot of them from all over the country, from West Virginia, from Kansas. Families were touched by that particular incident as no aviation tragedy before in America. Young kids, Syracuse students off on a college excursion, coming home to be with their families at Christmas.

We were told—we were misled, let me say, by the testimony given in front of the subcommittee. We have an obligation to try and find out, because everybody who sets foot on an airplane has a right to know whether this Government is doing what it should to protect them. And we have asked for the best route, in my view, to find out—the President of the United States. We trust him. We believe in him and we believe in his judgment to pick the right kind of people to serve on this panel and get back to the American people and say, "Look, we screwed up"; or, "We didn't and we are going to tighten things up if we should have."

The fact of the matter is that it is time for action. I regret the decision that those who are holding this up have made. As I said, the Democratic side cleared it.

Mr. President, I ask unanimous consent that a letter that I, Senator HOLLINGS, and Senator FORD sent to President Bush be printed in the RECORD.

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

U.S. SENATE,
*Washington, DC, March 17, 1989.*

Hon. GEORGE W. BUSH,
*President, The White House, Washington, DC.*

DEAR MR. PRESIDENT: We have learned that important information relating to terrorist explosive devices was available to our government well in advance of the tragic bombing of Pan Am 103 over Lockerbie, Scotland.

It is now apparent that specific information, provided by West German authorities, was conveyed by the FAA to our air carriers operating overseas. That communication included detailed information on altitude-sensitive explosive devices concealed within a specific brand of portable radio, and warned of a possible terrorist threat. It was exactly this type of device that destroyed Pan Am 103, murdering 270 innocent people.

Mr. President, it is unconscionable to think that information that might have helped prevent the Pan Am 103 tragedy was in the hands of U.S. officials and air carriers well in advance of the December 21 tragedy, but that the warning was not adequately used.

On March 14, the Senate Subcommittee on Transportation Appropriations held a hearing to investigate the events surrounding the Pan Am 103 bombing. It was made painfully clear at that hearing that Federal policies for dealing with terrorist threats are, at best, unclear. Further, despite repeated inquiries at that hearing, the fact that our government had this information, and had advised our carriers of this threat, was not shared with the Subcomittee. Clearly, a thorough review is warranted.

Therefore, we respectfully request that you appoint a special, independent commission to investigate the Pan Am bombing and government policies and procedures for dealing with terrorist threats. Such an investigation should scrutinize the events leading up to the bombing, including a review of what information was available to whom, when that information was available, and how that information was used. The commission can also play a vital role in reviewing and recommending changes in our policies for addressing terrorist threats to civil aviation.

We are today introducing a resolution in the Senate urging the creation of an independent Commission by March 30 to investigate the events surrounding the bombing of Pan Am 103. We respectfully request that you exercise your authority to convene such a panel in anticipation of Congressional action on this resolution.

Finally, Mr. President, the families and friends of the victims of Pan Am 103 continue to be distressed by the reaction of the Federal government. In the almost three months following the bombing, there has been no contact with them from the White House. It's essential that they know that their government is behind them, sharing in their grief, and committed to do all it can to prevent recurrences of this tragedy. On behalf of the families and friends of the victims of Pan Am 103, we hope such a commitment will be forthcoming and that you will move quickly to establish an independent Commission to investigate these issues.

Sincerely,

FRANK R. LAUTENBERG.

Mr. LAUTENBERG. Mr. President, I send to the desk for introduction a Senate resolution in which I am joined by Senators that were named earlier.

I also ask unanimous consent that a statement sent by Bert Ammerman, chairman of the Political Action Committee for the Victims of Pan Am flight 103, applauding our efforts to try to get at the bottom of this, be printed in the RECORD.

Mr. President, I ask unanimous consent that this resolution be appropriately referred in keeping with the wishes of the Republican Senators or Senator who objected so that it goes through the appropriate process.

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

STATEMENT BY BERT AMMERMAN, CHAIRMAN OF THE POLITICAL ACTION COMMITTEE FOR THE VICTIMS OF PAN AM FLIGHT 103

I applaud U.S. Senator Frank R. Lautenberg for taking a leadership role in assisting Americans in finding the true facts about the bombing of Pan Am Flight 103.

We heartily endorse the bill so that our governmental leaders with the leadership of the Senate and the President can protect all citizens from this type of tragedy ever happening again.

Our organization is ready to assist and support this investigation.

Mr. SIMPSON. Mr. President, reserving the right to object, and I doubt that I will. I just want to be certain here that we are dealing now with the entry of two letters into the RECORD and a referral of this resolution to committee where it will remain until we return from our recess period. Is that the understanding of the Chair?

The PRESIDING OFFICER. The resolution will be received and appropriately referred under the rules of the Senate.

The resolution reads as follows:

S. RES. 86

Whereas, on December 21, 1988, Pan American World Airways flight 103 (hereinafter referred to as Pan Am 103) was deliberately and maliciously destroyed over Lockerbie, Scotland, by a terrorist explosive device;

Whereas 259 passengers and crew members on board Pan Am 103 were killed;

Whereas 11 individuals in and around Lockerbie, Scotland, were also killed;

Whereas relatives and friends of the victims of Pan Am 103 have been unable to obtain satisfactory information regarding the events leading up to the destruction of Pan Am 103;

Whereas investigations have revealed that the terrorist explosive device apparently was concealed within a portable radio cassette tape player and likely designed to explode upon attaining a specific altitude;

Whereas on November 18, 1988, the Federal Aviation Administration alerted United States Department of State officials and United States air carriers operating overseas that a terrorist group had prepared an explosive device hidden in a portable radio cassette tape player that included a device that could be used to trigger the explosive in an aircraft;

Whereas it has been revealed that the Government of the United Kingdom had the same information as the Federal Aviation Administration in November 1988, and that such Government issued a notice on November 22, 1988, and on December 19, 1988, two days prior to the bombing of Pan Am 103, distributed additional information, to United Kingdom airports and airlines and certain non-United Kingdom airlines, including photographs of the explosive device and portable radio cassette tape player;

Whereas complete information relating to the actions of United States and foreign diplomatic officials, aviation officials, and air

carriers, including any responses to official warnings and security bulletins, preceding the destruction of Pan Am 103 has not yet been fully disclosed to the Congress or to the public;

Whereas the issue of selective notification of threats of terrorist action on flights, such as in the case of Pan Am 103, must be resolved;

Whereas serious questions remain as to the adequacy of United States and foreign aviation security procedures to safeguard the traveling public on domestic and international flights;

Whereas the events surrounding the destruction of Pan Am 103 affects the public's confidence in the ability of the Government of the United States to ensure, to the maximum extent possible, the safety of travelers on domestic and international flights;

Whereas an independent, objective assessment of both the facts and circumstances surrounding the destruction of Pan Am 103 and of the adequacy of aviation security procedures may help prevent recurrences of tragedies such as the destruction of Pan Am 103; and

Whereas complete information surrounding the events leading to the destruction of Pan Am 103 may assist in bringing the responsible parties to justice: Now, therefore, be it

*Resolved,* That it is the sense of the United States Senate that—

(1) the President should appoint, not later than March 30, 1989, a special commission to investigate the events surrounding the destruction of Pan Am 103;

(2) the commission should have the power to conduct hearings;

(3) consistent with national security, the commission should have access to classified information, subject to appropriate safeguards;

(4) the commission should hold its first meeting not later than April 15, 1989;

(5) the commission should submit, not later than August 31, 1989, to the President, and to the Committees on Commerce, Sciences and Transportation and Appropriations of the Senate, and the appropriate Committees of the House of Representatives, a report including, but not limited to—

(A) its findings relating to the relevant information available to the Government of the United States, and to commercial air carriers, prior to December 21, 1988;

(B) an assessment of the adequacy of all known aviation security procedures;

(C) recommendations for changes in all laws and regulations relating to security of commercial air carriers; and

(D) the commission should also prepare a copy of its report, for public distribution, excluding such information that is classified or the disclosure of which would threaten the safety of air travelers or others.

SEC. 2. The Clerk of the United States Senate shall transmit a copy of this resolution to the President with the request that the President further transmit copies of this resolution to the Secretary of Transportation and the Secretary of State.

Mr. SIMPSON. Mr. President, I think that will be appropriate. I will not object.

But I would say this, without delaying, that if one will refer to this resolution, it is so very sweeping. So let us try to get this back into perspective, because we do this type of thing so often in this place. I know Senator LAUTENBERG. He is tough, fair, and firm. We have belted each other's lights out a time or two with regard to legislation and various activities.

There is not anyone in this body that feels lesser about this tragedy. That is what always puzzles me about this place; that somehow others have a greater degree of compassion or care or love of our fellow humans. This was a terrible disaster.

But what this resolution does—I am not on the committee, but I know what it says: While we are in recess, there will be the appointment of a special commission. The commission will have the power to conduct hearings. The commission will have the power to subpoena witnesses. The commission will have access to classified information, which information will be appropriately safeguarded. It will hold its first meeting not later than April 15. They will submit to the Congress a report, and here we go.

We do not know what that is going to entail. There is not any question about the fact that it will be something that will take the interest of many of us, and perhaps it should.

But I just say that the Senator from New Jersey and I have worked on a lot of things. It always seems to do with something emotional: Superfund, acid rain, toxic chemicals.

I think too, that sometimes, as we look at the list of resolutions that come before this body, they are a veritable torrent.

I say this, I guess, with all the charity I can muster for it certainly has nothing to do with the Senator from New Jersey. But, if we did not have so many staff people sitting around here watching every single television program, every single news release, every single everything and then cranking one out every morning so that the world would be sure that somebody here cared, we would do better in this remarkable body.

I am not saying that with regard to the Senator from New Jersey. I am saying that to the hundreds of sets of eyeballs that are right now tuned to CNN, or CBS, or NBC, or ABC, to see what it is they can pick up from the day's activity that will make it the big blast of the day.

I, frankly, am one Senator who gets a little tired of that glassy-eyed stream of staff who just wait out there for that singular purpose. And then we have to process it. And we do it all the time, somehow, from Chilean grapes to dioxin.

This is not a new or refreshing thing. I have tired of it long ago. Things are always tilted to emotion, fear, guilt, or racism or something like that, to trigger us to do a resolution or a "Sense of the Senate" project. And we lean and lurch in the wind with that kind of activity. I do not think it is to our best interests because the American people see right through it.

Is there anybody in America who does not believe this airline tragedy is the most grotesque act, performed by madmen in the world? And yet it is amazing the investigators have come this far. I am very pleased. I am sure the Senator from New Jersey is as pleased as I am as to what they are finding, and what their investigation has revealed. They are finding the bomb and the bomber out of the wreckage of these fine human beings. Murder—yes, I will call it that, too.

But we are here to legislate. That is our job. We are not here to do sense-of-the-Senate resolutions. We should not even appoint commissions. But we do that all the time.

We appoint MX commissions because we will not deal with it. We appoint Social Security commissions so we will not deal with it. We appoint a National Economic Commission so we will not deal with it.

Every one of us comes here to the floor and prattles on about it. We ought to do something about the Social Security System because in the year 2030 the thing will be headed for the bow-wows. But we do not touch it. We ought to do something about the deficit. But we will not touch it.

That is the way we do our business. It is not the way the Founding Fathers intended that we do our business. But that is the way we do it. And then we pound our breasts and go home and say, well, we have this commission working on it. I did that. I hope the next National Economic Commission will do its work. They could not do it this time. There are many reasons for that and they are all political, on both sides of the aisle.

But, really, I have gone too far. I could have just rambled over here and given the objections, but my juices were running because I have been through this. I have been through all this many times. And I get very tired of it.

It does not matter what it is. The people of America deserve better. And I am not making this a personal reference to the Senator from New Jersey. I admire what he has done on Superfund. I was on the conference committee with him. I know the intensity he feels about toxic wastes and having his beaches fouled. I understand that. But the American public are waiting for us to do something instead of just talk, talk, talk.

So, let us legislate and try to do that. I will pledge to do that with my friend from New Jersey, as we do on the Environment and Public Works Committee. He chairs a vital subcommittee of that committee and he is going to do a great job and he is going to take under his wing some of the toughest issues in America. And he will do them with toughness and fairness. And he will come out with some legislation.

But, this business of commission after commission and responding to the news flash of the day, pumped down through the staff in order to come up with something the next day. I am sure they are just going to have to get along without us for a couple of weeks. God willing the entire country will prevail in our absence and they can keep cranking it out but there will not be anybody here to put it on the floor and that will be very frustrating for them.

I always call that the dashed hopes syndrome. They will have to suffer along with that for 2 weeks. So, I have unleashed another terrible blast at the staff. I will pay dearly, in ways that I will never even know. But I have done it. I yield the floor.

The PRESIDING OFFICER. The Chair will observe that the time reserved to extend morning business has expired.

The Chair recognizes the Senator from New Jersey.

EXTENTION OF MORNING BUSINESS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that morning business be extended until such time as this debate ends.

Mr. SIMPSON. No; I would object to that, having no time certain.

Mr. LAUTENBERG. I ask unanimous consent that we extend morning business for 15 more minutes.

The PRESIDING OFFICER. Without objection, morning business will be extended for 15 minutes more.

Mr. LAUTENBERG. Mr. President, the acting minority leader made several comments. And I do not take personal offense at being described as a breast beater, a prattler, a tool of my staff, a carrier of legions of resolutions and trivia. I do not take offense at that.

Mr. SIMPSON. Mr. President, that was not a personal reference in any way.

Mr. LAUTENBERG. That is why I do not take offense at it.

Mr. SIMPSON. Good.

Mr. LAUTENBERG. But, Mr. President, we compare this to these things that we deal with here, things like Superfund and toxic waste, at which it was acknowledged that I am somewhat of an expert. I thought perhaps I would be described as the prince of pollution control along the way. But reference was readily made to my skill and prowess, a knowledgeable person on the matters of environment.

The fact of the matter is, Mr. President, that there is no comparison with anything that we have talked about here to this incident and its timeliness. It is just on the eve of a recess. And I guess the message that goes out to those families: Listen, your loved ones were not here for Christmas, but it is all right, they will not be here for Easter either. We are not going to talk about them. We are not going to find out what happened. We are not going to get to the bottom of this thing. Easter? It does not mean that we do not have to be responsive to these people. This is just another one of these things that we throw out, another for television, another set of glazed-over eyeballs.

Mr. President, in all fairness, this Senator rarely uses this floor. My work is done most effectively in the committee environment. I am here on the floor when I have things that I think are meaningful to talk about.

It is not often. Yes, I feel passionate about some things, I really do. That is why I work so hard on a lot of issues. This one is different. This is not part of the usual flow.

The reason that this request was made was to expedite the process. And not for us to talk about the commission's parameters, but rather to recommend to the President of the United States. We assume that he has within his staff, within his organization, the knowledge, the skill, the objectivity, to use the mechanism.

We are not calling witnesses. That is why I wanted to get it out of here. That is why I want to move it out of the Congress, move it out of the Department of Transportation. Let the President of the United States step into this.

As I said in earlier remarks, these families have yet to hear one word of condolence, one solicitous word from the White House. No letters, nothing from the White House.

We met. A relatively minor official testified on this matter. Families came. Families sat there and they listened and they wept and they spoke out.

What we are asking for is expedited treatment of something that can avoid the hearing process. Hearings are not necessary. This is a sense-of-the-Senate resolution. We are not enacting a bill here. We are asking for the sentiment of this body: "Do you, Senators, each one of you individually, object to having the President of the United States appoint a neutral commission? Mr. President, you choose them. They can be all Republicans, all Democrats, or Independents. We are not picking them. You, the President of the United States, pick them and you direct them. We will get it out of turf squabbles and things of that nature. Do each of you Senators feel that we owe it to those families to respond to them, tell them why it is we did not use the information that came from West Germany or Great Britain or from our own FAA, why we did not use it, why did not we give those people an opportunity?" Perhaps, just perhaps, we could have avoided what befell them.

This isn't the usual stuff. This isn't the Superfund bill, and it is not transportation, and it is not education, and it is not housing. We had an event visited upon the United States second to none—terrorism. It is the same thing they did to our marines in Beirut. They were expecting a little bit more there, because of the atmosphere. We are now seeing challenged the ability of the free world to move its people around. But we must go through the process.

Mr. President, the arguments have been made, the objections have been raised. Somebody or some person on the other side of the aisle has objected to an expedited review of this tragedy. It is too bad. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the acting Republican leader, the Senator from Wyoming.

Mr. SIMPSON. Mr. President, now you can see why the Senator from New Jersey and I like to mix it up occasionally. I understand the sarcasm that goes with all that. I understand also it is not directed to me, which is the heartening part of it. But I want to correct something that is so bad. It is to think that there was not one word of condolence to these people at the time. It is not so. It is a crude and unattractive statement because this event happened on December 21, 1988, and the President of the United States—the present one was not the President of the United States—when it happened, Ronald Reagan showered his condolences upon every single victim's family involved. So I hope we will not have to get into that kind of stretch of fact because that is absurd. President Ronald Reagan expressed that in the most beautiful terms and so did President George Bush and so did everybody else in the land. For Heaven's sake, that is exactly what I am talking about. We should not even have to grace it with comment.

Of course, it is not "the usual stuff." But I can tell you what is the usual stuff. We are an hour away from a 2-week recess, and this tragedy happened December 21, 1988. We have been in session since January 24. That is the issue. Do not pull one out of the hat with an hour to go until recess where we have to immediately abdicate our legislative responsibilities to others at a time when we will not be here. That is the issue. That is not me objecting, but it is certainly one I represent on our side of the aisle. We would not find out anything anyway from the commission in our absence. How could it be expedited?

I understand the frustration that comes from constituents. It must be a wrenching and hideous thing to have people sitting in your office who had relatives on this plane. That is exactly what I was talking about a few minutes ago, and that is exactly what I am talking about now. But to think there

was no one here who cared, no one here who paid attention, Heavens, the whole world paid attention. That is what I am talking about. That is not a becoming thing. I have nothing further to say.

Mr. LAUTENBERG. Mr. President, in order that this record reflect something different than was suggested that this was a closing-hour opportunity to flash this issue past the U.S. Senate, it is only in the last couple of days that we found out that our Federal Aviation Administration did not tell us the truth. It had to come from newspaper stories that were published in the last couple of days. The acting minority leader would say so we sat on our butts here for 3 months. Nothing happened. There was no direction from the White House. There was no direction from the State Department. There was no direction from the FAA to say, "Let us get at the bottom of this."

This is an event that has moved along by circumstances. We just learned, to our chagrin, that these people were not told the truth; that they were reflected to Pan Am's spokesman, and that is where they would get their information.

Now, Mr. President, however we want to color this issue on this day, there was an objection by the Republican side to expedite a review of this because it did not meet the test of process. That is what we have learned today.

Mr. SIMPSON. Mr. President, I respectfully say that is exactly the parentheses to put on this, and also the emphasis. When we in the legislature of the United States of America gauge all of our actions on what we read in the press or see on television, then we are in deep trouble in this country. To think that those are the oracles of our land is part of the problem. Just because we read it in the newspaper or see it on television and then have it work through the staff and on to the floor of the Senate is a demeaning process and we are the losers—the American public are the losers.

That is exactly what we see here. When we see something in the Washington Post last week that was withheld by the chairman of the Armed Services Committee as being irrelevant and uncorroborated and then see it on the front page of the paper, and believe that, and get into that kind of a mental attitude, we are in trouble in this country. That is exactly what I was saying. It could not have been more well emphasized by my fine friend from New Jersey.

## RUSS BROWN

Mr. MURKOWSKI. Mr. President, an outstanding professional staff member of the Energy and Natural Resources Committee has recently left the Senate for other pastures in the Department of the Interior. Although he would dislike me using the cliche, I'll use it anyway: Russ Brown's leaving us is surely the Senate's loss and Interior's gain.

I have a particular reason to pay tribute to Russ Brown because I came to trust his judgment and rely on his expertise early in my Senate career. Russ was staff director of the Water and Power Subcommittee, and I was privileged to work with him when I served as chairman and later ranking member of the subcommittee. In his nearly two decades of service to the Senate, Russ because our expert on water and power issues, which, as many of my colleagues recognize, can be most contentious, especially in the West. But, Russ learned from Senator Henry Jackson the ins and outs of the Senate's process, and that background served him well as he worked an extraordinary variety of legislative measures through this body.

Russ was, and still is, a part of my legislative family. Our respect and affection for Russ was forged in a variety of ways: whether in the formal setting of a subcommittee hearing, or flying in a floatplane in southeast Alaska, or simply visiting on a Friday afternoon at the end of a busy week. Russ Brown remains a "one of a kind" person who made working in the Senate a pleasure.

Mr. President, as I noted earlier in these remarks, the Senate's loss is the Department of the Interior's gain, and I know that the Department's work will be strengthened by the addition of Russ Brown. But Russ should know that our door is always open, and me and my office family hope he will visit us from time to time.

## EXTENSION OF TREATMENT DRUG PROGRAM FOR PEOPLE WITH AIDS AND RELATED CONDITIONS

Mr. KENNEDY. Mr. President, in the face of the AIDS public health crisis, the Senate has made it very clear that it is prepared to take every reasonable and humane step possible to bring the epidemic under control. Beginning in September 1986, the Senate first acted to see that people with AIDs—related illness were not denied access to potentially lifesaving treatments simply because they were too poor. We formalized that program in June 1987.

Sadly, the AIDS therapeutics acquisition program will expire on March 31—while the Senate is in recess.

I had hoped that it would be possible to act today to extend the authority of the Department of Health and Human Services to administer this program, which is making the costly drug AZT available to those who cannot afford it. We had hoped to authorize HHS to shift $5 million to the AZT program for the rest of the current fiscal year. By pushing back the March 31 date until September 30, we can assure that no person is abruptly cut off from lifesaving treatment.

We need to renew our bipartisan commitment to save lives while we search for more enduring and systemic answers to the serious problems of AIDS health care and service delivery. An extension of the existing AIDS therapeutics purchase program is by no means a cure-all. There is no global plan in place or even on the table that addresses the many questions about how to finance the health care and treatment needs for people with AIDS and HIV disease.

In certain cities, the pressure on both public and private hospitals and other service agencies created by the AIDS epidemic is reaching unacceptable levels. As the demographics of the epidemic shift, more and more stress is being placed on inner city health resources serving low income people—resources that are already severely overburdened and underfunded.

How do we fund and deliver appropriate medical care and other support services? How do we pay for the broad range of diagnostic and treatment services that are required? And who should be responsible for shouldering which portion of the total bill? We do not have good answers for any of these questions.

Those are the issues we must face when we return. We can postpone them no longer.

## NATIONAL DAY OF GREEK INDEPENDENCE

Mr. KENNEDY. Mr. President, I am proud to be a sponsor of Senate Joint Resolution 64, designating March 25, 1989, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

It has been said that "except the blind forces of Nature, nothing moves in this world which is not Greek in origin." In a sense, we are all of Greek heritage. We all share the rich benefits of the Greek culture and its lasting contributions to modern society. The ancient system of free choice and democracy developed there over two thousand years ago continues to provide a shining standard of liberty and justice today.

On this occasion, we are reminded of the strong and continuing ties between Greece and the United States—and of the major contributions that Greece has made to America, through its great civilization and strong political and economic traditions, through generations of immigrants who have come to our shores, and through the leadership of so many Americans of Greek

descent who have contributed so much to this country.

We are also reminded of the continuing tragedy in Cyprus, and of the need for a lasting political settlement based on the legitimate rights of both the Greek majority and the Turkish minority. Americans care deeply about the future of Cyprus. We have an obligation to redouble our efforts to bring peace to the eastern Mediterranean and an end to the conflict between Greece and Turkey.

Today, in recognizing Greek Independence Day, let us also remember that we honor the close and lasting bonds between the United States and Greece. Let us recall the vital ties between our two nations, and reaffirm our strong support for a continuing close relationship between our two countries. For in honoring the Greek contributions to our history, we honor the best in America too.

## JOHN GRAYKOWSKI

Mr. RIEGLE. Mr. President, a valued employee and adviser will be leaving the Senate today after serving for 10 years as a legislative assistant in my office.

During the past 10 years, John Graykowski has been active in a variety of issues including: agriculture, autos, environment, communications, and space. In all of these areas, John had a firm grasp of pending legislation as well as the key aspects of issues of concern to many people. He was especially helpful on farm issues and in what was needed to rebuild our space program after the shuttle disaster.

John's experience and expertise should serve as a model for the many young people who come to Washington looking for a career in public service. He began work as an intern more than a decade ago—and through hard work and a keen knowledge of issues, rose to a responsible position on a major committee. Along the way John never forgot that we are all working for the people.

John will be missed. His hard work and dedication is greatly appreciated.

## NATIONAL AGRICULTURE DAY

Mr. DOLE. Mr. President, March 20 has been celebrated as National Agriculture Day since 1973. I have joined as a cosponsor of the joint resolution the Senate has passed to once again designate March 20 as National Agriculture Day. This noteworthy effort helps to remind all Americans of the importance of agriculture to their State and to the Nation as a whole.

### IMPORTANCE TO KANSAS

Agriculture is a cornerstone of the Kansas economy as well as the national economy. According to the 1987 census, the most recent census on agriculture, Kansas has about 70,000 farms which sell about $6.5 billion in agricultural products. Crop farmers sold $1.7 billion of this amount while sales from livestock and related products totaled $4.8 billion. Many of our rural communities understand that agriculture is at the heart of their economic activity.

### IMPORTANCE TO THE NATION

The Nation's farming industry represents an important sector of our society's economic activity as well. The U.S. ag labor force represents only three-tenths of 1 percent of the world's labor force, yet it produces 8 percent of the world's food grains, 20 percent of the world's feed grains, and 25 percent of the world's beef. The United States is the world's largest exporting nation of agriculture products and last year had a trade balance of over $14 billion.

The 1985 farm bill has helped the American farmer get back on his feet by protecting farm income and promoting exports, which are the lifeblood of American agriculture. Needless to say, our farm exports have an economic ripple effect, creating jobs throughout the economy in the handling, processing, transporting and shipping, and related sectors.

### CONCLUSION

The American farmer has been the most productive in the world, and we all benefit from his productivity. It is only appropriate to remind ourselves next week that we have an abundant supply of wholesome food because of the efforts and toil of our farm families.

## THE COMING OF AGE OF AMERICAN SOCIAL POLICY

Mr. PELL. Mr. President, it is with real pleasure that I would draw to our colleagues' attention the excellent and stimulating speech that Mr. MOYNIHAN, the senior Senator from New York, gave at Brown University, in Providence, RI, on March 13, 1989. It contains much wisdom and erudition, qualities which we all seek, and I ask unanimous consent that it be printed in the RECORD following these remarks.

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

### THE COMING OF AGE OF AMERICAN SOCIAL POLICY

(By Daniel Patrick Moynihan)

This is the first occasion on which I have had the privilege of lecturing at Brown University. I am here both at your invitation, at the urging of my distinguished colleagues, Senators Pell and Chafee, and on the eve of Vartan Gregorian's ascension to the Presidency. I am concerned on all scores not to disappoint. What follows may seem to some excessively academic; yet, this is hallowed ground and deserving of all the rigor I can as yet summon for such occasions.

We are just three days short of a quarter century from the time I sat alongside Sargent Shriver in the hearing room of the House Committee on Education and Labor as he presented the opening testimony on what was to become the Economic Opportunity Act of 1964.[1] Whereupon began the War on Poverty.

In recent years this effort has been judged a failure. At least by many, and not least by former President Reagan who was fond of declaring that, "* * * the Federal government declared war on poverty, and poverty won."[2]

In a new political setting, one in which we may hope for a return to social policy at some level of deliberateness, I would offer a radically different view. If one sees the 1960s and early 1970s as the culmination of a long effort, beginning in the Progressive era, to eliminate the particular kinds of poverty and distress associated with industrialism, these were hugely successful years. The effort was not, however, successful in dealing with an emergent form of dependency and difficulty which I associate with post-industrial society. Whether such an effort could have succeeded is not something we can know, for we did not try. Instead, there was a massive denial that there were any such problems.

There has been a great deal of writing about this subject. I have contributed my share, and would as leave allow the matter rest, awaiting the judgment of historians. Still, there needs to be some prologue to the era of social policy which may now be in prospect.

The century-long effort to which I have referred sorts itself out, roughly, as three periods of notable energy, as much as enactment. Using presidential terms as a kind of shorthand, we see the period of Roosevelt to Wilson, the New Deal; Roosevelt and Truman; and lastly, Kennedy to Nixon. Some will note that this does not leave many presidents out, and that is correct. This was more a continuous exercise than otherwise; but some periods saw particular bursts of energy.

This is key to understanding the third period. The essential social legislation of the twelve-year period 1961-1973 basically extended and concluded the initiatives of the previous period. Medicaid and Medicare (1965) provided the health insurance that Truman had called for; the indexation of Social Security benefits (1972) insured the stability of Roosevelt's retirement benefits; while Supplemental Security Income (1972) rounded out such benefits for the indigent aged, blind, and disabled.

Each of these programs provided for cash transfers or for services in kind—health care—which would otherwise have had to be purchased or foregone. Each has parallels in the social legislation of Europe where industrialization created new social problems, such as unemployment, and, simultaneously, the collective resources with which to address them.

It is helpful to think of this final period in which a new set of problems also appeared, call them post-industrial, which engaged the period, but produced no very conclusive results. (Is there a parallel in the Progressive era?) This was termed the problem of poverty, but is better understood in the common formulation poverty-amidst-plenty. This is to say, as against more or less readily comprehended problems, the anomaly of poverty amidst the evident riches of the time.[1]

[1] These distinctions are not simple. Obviously it was the general rise in living standards that in turn

This anomaly was graphically set forth in the report of the President's Task Force on Manpower Conservation entitled, "One-Third of A Nation: A Report on Young Men Found Unqualified for Military Service," which as much as anything served as the data base on which we fashioned the Economic Opportunity Act of 1964. It was a project I had conceived in the summer of 1963 as Assistant Secretary of Labor for Policy Planning and Research. At that time, half the young men called up for military service failed either the mental or the physical test, or both. It occurred to me that a closer inquiry might provide support for the enactment of our Youth Employment Act, S.1, then languishing. (This, in fact, became Title I of the Economic Opportunity Act.) A survey and analysis of 2,500 young men who had failed to pass the Armed Forces Qualification Test was undertaken, enabling us to "correct," as the statisticians say, for the fact that only a portion of all the eligible males were actually tested or examined. Some were in college, some had enlisted, and so on. We established that if everyone were "called up," the rejection rate would be one-third.

The report was finished January 1, 1964, whereupon the Secretary of Labor flew off in a military plane to the LBJ ranch, where it was presented to President Johnson. We had a considerable sense of having learned some things of consequence. On January 5 the President issued a statement which I believe I drafted, but which in any event reflects my understanding at the time. The statement begins:

"* * * I am releasing today the report of the Task Force on Manpower Conservation, appointed by President Kennedy on September 30, 1963. I regard with utmost concern the two principal findings of that report.

"First, that one-third of the Nation's youth would, on examination, be found unqualified on the basis of standards set up for military service and

"Second, that poverty is the principal reason why these young men fail to meet those physical and mental standards.

"The findings of the Task Force are dramatic evidence that poverty is still with us, still exacting its price in spoiled lives and failed expectations. For entirely too many Americans the promise of American life is not being kept. In a Nation as rich and productive as ours this is an intolerable situation.

"I shall shortly present to the Congress a program designed to attack the roots of poverty in our cities and rural areas. I wish to see an America in which no young person, whatever the circumstances, shall reach the age of twenty-one without the health, education, and skills that will give him an opportunity to be an effective citizen and a self-supporting individual. This opportunity is too often denied to those who grow up in a background of poverty."

Looking back, I do not have the confidence I then had as to the second finding. Indeed, it now seems to me that the data could lead to quite different conclusions. It comes to this. The overall number, one-third, was a composite of hugely varied rates of mental and medical failure both between subgroups in the population and between political jurisdictions. And it is the latter differences which are the most pronounced.

Thus, the number of 1962 draftees who failed the mental test in Rhode Island was 14.3 percent, whereas for neighboring New York (our boundary is in Long Island Sound) the rate was 34.2 percent. In our (New York's) neighbor, Vermont, only 6.4 percent of draftees failed the mental test.[3]

Why did I write that this was the result of poverty? Why did I not write that poverty was the result of this?

Ignorance, as Dr. Johnson observed. I don't know how to describe my "understanding" of social structure a quarter century ago, save that it was not especially formed. I was surely no Marxist. What Ralf Dahrendorf was to call the "concealed romanticism of a revolutionary Utopia a la * * * Marx" had never in the least appealed to or persuaded me. (Nor to this moment do I understand how it held three generations of the 20th Century in thralldom.) Yet I thought, as a good Madisonian, that "the various and unequal distribution of property," accounted for a lot of behavior, political and otherwise. What I had not thought through, as indicated above, was the degree to which these unequal divisions of property were in turn dependent variables of a yet more powerful agent, which is to say, behavior.

Dahrendorf had but two years earlier given his lecture "On the Origin of Inequality among Men" at the University of Tubingen. I came upon it shortly after it appeared in English, in 1968, and may have begun, for the first time, to think to some purpose about this subject.

Dahrendorf's essay is readily available , and I will only summarize it. All societies establish norms of behavior to which some individuals adapt better than others. Hence, inequality is inevitable. Notions that, for example, the abolition of private property would end inequality were romantic and naive. Consider the Soviet experiment, albeit an imperfect one. Social expectations exist, and those who most fulfill them will have a higher status than those who least fulfill them.

"* * * the hard core of social inequality can always be found in the fact that men as the incumbents of social roles are subject, according to how their roles relate to the dominant expectational principles of society, to sanctions designed to enforce these principles."[4]

It needs to be emphasized (I suppose) that Dahrendorf's model of social stratification is value free. The normative orders that different societies reward can be vastly disparate, ranging from that of St. Francis of Assissi to that of Vlad the Impaler. No matter. Some will excel at charity, some at barbarity. Inequality ensues. The economist, John Kenneth Galbraith, 6 feet 9 inches tall, has perfected a brief discourse on "Why Tall Men Are Best Suited To Govern." From a Scots Presbyterian point of view, the logic is ineluctable. Tall men, being more conspicuous than their fellows, are more readily watched by their neighbors. Being more readily watched, of necessity they behave better. Behaving better, they are therefore best suited to govern. At a reception following the funeral of President Kennedy, Dr. Galbraith recounted this theorem to General De Gaulle. "Le Grand Charles" commented that the reasoning was sound but omitted an essential correlative, which was to say that "tall men should show small men * * * no mercy."

Let us return to "One-Third of a Nation." Re-reading it I am struck by how prominently we pointed to the variation among the different states.

The State with the highest proportion of persons failing the mental examination had a rate 19 times as great as the State with the lowest.

The lowest was Minnesota with a failure rate of 2.7 percent. This is scarcely above the incidence of mental retardation in a large population.[5] South Carolina, with 51.8 percent was, well, insanely out of line. What was going on down there? Or over there?

The answer, surely, was that people were behaving differently. Rewarding different things, punishing different things. This was, after all, the United States of America in the seventh decade of the 20th century. We lived under the same constitution, shared essentially the same material culture.

Yet some jurisdictions were turning out citizens who were going to be poor and others who were not. Economics could not account for that much of the difference. Surely not between jurisdictions as comparable as Rhode Island and New York. There is no more elemental form of wealth than a well-educated, healthy cohort of young people. In some parts of the United States this "wealth" was being produced in abundance. To cite the charter of Brown University, young people were coming along able to lead "lives of usefulness and reputation." Other parts of the nation were producing the social infrastructure of poverty.

Hence, this period of social reform was most successful—was hugely successful—where we simply transferred income and services to the elderly, a stable, settled population group. It had little success—if you like, it failed—where poverty had its origin in social behavior.

More. It could not have succeeded because of a massive denial that there was any real problem there. This period is already receding in our history, and the memory may be difficult to retrieve. But that is about what happened. In a series of policy papers prepared for President Johnson and then President Nixon, I commenced to argue, for example, that family structure was an emerging problem. Class, not race, is the way I would state it. Both Presidents were receptive. However, their initiatives in this direction never survived the fierce criticism they evoked, and after a period the subject was more or less banished from public discourse.

A recent Census Bureau publication, the Bureau's innovative effort to improve poverty statistics by counting income and government tax and transfer (both cash and in-kind) benefits, summarizes the quarter century aftermath:

"The data show clearly that the effect of government transfers on the poverty status of persons 65 years and over is very large compared to the effect of such transfers on the poverty status of young persons. The percent of older persons (65 years and over) in poverty was 47.5 percent before government transfers were added to the income definition. The addition of nonmeans-tested cash transfers (primarily Social Security) reduced the rate to 14.0 percent and the addition of other government transfers

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gave rise to the notion of social insurance. Nor was sympathy universal. We recall the celebrated passage from Beatrice Webb's "Our Partnership" (London: Longman's, 1948, p. 479):

"To us, the compulsory insurance with automatically distributed money, allowances during illness of worklessness, with free choice of doctor under the panel system, would not and could not prevent the occurrence of sickness or unemployment. Indeed, the fact that sick and unemployed persons were entitled to money incomes without any corresponding obligation to get well and keep well, or to seek and keep employment, seemed to us likely to encourage malingering and a disinclination to work for their livelihood.

brought the rate to 9.0 percent. The total effect of adding government transfers was to reduce the poverty rate of older persons by 81.1 percent. Among those under 18 years of age, the before-transfer poverty rate was 24.0 percent and the addition of all government transfers brought the rate to 17.1 percent. The effect of government transfers was to reduce the poverty rate of young persons by 28.8 percent." [6]

It begins to appear that family structure is now a principle correlate of poverty in the United States. This in turn has revived an age category of poverty. The poorest group in our population are children, at last count 23 percent of those under 6 years of age. They live, overwhelmingly, in single parent families.

In 1988 a quarter—24 percent to be precise—of our 63 million children lived with only one parent. That was double the proportion of 1970—12 percent—and a yet higher multiple of the ratio a quarter century ago. Children in female headed households have a poverty rate of 55 percent. This is five times the poverty rate—11 percent—of children in families excepting those headed by single mothers.

Single parent, female headed families have become a norm. The Bureau of the Census estimates that only 39 percent of all children born last year will live with both their parents through their 18th birthdays. Put the other way, over 60 percent of children will live with only one parent for a period of time before reaching maturity. The vast majority of them will live with just their mothers and over half of them will be poor (46 percent white, 68 percent black, and 70 percent Hispanic).

Since 1973, median family income has been virtually flat. Adjusted for inflation, the 1987 median income for all families ($30,853) is only $33 more than the all-time high of $30,820 in 1973.

However, the mean real income for two-parent families with children having increased by 18 percent between 1967 and 1973, declined only by 3 percent between 1973 and 1984.

By contrast, female-headed families with children saw their mean real income increase by only 1.3 percent between 1967 and 1973 and by 1.1 percent between 1973 and 1979. Then, between 1979 and 1984, the mean income for female-headed families fell by 9 percent.[7] Lagging behind, then falling faster. (Note that these families begin with only 40 percent of the income of two-parent families.)

From a one-time Census study, "Household Wealth and Asset Ownership: 1984," we know that median net worth for all families was $32,677. Median net worth for all families with incomes under $11,000 was $5,080. These are published data. Unpublished information supplied by Gordon Green of the Bureau of the Census indicate that black female heads of households with incomes under $11,000 have a median net worth of −$18.

I have speculated that family structure may now prove to be the principle conduit of class structure. There are wonderfully able scholars at work on just this question. McLanahan, Bumpass, Garfinkel, Gottschalk, Burkhauser, Duncan, Hoffman, Hill, Ponza. Evidence of intergenerational transmission of poverty and dependency is certainly there, but not as yet overwhelming. On the other hand we have just entered this period in social history, and it could well take another half century to sort things out.

However, it appears to me that one matter is already clear. We have entered a new social condition, which is clearly post industrial. Here we are in a state of full or overfull employment, enjoying the longest unbroken peace time economic expansion in our history, whilst, as I put the matter in 1986, "In many if not most of our major cities we are facing something like social regression."[8]

Moreover, we are facing it alone. For most of the 20th century, the social problems of the United States—always excluding that of race—first appeared in Europe, as had the first responses. With a one or two generation lag, we adopted them here: Workman's Compensation, Unemployment Insurance, Social Security, medical care, and such like. (We do not have universal health insurance, but public spending on health care is huge.) But now we have a new set of problems and there is no European "solution" at hand.[9]

That is why I speak of the Coming of Age of American Social Policy. We are going to have to work our own way through these issues. It doesn't follow that we will, but I don't know why we won't.

It is fairly obvious that the normative order of American society still very much rewards "traditional" family patterns, and punishes those which previously would have been openly labeled as deviant. What is not at all obvious is why this is obscure to so many. The matter may not be left to rest: We must either change our norms, or change our behavior. Recent trends are dysfunctional in the extreme. As are recent trends of substance abuse, although these have been with us—at intervals—for a longer period in our history.

I would note that the 100th Congress, just concluded, enacted two major bills addressed to these issues. The Family Support Act of 1988 was the first redefinition of the purposes and expectations of the welfare system since it began as a temporary widows' pension in 1935. And, for the first time since Theodore Roosevelt declared war on drugs in 1907, the Anti-Drug Abuse Act of 1988 addressed this issue from the perspective of treatment and demand reduction.

Our difficulty is that there does not now exist within the Executive branch of government the institutional capacity to put either of these new laws into effect. Worse, there is no great enthusiasm for them. Editorial comment was restrained at best. Subsequent commentary has generally been negative, while advocacy groups have on the whole been hostile or indifferent. (State governments being the great exception.) Still, the Congress found the energy and, I believe, the insights to enact them. If we want to believe that "nothing happened," then nothing will. Another generation will pass before we try again. But that need not be the outcome.

Mind, these are not the only aspects of American society that aren't working as they ought. The 1980s saw a period of wildly irresponsible fiscal policies on the part of the national government. In eight years of peace we increased the national debt by an amount nearly that which was incurred in World War II. In the course of doing so, we ended up a debtor nation, with nothing like our post-1945 capacity to retire the debt and resume a strong path of saving and investment directed to future growth. Which growth would presumably provide resources that a new era of social policy will require.

In last year's Taubman Lecture here at Brown, Frank Levy observed that there are all too many parallels between the level of national savings and the current condition of children—our provisions for the future. We will need, he insisted, values to guide behavior, simple benefit/cost calculations at the individual level—the classic free rider phenomenon—won't get us there. Still, we are surely a nation in which such values can be found. And summoned. In the context of a tough-minded approach to post-industrial social issues, we may yet see the coming of age of American social policy.

FOOTNOTES

[1] March 16, 1964. Adam Yarmolinsky was the third member of our party.

[2] January 25, 1988, State of the Union Address.

[3] These are the raw percentages. The result of reanalysis would have been to lower the proportions but not the ratios.

[4] See p. 167 in Ralf Dahrendorf, "On the Origin of Inequality among Men," in *Essays in the Theory of Society*, Stanford: Stanford University, 1968, pp. 151-178.

Dahrendorf's is not a static model. To the contrary.

"* * * the system of social stratification is only a measure of conformity in the behavior of social groups, inequality becomes the dynamic impulse that serves to keep social structures alive. Inequality always implies the gain of one group at the expense of others; thus every system of social stratification generates protest against its principles and bears the seeds of its own suppression. Since human society without inequality is not realistically possible and the complete abolition of inequality is therefore ruled out, the intrinsic explosiveness of every system of social stratification confirms the general view that there cannot be an ideal, perfectly, just and therefore non-historical human society. (pp. 177-178)"

Still, while a set of social expectations is in place, it will take its toll.

[5] The U.S. Administration on Developmental Disabilities estimates that 1.7 percent of the population is developmentally disabled. See its "Special Report on the Impact of the Change in the Definition of Developmental Disabilities," Office of Human Development Services, Department of Health and Human Services, May 1981.

[6] U.S. Department of Commerce, Bureau of the Census, Current Population Report, Series P-60, "Measuring the Effect of Benefits and Taxes on Income and Poverty: 1986," p. 12.

[7] Sheldon Danziger and Peter Gottschalk, "How Have Families with Children Been Faring?", prepared for the Joint Economic Committee of the Congress, November 1985.

[8] Daniel Patrick Moynihan, *Came the Revolution*, San Diego: Harcourt, Brace, Jovanovich, 1988, p. 291.

[9] The Luxembourg Income Study data indicate that, like the United States, Canada and Sweden also have more children than elderly in poverty. However, Sweden has no poverty among the aged and virtually none among children. Still, we must entertain the thought that a more universal, post-industrial pattern is emerging. Mature social insurance systems gradually eliminate poverty among the aged. At the same time, marital instability and tenuous labor markets will leave a fair number of children poor even in prosperous countries.

## EXECUTIVE SESSION

### DEPARTMENT OF VETERANS' AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Anthony Principi to be Deputy Secretary of the Department of Veterans' Affairs, calendar item No. 52; that a motion to reconsider be laid upon the table; and that the President be immediately no-

tified of the confirmation of the nomination.

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

The nomination is considered and confirmed.

NOMINATION OF ANTHONY J. PRINCIPI TO BE DEPUTY SECRETARY OF VETERANS' AFFAIRS

Mr. CRANSTON. Mr. President, I am delighted to bring before the Senate the recommendation of the Veterans' Affairs Committee that the President's nominee for the first Deputy Secretary of Veterans' Affairs—Anthony J. Principi of California—be confirmed in that position.

BACKGROUND

At the outset, I note how appropriate it is that we are moving forward with this nomination today. Just 2 days ago, March 15, was a historic day in the annals of veterans' affairs as the Veterans' Administration became the Department of Veterans' Affairs and its head a member of the President's Cabinet. Just prior to a very splendid ceremony on the South Lawn of the White House celebrating this elevation, President Bush appointed and swore in Edward Derwinski as the first Secretary of Veterans' Affairs. If the Senate acts today to confirm the first Deputy Secretary of Veterans' Affairs—as I am certain we will—the new Department will be well equipped to proceed productively into this new era with its top two leadership positions well and effectively filled.

Mr. President, our committee held a hearing on this nomination yesterday morning. Our committee then met early yesterday afternoon and voted unanimously to report this nomination to the Senate favorably, and I am now asking the concurrence of the full Senate in our affirmative recommendation.

NOMINEE'S QUALIFICATIONS

Mr. President, until July of last year, Tony Principi was the chief counsel and staff director for the Republican members of our committee and is therefore no stranger to veterans issues nor to the challenges that he will face if confirmed as Deputy Secretary.

One aspect of this nomination is particularly worthy of note. If confirmed, Tony Principi will continue a tradition dating back to 1977—more than 12 years ago—of having a Vietnam veteran in one of the top two positions at VA. I congratulate President Bush for carrying on that tradition.

Mr. President, Tony Principi's background as a decorated combat veteran, counsel to the Senate Armed Services Committee, Associate Deputy Administrator at the VA for Congressional and Public Affairs, and chief counsel and staff director and minority chief counsel and staff director for our committee will provide the new Department and Secretary Derwinski with a most valuable and necessary reservoir of experience, knowledge, and leadership.

As I noted at yesterday's hearing as well as at a committee meeting last July when Tony left the committee to return to private life in California, Tony Principi has always been a man of honor and a man of his word. Likewise, his strong intellect, his deep respect for military service—gained directly through distinguished combat service—his strong commitment to veterans, and his firm dedication to principle will serve him and the new Department very well. As I have noted, my regard for Tony is not diminished in any way by knowing that he and I will not always see an issue the same way or that, when there is disagreement, he is a strong advocate for his viewpoint. In fact, these traits give me confidence that Tony will continue to do his job in a most effective and professional way.

CONFIRMATION HEARING

Mr. President, at yesterday's confirmation hearing we received many statements of support for this nomination, including a very strong statement from my counterpart in the House, Chairman G.V. "SONNY" MONTGOMERY. Among other things, Chairman MONTGOMERY said of Tony, "He's a man of his word and a man of actions." I agree wholeheartedly.

Tony then delivered a very fine and heartfelt statement which demonstrated his keen sensitivity to the mission of the VA and to the overall obligations that we owe to those who served our Nation in its hours of need. I was particularly impressed by a series of pledges of accountability that Tony made as part of his statement. Specifically, Tony made the following statement:

> And I state now for the record that I hold myself accountable—to this committee for the trust which you have shown in me; to the Congress which provides the funding for the programs we administer, to the American people who, through their elected representatives and with their hard-earned tax dollars, have supported a vast array of programs for our veterans; and most of all to the veterans, the men and women for whom these programs were created.
>
> To all of you, I hold myself accountable and pledge to do the very best that I can to get the most out of this extraordinary system that America has created to give back to our veterans some of what they have given to all of us.

In response, I told Tony that, on behalf of our committee, I accepted his pledge to do his very best as Deputy Secretary and to keep open the lines of communication between VA and our committee. I agreed with him that such a process was vital and promised our best efforts to ensure that there was a two-way street of open communications.

CONCLUSION

On a personal note, I view Tony as a trusted friend and colleague, as well as a most distinguished and highly qualified Presidential nominee. Perhaps most significantly, I am proud of Tony as a valued California constituent, whose wonderful family, his loving and highly supportive wife, Liz, and his fine sons, Tony, Jr., Ryan, and John, as well as his parents and sister are also my constituents. As I said to Tony at the confirmation hearing yesterday: "I am sure your wonderful family is bursting with pride. We all are." That's the way I feel about this nominee and this nomination.

Mr. President, assuming that the Senate votes in support of this nomination—which I certainly do assume—I look forward to continuing to work closely with Tony Principi and Ed Derwinski on behalf of our Nation's veterans.

Mr. President, I urge our colleagues to give this nomination their unanimous support.

ANTHONY J. PRINCIPI, THE FIRST DEPUTY SECRETARY OF VETERANS' AFFAIRS

Mr. MURKOWSKI. Mr. President, I am very pleased to have this opportunity to speak in support of Anthony J. Principi to be the first Deputy Secretary of Veterans' Affairs.

The job of Deputy Secretary of the VA is extremely important. The VA is a vast Department in terms of staff and budget. The VA employs more than 245,000 employees and operates the largest health care delivery system in the United States. Decisions relating to VA programs affect more than 27 million veterans, as well as their survivors and dependents.

As a consequence, the Deputy Secretary of the VA must have a rare combination of qualities: loyalty, competence, aggressive leadership, and knowledge.

Many of us know Tony from his long and distinguished service in this body. Tony served me as my staff director and chief counsel when I was chairman and later ranking minority member of the Committee on Veterans' Affairs. I know Tony well and he without a doubt meets the criteria necessary to serve in this vital position. I know his work, his expertise, and his personality. I know that he would bring his special talents to the new Department of Veterans' Affairs.

On March 16 the committee held a hearing on Tony's nomination and voted unanimously to recommend his confirmation. The committee has demonstrated their confidence in Tony's ability to be an effective and successful Deputy. The veterans service organizations have also expressed confidence in and support of Tony's nomination.

I would like to thank the distinguished chairman and the committee members for expediting the committee's consideration of this nomination. I am pleased that Members on both

sides of the aisle were able to work so closely together on a nomination that will significantly affect our Nation's veterans.

In closing, I am confident that Tony appreciates the importance the Congress and the Nation place on the veterans' programs created to serve those who have served us. I cannot recommend Tony more highly to my colleagues. I urge my colleagues to vote unanimously in favor of confirming Tony Principi to be the first Deputy Secretary of Veterans' Affairs.

## DEPARTMENT OF THE TREASURY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to the following nominations en bloc, calendar item No. 50, Edith E. Holiday to be general counsel for the Department of the Treasury; calendar item No. 51, David W. Mullins, Jr., to be an Assistant Secretary of the Treasury; that the motions to reconsider be laid on the table en bloc; that the President be immediately notified; and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF THE TREASURY

Edith E. Holiday, of Georgia, to be general counsel for the Department of the Treasury.

David W. Mullins, Jr., of Massachusetts, to be an Assistant Secretary of the Treasury.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, 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.)

## MEASURES READ THE FIRST TIME

The following bill, which was ordered held at the desk until the close of business on March 17, 1989, was read the first time:

S.J. Res. 88. Joint resolution to establish that it is the policy of the United States to reduce the generation of carbon dioxide, and for other purposes.

## 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. CONRAD:

S. 643. A bill to amend the Internal Revenue Code of 1986 to allow an individual a credit against income tax for certain expenditures for the purpose of reducing radon levels in the principal residence of the individual, and for other purposes; to the Committee on Finance.

By Mr. McCAIN:

S. 644. A bill to amend the National Science and Technology Policy, Organization, the Priorities Act of 1976 in order to provide for improved coordination of national scientific research efforts to develop substitutes for certain substances, and for other purposes; to the Committee on Commerce, Science and Transportation.

By Mr. BOSCHWITZ:

S. 645. A bill to amend the Internal Revenue Code of 1986 to provide for the indexing of certain assets, and to increase the holding period for capital assets from 1 to 3 years; to the Committee on Finance.

By Mr. DODD (for himself and Mr. HEINZ) (by request):

S. 646. A bill to amend the Federal securities laws in order to facilitate cooperation between the United States and foreign countries in securities law enforcement; to the Committee on Banking, Housing, and Urban Affairs.

S. 647. A bill to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws; to the Committee on Banking, Housing, and Urban Affairs.

S. 648. A bill to amend the Securities Exchange Act of 1934; to the Committee on Banking, Housing, and Urban Affairs.

S. 649. A bill to amend the Securities Exchange Act of 1934 to require that members of exchanges, brokers, dealers, banks, associations, or other entities that exercise fiduciary powers holding securities as nominees provide proxy and other shareholder communications to investment company beneficial security holders; to require these same entities, holding securities as nominees, to provide information statements to investment company and non-investment company beneficial security holders; and to require investment companies to provide information statements to record holders prior to any security holder vote when proxies, consents, or authorizations are not solicited; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KENNEDY (for himself, Mr. DODD, and Mr. INOUYE):

S. 650. A bill to establish a national program to expand opportunities for Americans, especially students, to serve their communities; to the Committee on Labor and Human Resources.

By Mr. DODD (for himself and Mr. HEINZ) (by request):

S. 651. A bill to amend the Trust Indenture Act of 1939; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KENNEDY (for himself, Mr. PELL, Mr. MOYNIHAN, Mr. KERRY, Mr. SIMON, and Mr. BOSCHWITZ):

S. 652. A bill to revise the format of the Presidential report to Congress on voting practices in the United States; to the Committee on Foreign Relations.

By Mr. GLENN (for himself, Mr. McCAIN, and Mr. WARNER):

S. 653. A bill to amend title 37, United States Code, to revise and improve the aviator career incentive pay program, to extend for three years the aviator bonus program, and for other purposes; to the Committee on Armed Services.

By Mr. PRYOR (for himself, Mr. DURENBERGER, Mr. BOREN, Mr. HEINZ, Mr. BAUCUS, Mr. DASCHLE, Mr. DANFORTH, Mr. MITCHELL, Mr. MOYNIHAN, Mr. HARKIN, Mr. BUMPERS, Mr. BINGAMAN, Mr. GORE, Mr. DECONCINI, Mr. CRANSTON, Mr. HEFLIN, and Mr. CONRAD):

S. 654. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of simplified health arrangements meeting the requirements of section 89, to modify the definition of part-time employee for purposes of section 89, and to simplify the application of section 89; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. KENNEDY, Mr. GARN, Mr. GLENN, Mr. SIMPSON, Mr. MATSUNAGA, Mr. ARMSTRONG, Mr. WIRTH, Mr. THURMOND, Mr. HARKIN, Mr. LUGAR, and Mr. HATFIELD):

S. 655. A bill to amend the Public Health Service Act to require public conveyances to certify that the public is not involuntarily exposed to passive smoke when exposed to such conveyance, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GRASSLEY (for himself, Mr. DANFORTH, Mr. DURENBERGER, Mr. BINGAMAN, Mr. D'AMATO, Mr. COCHRAN, Mr. WILSON, Mr. SYMMS, and Mr. HELMS):

S. 656. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for interest on educational loans; to the Committee on Finance.

By Mr. MITCHELL (for himself, Mr. CHAFEE, Mr. LAUTENBERG, Mr. DURENBERGER, Mr. BAUCUS, Mr. GRAHAM, Mr. MOYNIHAN, Mr. COHEN, Mr. PRESSLER, Mr. WIRTH, Mr. GORE, Mr. CONRAD, Mr. SARBANES, Mr. ADAMS, Mr. REID, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. HUMPHREY, and Mr. BRADELY):

S. 657. A bill to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors; to the Committee on Environment and Public Works.

By Mr. PELL (for himself, Mrs. KASSEBAUM, Mr. KENNEDY, and Mr. HATCH by request):

S. 658. A bill to amend the Carl D. Perkins Vocational Education Act of 1984 to authorize appropriations for fiscal year 1990 and succeeding years, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SYMMS:

S. 659. A bill to repeal the estate tax inclusion related to valuation freezes; to the Committee on Finance.

By Mr. DECONCINI:

S. 660. A bill to amend the Social Security Act and the Internal Revenue Code of 1986 to modify beginning in 1990 the funding

mechanism for Medicare catastrophic coverage by repealing the increase in the part B premium and the imposition of a supplemental premium and funding such coverage by eliminating the limit on wages or self-employment income subject to the hospital insurance tax and through general revenues; to the Committee on Finance.

By Mr. SYMMS (for himself and Mr. MCCLURE):

S. 661. A bill to amend title 23, United States Code, to authorize the Secretary of Transportation to approve the use of Interstate safety rest areas for limited commercial enterprises; to the Committee on Environment and Public Works.

By Mr. SYMMS:

S. 662. A bill to amend the Internal Revenue Code of 1986 to increase and index the calendar quarter wage threshold for determining agricultural labor employers for purposes of imposing the Federal unemployment tax; to the Committee on Finance.

By Mr. HEFLIN:

S. 663. A bill to provide for additional contingent termination liability for the Advanced Solid Rocket Motor Program; to the Committee on Commerce, Science, and Transportation.

By Mr. ARMSTRONG (for himself, Mr. DECONCINI, Mr. SIMPSON, Mr. KASTEN, Mr. SYMMS, Mr. BOSCHWITZ, and Mr. WALLOP):

S. 664. A bill to amend the Internal Revenue Code of 1986 to provide for the indexing of certain assets; to the Committee on Finance.

By Mr. HEINZ:

S. 665. A bill to amend title XVI of the Social Security Act by extending eligibility for supplemental income benefits, by promoting the efficient administration of such benefits, by extending eligibility for Medicaid benefits, and for other purposes; to the Committee on Finance.

By Mr. MURKOWSKI:

S. 666. A bill to enroll 20 individuals under the Alaska Native Claims Settlement Act; to the Committee on Energy and Natural Resources.

By Mr. MATSUNAGA:

S. 667. A bill to amend the Federal Unemployment Tax Act with respect to employment performed by certain employees of educational institutions; to the Committee on Finance.

By Mr. MATSUNAGA (for himself and Mr. INOUYE):

S. 668. A bill to amend the Energy Policy and Conservation Act with respect to the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

By Mr. WILSON (for himself and Mr. CRANSTON):

S. 669. A bill to require the Secretary of Energy to convey to the State of California by quitclaim deed certain lands in a naval petroleum reserve and to provide that money received from a naval petroleum reserve shall be treated the same as money received from other public lands; to the Committee on Armed Services.

By Mr. ARMSTRONG (for himself, Mr. BENTSEN, Mr. BINGAMAN, Mr. BOND, Mr. BOREN, Mr. COATS, Mr. COHEN, Mr. DASCHLE, Mr. DECONCINI, Mr. DOLE, Mr. EXON, Mr. GLENN, Mr. GRAMM, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mr. HUMPHREY, Mr. INOUYE, Mr. MATSUNAGA, Ms. MIKULSKI, Mr. MITCHELL, Mr. MURKOWSKI, Mr. PELL, Mr. PRESSLER, Mr. WIRTH, Mr. RUDMAN, Mr. SASSER, Mr. WARNER, Mr. WILSON, and Mr. HEFLIN):

S. 670. A bill to recognize the organization known as The Retired Enlisted Association, Incorporated; to the Committee on the Judiciary.

By Mr. HEINZ (for himself and Mr. SPECTER):

S. 671. A bill to provide for the inclusion of the Washington Square area within Independence National Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HEINZ:

S. 672. A bill to increase and extend the authorization of appropriations for highway bridge replacement and rehabilitation, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BRYAN:

S. 673. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1990 and 1991, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HEINZ:

S. 674. A bill to regulate above ground storage tanks having the capacity to store at least one million gallons of petroleum, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CRANSTON (for himself, Mr. KENNEDY, Mr. SIMON, Mr. SPECTER, Mr. ADAMS, and Mr. JEFFORDS):

S. 675. A bill to eliminate discriminatory barriers to voter registration, and for other purposes; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself, Mr. DURENBERGER, and Mr. LIEBERMAN):

S. 676. A bill relating to global atmospheric and environmental preservation; to the Committee on Environment and Public Works.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 677. A bill to amend the Arctic Research and Policy Act of 1984 to improve and clarify its provisions; to the Committee on Governmental Affairs.

By Mr. HEINZ (for himself and Mr. ROCKEFELLER):

S. 678. A bill to provide improved programs for training individuals receiving unemployment compensation; to the Committee on Finance.

By Mr. INOUYE:

S. 679. A bill for the relief of Walter Chang; to the Committee on the Judiciary.

S. 680. A bill to restore the traditional observance of Memorial Day and Veterans Day; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself, Mr. BURNS, Mr. ADAMS, Mr. GORTON, Mr. MCCLURE, Mr. SYMMS, Mr. BURDICK, Mr. CONRAD, Mr. SIMPSON, Mr. WALLOP, Mr. PRESSLER, Mr. DASCHLE, Mr. HATCH, Mr. LEVIN, Mr. CRANSTON, Mr. PRYOR, and Mr. GARN):

S. 681. A bill to require the Secretary of the Treasury to mint and issue coins in commemoration of the 100th anniversary of the statehood of Idaho, North Dakota, South Dakota, Washington, and Wyoming, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SIMON:

S. 682. A bill to amend chapter 33 of title 18, United States Code, to prohibit the unauthorized use of the names "Visiting Nurse Association", "Visiting Nurse Service", "VNA", "VNS", or "VNAA", or the unauthorized use of the name or insignia of the Visiting Nurse Association of America; to the Committee on the Judiciary.

By Mr. CRANSTON (for himself, Mr. PELL, Mr. DODD, Mr. DECONCINI, and Mr. SANFORD):

S. 683. A bill to amend the Peace Corps Act to extend the authorizations of appropriations for the Peace Corps through fiscal year 1991, to shorten the period during which a former Peace Corps employee is ineligible for reemployment by the Peace Corps, and to establish a Peace Corps foreign exchange fluctuations account; to the Committee on Foreign Relations.

By Mr. DOLE:

S.J. Res. 89. Joint resolution to designate the week beginning April 2, 1989, as "National Auctioneers Week"; 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, Mr. MITCHELL, Mr. DOLE, Mr. BOREN, Mr. BRADLEY, Mr. HOLLINGS, Mr. GORE, Mr. HUMPHREY, and Mr. HELMS):

S. Res. 85. Resolution relating to the future of Afghanistan; to the Committee on Foreign Relations.

By Mr. LAUTENBERG (for himself, Mr. HOLLINGS, Mr. FORD, Mr. BRADLEY, Ms. MIKULSKI, Mr. D'AMATO, Mr. HEINZ, Mr. SARBANES, and Mr. MOYNIHAN):

S. Res. 86. Resolution to request the President of the United States to appoint a special commission to consider the destruction of Pan American World Airways Flight 103, and the security of air travel; to the Committee on Commerce, Science, and Transportation.

By Mr. GRASSLEY:

S. Con. Res. 25. Concurrent resolution expressing the sense of the Congress that the number of refugees admitted to the United States and the appropriation for programs for refugee migration and resettlement should be increased and that the Department of Justice should reestablish the presumption that Jews and members of other religious minorities emigrating from the Soviet Union qualify for refugee status for admission to the United States; to the Committee on the Judiciary.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CONRAD:

S. 643. A bill to amend the Internal Revenue Code of 1986 to allow an individual a credit against income tax for certain expenditures for the purpose of reducing radon levels in the principal residence of the individual, and for other purposes; to the Committee on Finance.

RADON TAX CREDIT LEGISLATION

Mr. CONRAD. Mr. President, I am sending to the desk today, for appropriate referral, a bill to help people defray some of the costs associated with reducing the concentration of radon gas in their homes.

Mr. President, up to 20,000 people will die of lung cancer this year from long-term exposure to radon gas, and the source of this poison is inside their

own homes. According to the Environmental Protection Agency, indoor air pollution can cause more serious health problems than outdoor pollution, and radon is the most deadly of the indoor pollutants. It is estimated that people spend up to 70 percent of their time in their own home. If a home is contaminated with radon, it means the residents are constantly being exposed to this deadly gas. The problem is even more serious with young children, who not only spend a greater percent of their time in the home, but are more susceptible to radon's damaging radiation than are adults.

Last year the Congress passed, and the President signed into law, an historic bill which started the process of collecting information on radon and developing methods to test and reduce radon levels in buildings. On the basis of research done partly as a result of this legislation, the EPA estimates that 10 million homes may have radon levels which are above the threshold that requires mitigation—a level that is the nuclear radiation equivalent of 200 chest x rays per year. The agency also estimates that it will cost from at least several hundred dollars to more than $3,000 to reduce the radon concentration to an acceptable level in a home. For the average homeowner, such costs may be very dificult to bear.

The bill which I am introducing today would provide for a 20-percent Federal tax credit to individuals to help reduce the cost of radon mitigation in their principal residence. If all 10 million homes in this country which have elevated levels of radon were treated to reduce the concentration to a safe level, the total cost to the taxpayers would be only one-tenth the health care costs alone of treating 20,000 people for lung cancer.

In addition to the tax credit, there is another important provision of this bill. It contains a 10-year sunset clause. This will help control the cost to the taxpayers and ensure that people take timely advantage of the bill's provisions.

Mr. President, unlike with other suspected carcinogens, we know where radon comes from, how it causes cancer, how many people it will affect and, most important, how to get rid of it. This bill would provide important, needed help for people who have elevated levels of radon in their homes and want to do something about it.

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

S. 643

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

SECTION 1. CREDIT FOR EXPENDITURES FOR REDUCING RADON LEVELS IN CERTAIN PRINCIPAL RESIDENCES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25 the following new section:

"SEC. 25A. EXPENDITURES FOR REDUCING RADON LEVELS IN CERTAIN PRICIPAL RESIDENCES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the qualified radon-reduction expenditures with respect to an eligible principal residence.

"(b) QUALIFIED RADON-REDUCTION EXPENDITURES.—For purposes of subsection (a)—

"(1) IN GENERAL.—In the case of any dwelling unit, the qualified radon-reduction expenditures are 20 percent of so much of the radon-reduction expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $3,000.

"(2) PRIOR EXPENDITURES BY TAXPAYER ON SAME RESIDENCE TAKEN INTO ACCOUNT.—If for any prior year a credit was allowed to the taxpayer under this section with respect to any dwelling unit, paragraph (1) shall be applied for the taxable year with respect to such dwelling unit by reducing the dollar amount contained therein by the prior year expenditures taken into account under such paragraph.

"(c) DEFINITIONS.—For purposes of this section—

"(1) RADON-REDUCTION EXPENDITURES.—The term 'radon-reduction expenditure' means any expenditure made by the taxpayer for property (or for the original installation of such property) installed in or on a dwelling unit (which, at the time such expenditure is made, is an eligible principal residence) if such property—

"(A) is designed to reduce the radon in the air inside such residence,

"(B) can reasonably be expected to remain in operation, or continue to have effect, for at least 3 years, and

"(C) meets the appropriateness, performance, and quality standards (if any) which—

"(i) have been prescribed by the Administrator of the Environmental Protection Agency by regulations, and

"(ii) are in effect at the time of the acquisition of the property.

"(2) ELIGIBLE PRINCIPAL RESIDENCE.—The term 'eligible principal residence' means a dwelling unit—

"(A) which is located in the United States,

"(B) which is used by the taxpayer as his principal residence, and

"(C) which is determined under a technique approved by the Environmental Protection Agency to have a radon level which requires action to be taken to reduce such level.

"(d) SPECIAL RULES.—

"(1) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURES.—

"(A) IN GENERAL.—An expenditure with respect to an item shall be treated as made when original installation of the item is completed.

"(B) AMOUNT.—The amount of any expenditure shall be the cost thereof.

"(2) PRINCIPAL RESIDENCE.—The determination of whether or not a dwelling unit is a taxpayer's principal residence shall be made under principles similar to those applicable to section 1034, except that—

"(A) no ownership requirement shall be imposed, and

"(B) the period for which a dwelling is treated as the principal residence of the taxpayer shall include the 30-day period ending on the first day on which it would (but for this subparagraph) be treated as his principal residence.

"(3) CERTAIN RULES TO APPLY.—Paragraph (10) of section 23(c), and paragraphs (1), (2), and (3) of section 23(d), shall apply for purposes of this section.

"(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(f) TERMINATION.—This section shall apply to amounts paid or incurred during the 10-year period beginning on the date of the enactment of this section."

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 1016 of such Code (relating to adjustments to basis) is amended by striking out "and" at the end of paragraph (26), by striking out the period at the end of paragraph (27) and inserting in lieu thereof ", and", and by adding after paragraph (27) the following new paragraph:

"(28) to the extent provided in section 25A(e), in the case of property with respect to which a credit has been allowed under section 25A."

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25 the following new item:

"Sec. 25A. Expenditures for reducing radon levels in certain principal residences."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

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By Mr. McCAIN:

S. 644. A bill to amend the National Science and Technology Policy, Organization, and Priorities Act of 1976 in order to provide for improve coordination of national scientific research efforts to develop substitutes for certain substances; to the Committee on Commerce, Science, and Transportation.

COORDINATION OF NATIONAL SCIENTIFIC RESEARCH EFFORTS

● Mr. McCAIN. Mr. President, the family of nations may disagree on many topics. We must never forget, however, the many, and most important, things we hold in common, including an intense responsibility for the health of spaceship Earth as Buckminster Fuller once called it.

Mankind and our biosphere are now confronted by an environmental danger of enormous scope and with far-reaching implications. I am speaking about the depletion of the stratospheric ozone layer.

Scientists have discovered that chlorine from manmade industrial compounds—known as chlorofluorocarbons and halons—play a serious role in depleting the layer which protects the Earth from the most dangerous solar ultraviolet rays. The Earth's increased exposure to U-V-B radiation which will result if this phenomenon remains

unchecked, portends a variety of harmful consequences. They include a higher incidence of skin cancer and cataracts, suppression of the human body's immune system, and reduced crop growth and yield.

EPA estimates that if ozone depletion trends continue, we could expect 40 million excess skin cancers and an additional 800,000 deaths within the next 80 years. In addition, CFC's have been identified with global warming, contributing an estimated 20 percent to the greenhouse effect. The resulting climate change predicted by some experts could mean a variety of untold effects on the terrestrial and aquatic ecosystems.

The urgent need to address this situation has not been lost on the world community, Mr. President. In 1987, the United States along with 24 other nations and the European Economic Community signed the Montreal Protocol on substances that deplete the ozone layer.

The parties to that treaty pledged to reduce 1986 world CFC production levels 50 percent by the year 1998, and to freeze halon production at 1986 levels. This body voted unanimously to ratify that treaty last year.

While the ink was drying on the protocol, however, the latest scientific data indicated that the situation may be more serious than previously supposed. The information came from the second of two expeditions to Antarctica and a study conducted by the International Ozone Trends Panel.

The Panel was comprised of representatives from NASA, the National Oceanic and Atmospheric Administration, the Federal Aviation Administration, the World Meteorological Organization, and the United Nations Environment Program.

One hundred scientists spent 1 year peer reviewing ozone measurement data, including information gathered by NASA's Nimbus 7 satellite. The Panel confirmed the seasonal hole which occurs in the ozone layer over Antarctica and estimated that between 1969 and 1986, depletion in the ozone layer averaged between 1 and 3 percent over the entire Northern Hemisphere.

Because of this latest information and the findings from a recent expedition to the Arctic to assess atmospheric conditions at the North Pole, many authorities now believe we must ban CFC production altogether.

Two weeks ago at an international environmental conference in London, Prime Minister Margaret Thatcher announced that Britain would ban production of CFC's by the turn of the century. Shortly thereafter, President Bush announced that the United States would follow suit—provided that safe-substitutes are available.

World attention is focused squarely on this issue. Eliminating the environmental threat posed by CFC's is high on the national and international agenda. Let there be no mistake, meeting this responsibility will be no simple task. CFC's are pervasive industrial compounds used widely throughout the world for many important purposes. Eliminating them will have an enormous impact upon many industries and consumers.

CFC's are used as refrigerants in air conditioners, refrigerators and freezers. They are employed as foam blowing agents in such items as insulation and packaging materials. And they are used extensively as solvents. This Nation has 130 billion dollars' worth of installed capital equipment using CFC and halon compounds, many of which we do not yet have safe substitutes for.

Mr. President, clearly, to protect the ozone layer as we must, and to avoid potential widespread economic and industrial disruption, we must commit ourselves to the development of—and transition to—safe and suitable CFC alternatives. This effort must be a top domestic priority. And the gravity of this situation requires that we marshal the available resources and technical expertise of the public, as well as the private sector, to help achieve our goals.

Today, I am introducing legislation which I believe will help make the Federal Government a full, committed and more effective partner in the search for safe substitutes. It would do so by establishing a special working group under the Federal Coordinating Council for Science, Engineering, and Technology. The group will be comprised of representatives from the National Institute of Standard Technology, the National Oceanic and Atmospheric Administration, the Department of Energy, the Environmental Protection Agency, and other Federal Departments. Together they will work closely with an advisory panel from the CFC and halon manufacturing and user industries.

Their job will be to coordinate, develop and implement Federal governmental research and other initiatives involving CFC's, so that we can maximize and improve the use of Federal resources. A number of agencies including the Department of Commerce, Department of Energy, Environmental Protection Agency, and Department of Defense have money, research facilities, and scientific expertise to assist in the guest for replacement compounds. Coordination and better employment of those resources is critical.

Furthermore, the working group will recommend programs for appropriate intergovernmental, international, and commercial technology transfer. Information sharing will not only facilitate efforts at home, but is essential if we are to gain the cooperation of the developing world.

We must understand that many third world countries are anxious to improve living standards with refrigeration, and are reluctant to agree to severe CFC restrictions. Industrial commitments to the manufacture of controlled CFC's by some of these countries, would substantially undermine ozone protection efforts in other parts of the world.

Ozone depletion is a global problem requiring a global solution. The faster we can find suitable replacement compounds, and share that vital information and technology with developing countries, the more likely we are to receive their cooperation, without impeding the efforts of those countries to better the lives of their citizens. This is something we should all have an interest in. The working group will provide a coordinated and centralized distribution point for essential industrial, technical, and scientific data.

Mr. President, the working group will have a number of other important functions. Among them will be to review Federal, State, and local laws to ensure that they are consistent with our efforts to promote substitutes. Furthermore, they will seek ways to promote recycling and remove barriers which may exist to the recycling industry.

We must not lose sight of the fact that capital equipment containing CFC's pervades our economy and will for many years to come—even if substitutes were found tomorrow. The recycling and conservation of CFC's, therefore, are critical under any circumstances. In light of this, the working group will examine ways we can develop and encourage proper handling and field practices to reduce ozone depleting emissions.

While regulations requiring proper handling are well intentioned, unfortunately, many times they are unenforceable. The key is education. A logical first step would be to ensure that the tradespeople who work with CFC's understand the problem and receive the proper training they need to handle those compounds as safely and conservatively as possible. Perhaps the working group could work with industry and other areas of the Government to develop curriculum and resource material on proper handling techniques. We can then ensure that this material is introduced to practitioners and students involved in refrigeration, air conditioning, and auto repair, updating the curriculum as technology and public policy change. Trade schools should be especially targetted for such a program. This seems like a fair and prudent step to take.

Finally, Mr. President, this legislation will require us to look at Federal procurement policies, practices and governmental uses of ozone-depleting substances and develop measures to

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promote the earliest possible transition to alternative products as they are available. It should come as no surprise that the Federal Government is one of the largest buyers of products containing CFC's and halons. Taking immediate action to replace those items with environmentally safe products would provide Federal leadership and stimulate producers to meet the demand for alternatives.

Mr. President, I believe this legislation will play a vital role in helping us to find safe industrial substitutes and to take the affirmative actions necessary to protect the ozone layer in an efficient, effective, and cooperative fashion.

We have august responsibilities as the privileged stewards of this Earth. With our leadership and through continued international cooperation, the world community can meet its obligations—and it must.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 644

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 401 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6651) is amended to read as follows:

"FUNCTIONS OF COUNCIL

"SEC. 401. (a) The Federal Coordinating Council for Science, Engineering, and Technology (hereinafter referred to as the 'Council') shall consider problems and developments in the fields of science, engineering, and technology and related activities affecting more than one Federal agency, and shall recommend policies and other measures designed to—

"(1) provide more effective planning and administration of Federal scientific, engineering, and technological programs;

"(2) identify research needs, including areas requiring additional emphasis;

"(3) achieve more effective utilization of the scientific, engineering, and technological resources and facilities of Federal agencies, including the elimination of unwarranted duplication; and

"(4) further international cooperation in science, engineering, and technology.

"(b) The Council may be assigned responsibility for developing long-range and coordinated plans for scientific and technical research which involve the participation of more than two Federal agencies. Such plans shall—

"(1) identify research approaches and priorities which most effectively advance scientific understanding and provide a basis for policy decisions;

"(2) provide for effective cooperation and coordination of research among Federal agencies; and

"(3) encourage domestic and, as appropriate, international cooperation among government, industry, and university scientists.

"(c) The Council shall perform such other related advisory duties as shall be assigned by the President or by the Chairman of the Council.

"(d) for the purpose of carrying out the provisions of this section, each Federal agency represented on the Council shall furnish necessary assistance to the Council. Such assistance may include—

"(1) detailing employees to the Council to perform such functions, consistent with the purposes of this section, as the Chairman of the Council may assign to them; and

"(2) undertaking, upon request of the Chairman, such special studies for the Council as come within the scope of authority of the Council.

"(e) For the purpose of developing interagency plans, conducting studies, and making reports as directed by the Chairman, standing committees and working groups of the Council may be established.

"(b) Section 207(a)(1) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6616(a)(1)) is amended by striking "established under Title IV".

SEC. 2. The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end the following new title:

"TITLE VI—OZONE DEPLETION WORKING GROUP

"FINDINGS AND PURPOSE

"SEC. 601.(a) Congress finds and declares the following:

"(1) The ozone layer in the upper atmosphere is deteriorating as a result of chemical interactions with chlorofluorocarbons and halons emitted into the atmosphere in the course of human activity.

"(2) The United States is a party to and is implementing the Montreal Protocol, which calls for a 50 percent reduction in 1986 worldwide production levels of chlorofluorocarbons by 1998 and a freeze and 1986 production levels of halons.

"(3) The Ozone Trends Panel Report of the National Aeronautics and Space Administration presents new and disturbing information that should intensify efforts to develop safe alternatives to the existing chlorofluorocarbon and halon compounds.

"(4) Further reductions in the production and use of chlorofluorocarbons and halons are likely to be necessary in light of this new information.

"(5) Chlorofluorocarbons and halons are pervasive industrial components and the United States should be commercially and industrially prepared for further reductions.

"(6) The Federal Government is one of the largest purchasers of products containing chlorofluorocarbons and halons.

"(7) The rapid development of and transition to safe substitutes for chlorofluorocarbons and halons and alternative technology are vital to the national and international interest.

"(8) The Federal Government should—

"(A) devise initiatives and assist industry to facilitate the development of safe substitutes for chlorofluorocarbons and halons and alternative technology;

"(B) identify statutory and regulatory impediments to chlorofluorocarbon and halon reduction and recycling;

"(C) cooperate with the private sector to identify opportunities for additional such recycling and conservation initiatives;

"(D) identify governmental procurement and use of chlorofluorocarbons and halons; and

"(E) undertake initiatives, including government-supported research, to assist industry in accomplishing the transition to safe substitutes and alternative technology as soon as practicable.

"WORKING GROUP

"SEC. 602.(a) The President, through the Council, shall establish a working group which, in accordance with title IV and the provisions, findings, and purposes of this title, shall—

"(1) coordinate, develop, and help implement initiatives on research and other activities of Federal agencies and departments to facilitate the development of and transition to safe substitutes for chlorofluorocarbons and halons and alternative technology; and

"(2) conduct a comprehensive study for the purpose of determining the steps which can be taken to reduce the emission of chlorofluorocarbons and halons.

"(b) In carrying out the study required by subsection (a), the working group shall—

"(1) determine whether any Federal, State, or local laws and regulations are impeding the reduction of chlorofluorocarbons and halons and the transition to safe substitutes and alternative technology;

"(2) recommend Federal research programs and other activities to assist industry in identifying alternatives to the use of chlorofluorocarbons and halons as refrigerants, solvents, fire retardants, foam-blowing agents, and other commercial applications and in achieving a transition to those alternatives;

"(3) identify steps to promote or assist in chlorofluorocarbon and halon recycling and conservation;

"(4) examine Federal procurement practices with respect to chlorofluorocarbons and halons and recommend measures to promote the earliest possible transition by the Federal Government to the use of safe substitutes where they are available;

"(5) specify initiatives, including appropriate intergovernmental, international, and commercial information and technology transfers, to promote the development and use of chlorofluorocarbon and halon substitutes, and alternative technology;

"(6) identify steps and initiatives to foster proper handling processes and field practices involving chlorofluorocarbons and halons to reduce ozone-depleting emissions; and

"(7) take other such steps as are necessary to fulfill the purposes of the working group as set forth in subsection (a).

"(c) The working group shall address, where appropriate, the relevant programs and activities of, and shall include representatives from, the following Federal agencies and departments:

"(1) the Department of Commerce, particularly the National Oceanic and Atmospheric Administration and the National Institute for Standards and Technology;

"(2) the National Science Foundation;

"(3) the National Aeronautics and Space Administration;

"(4) the Environmental Protection Agency;

"(5) the Department of Energy;

"(6) the Department of Agriculture;

"(7) the Department of the Interior;

"(8) the Department of Defense;

"(9) the Department of State; and

"(10) such other agencies and departments as the President, or the Chairman of the Council, considers appropriate, including the General Services Administration and the Office of the United States Trade Representative.

"(d)(1) The President, or the Chairman of the Council, shall designate one of the

members of the working group to serve as chairman.

"(2) The President shall call the first meeting of the working group prior to the expiration of the 120-day period following the date of enactment of this title.

"(e) The Council shall, not later than 12 months after the date of enactment of this title, report the results of the study required by subsection (a) to the President and to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives. Such report shall include the findings of the working group and its recommendations for such statutory and regulatory changes, research progams, and other initiatives as the working group determines necessary in order to assist in the effort to reduce the use of chlorofluorocarbons and halons in the United States, to assure a smooth transition to the use of safe substitutes, and to meet the purposes of this title.

ADVISORY BOARD

"SEC. 603. (a) The Director shall establish an advisory board to assist the Council and the working group established under section 602 in carrying out the purposes of this title.

"(b) The advisory board shall consist of at least six members, two of whom shall be industry representatives from chlorofluorocarbon and halon manufacturers and four of whom shall be industry representatives from chlorofluorocarbon and halon users.

"(c) Members of the advisory board shall serve without compensation in addition to compensation they may otherwise be entitled to receive, but shall be reimbursed for travel, subsistence, and other such expenses incurred in the actual performance of duties vested in the advisory board.

"(d) The advisory board shall be established not later than three months following the date of enactment of this title and shall continue to exist as long as the working group established under section 602 is in existence.

"DEFINITIONS

"SEC. 604. For purposes of this title—

"(1) the term 'chlorofluorocarbon' means any controlled substance listed in Group I of Annex A of the Montreal Protocol;

"(2) the term 'halon' means any controlled substance listed in Group II of such Annex A of the Montreal Protocol; and

"(3) the term 'Montreal Protocol' means the Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal on September 16, 1987.".●

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By Mr. DODD (for himself and Mr. HEINZ) (by request):

S. 646. A bill to amend the Federal securities laws in order to facilitate cooperation between the United States and foreign countries in securities law enforcement; to the Committee on Banking, Housing, and Urban Affairs.

INTERNATIONAL SECURITIES ENFORCEMENT COOPERATION ACT

● Mr. DODD. Mr. President, today my friend and ranking minority member of the Securities Subcommittee, Senator HEINZ, and I are introducing legislation requested by the Securities and Exchange Commission to improve the flow of information to shareholders, streamline the issuance of debt securities, ensure the integrity and efficiency of our capital markets, and strengthen the SEC's enforcement tools to protect investors and police the securities markets here and abroad.

This legislation, which we are introducing as five separate bills, includes: the International Securities Enforcement Cooperation Act of 1989; the Securities Law Enforcement Remedies Act of 1989; the Market Reform Act of 1989; the Shareholder Communications Improvement Act of 1989; and the Trust Indenture Reform Act of 1989. We are introducing these proposals as submitted to Congress by the SEC in order to solicit public comment about the need for these measures, as well as about the technical drafting of their provisions.

A number of these provisions are controversial, and we look forward to an active and constructive debate involving investor and business representatives, as well as other commentators. Although we are not endorsing all of these measures at this time, we believe the subcommittee has a responsibility to give serious consideration to legislation proposed by the expert agency created by Congress to protect investors and ensure the integrity of the capital-raising process. There is no specific timetable for reporting the legislation, but I hope we can move expeditiously in our consideration of these measures. I therefore urge interested parties to make their views known to the subcommittee at the earliest opportunity.

Mr. President, before I discuss the legislation, I want to take this opportunity to discuss what Senator HEINZ and I anticipate will be some of the broader issues examined by the Securities Subcommittee in this Congress.

SECURITIES ISSUES TO BE CONSIDERED IN THE 101ST CONGRESS

I think we all agree that the securities markets in this country are a vital national asset. They have long been considered the strongest, fairest and most liquid markets in the world. Thousands of American businesses, large and small, depend upon these markets to help raise the capital needed for long-term investments and economic growth. Indeed, the dynamic growth and productivity of American companies over many decades is a result of the efficiency of our broad, public markets in raising capital for their needs. The jobs of millions of Americans, as well as the health of our economy as a whole, depends upon the continued vigor of these markets in serving the capital needs of our companies.

Just as important, millions of Americans rely upon the fairness of these markets when they invest their savings, whether they are simply putting away funds for future purchases, for their children's education, or for their own retirement. They invest in our markets, and make their funds available for American industry, because they have confidence—not that they will be protected from all losses—but that the risks of losses will be fully disclosed, that all participants enter the markets on an even-handed basis, and that the markets as a whole are sound.

Our securities markets have changed dramatically in recent years, and some of the changes we see—while offering important opportunities for both businesses and investors—could affect the capital-raising process. Thus, the subcommittee has a special responsibility to examine these changes and ensure that the regulatory agencies and organizations have considered them and are equipped to meet them.

Senator HEINZ and I hope to draw upon the best minds in the private sector and in the respective regulatory agencies to work with the subcommittee in our review of the significant developments and trends in our capital markets. Through reports and papers prepared for the subcommittee, informal forums and hearings, we hope to generate creative thinking on the direction of our markets over the next decade, and the adequacy of current laws and the regulatory framework to oversee those markets. While some of our effort will be directed to legislative proposals, such as those requested by the SEC, we anticipate that the subcommittee's attention will also be broadly focused.

*SEC resources and regulatory and enforcement tools*

The subcommittee will begin with a hearing April 6 on the SEC's budget authorization request. As the agency with responsibility for protecting investors and ensuring the integrity of the markets, the SEC simply must have the resources to do its job. We, therefore, must evaluate whether our markets have expanded beyond the resources of our supervisory organizations and regulatory agencies and thus present risks that cannot be managed under current resources.

For example, from 1980 through 1987, annual trading on the Nation's stock exchanges increased 312 percent, volume on the options exchanges grew 215 percent, and trading on NASDAQ increased 466 percent. In this same period, the number of registered borker-dealers grew 80 percent, the number of registered representatives grew 135 percent, and the number of registered investment advisers and investment companies more than tripled. Within this remarkable period of growth, the number of documents filed with the SEC increased significantly. However, in terms of staff years, SEC resources have remained relatively stagnant.

Numbers do not tell the whole story, however. While the growth in activity

in the market is impressive, even more important has been the increase in the sophistication and complexity of the securities markets. New financing products and trading strategies, and enhancements in technology, mandate a regulatory staff that has the expertise and experience to keep pace with a rapidly changing marketplace.

There is no reason to believe this growth in the size and complexity of the securities market will abate. Consequently, the subcommittee, together with the agencies and organizations responsible for overseeing these markets, must carefully evaluate the personnel and other resource needs of the SEC.

In addition, at the April hearing and in future hearings or meetings with investor groups, the corporate community, securities industry officials and other experts, the subcommittee will have an opportunity to review the Commission's current regulatory policies. It is critical that the Commission have sufficient flexibility to protect investors and meet the needs of an evolving trading marketplace. During recent years, the SEC has undertaken a number of significant regulatory initiatives. However, the agency's authority is being challenged on a number of fronts, ranging from its promulgation of rules relating to shareholder disenfranchisement, to rules relating to the trading of new securities products.

The subcommittee also will have an opportunity to examine the effectiveness of the Commission's enforcement program and will consider whether additional authority or enforcement tools may be needed by the SEC to better carry out its investor protection responsibilities.

*The evolution of new securities and securities-related instruments and trading strategies—post "crash" and other issues*

Trading in financial futures began in 1975, and trading in the first stock index futures contract began only 7 years ago. Today, these instruments dominate trading on the futures exchanges. As the Presidential Task Force on Market Mechanisms reported in January of last year, the market for stock index futures and the market in the underlying stocks are inextricably linked. New trading strategies, such as "program trading" and the use of "portfolio insurance," have had a dramatic impact on our capital markets.

The futures market certainly is not the only source of new securities and securities-related instruments. Banks, insurance companies and other institutions continue to create new "hybrid" products. The securities industry itself is creating new securities instruments, ranging from "unbundled" stock units, to participation in "baskets" of stocks. The continued move toward securitization of assets, ranging from mortgages to car loans, promises still more benefits for borrowers, more flexibility for lenders, and more choices for investors. At the same time, this trend poses still greater challenges for those agencies and organizations with responsibility to oversee the expanding securities markets.

The subcommittee will consider these developments, beginning with an examination of some of the "post-crash" market reform legislation developed by the SEC. We intend to engage the SEC, other regulators, industry participants and experts from the financial and corporate communities, in a discussion of whether sufficient safeguards have been adopted to address future, major market disturbances. In additions, it appears that new product development will continue to raise jurisdictional tensions among regulators, resulting in a need for Congress to further examine these matters.

*Globalization of the securities markets*

Concurrent with the growth in trading volume and market participants, and the development of new instruments and trading strategies, the securities markets have expanded beyond our borders into a global, trading arena. Developments in information and communications technology have facilitated global trading, and the marketplace today extends beyond the supervision of any one market regulator. Undoubtedly, this trend poses increased challenges for domestic markets and our own investor protection standards.

From 1980 through 1987, the value of foreign trading in U.S. stocks grew 543 percent and U.S. trading in foreign stocks increased 950 percent. Our financial institutions have expanded into financial centers around the globe, just as foreign institutions have entered our market. Markets here and abroad have become increasingly interdependent, so that a failure in one market can quickly be felt in others. This trend also poses increased challenges in the enforcement of U.S. antifraud and other laws, when insider trading and other illegal activities are conducted offshore, beyond the reach of our law enforcement officials.

These developments also have implications for our own laws and regulations, as well as for American competitiveness. It is in our national interest to have a strong and vibrant securities industry. We want to consider how best to ensure the competitiveness of that industry, while at the same time providing investors the protections and fairness they have come to expect from our markets.

We anticipate that the subcommittee will explore these matters in future hearings. We will consider legislative proposals developed by the SEC to facilitate international enforcement efforts. In addition, we clearly should look beyond that specific legislation to issues such as the adequacy of clearance and settlement on an international level, the ability of regulators to coordinate market oversight, and the disparity in multinational disclosure and financial reporting requirements.

DEVELOPMENT IN CORPORATE PRACTICES

While State laws have an important role in governing corporate practices, the Federal securities laws and SEC regulation also have set many of the standards for the protection of shareholders in contests for corporate control, including proxy contests, hostile and friendly tender offers, and management leveraged buyouts. Innovations in acquisition techniques used by bidders, as well as innovations in "defensive" tactics used by corporate management, have prompted proposals to amend the Federal statutes governing tender offers and other acquisitions. In addition, many States have amended and sought the adoption of State statues to limit corporate acquisitions.

For a number of years, various committees of the Congress have considered legislation relating to corporate takeovers, and during the beginning months of this Congress, the attention has turned to leveraged buyouts, with hearings in a number of committees. I certainly agree that those hearings are in order and hope to learn a great deal from the record that has been established. But I also hope that the subcommittee can build upon that record to understand more broadly the evolution of contests for corporate control, so that our efforts will further the shareholder protection goals of the Federal securities laws, as well as the interests all of us have in seeing American companies that are well-managed and competitive over the long term. Senator HEINZ and I look forward to engaging some of the best minds in the corporate and financial communities, as well as investor groups, in a discussion of these issues.

INSTITUTIONALIZATON OF THE MARKETS; THE IMPACT OF PENSION FUNDS

The nature of the "shareholder" or "investor" has changed dramatically in recent years. While, at the time of adoption of the Securities Act in 1933 the individual investor was the typical shareholder, today, institutional trading dominates New York Stock Exchange issues and plays a smaller, but increasingly larger role in issues of smaller companies. The increase in participation by ERISA funds raises a new set of concerns related to the obligations of pension fund managers in deciding matters of corporate governance and other issues.

I believe these developments warrant the subcommittee's review. The trend toward an institutionally dominated market affects many other areas we will examine, from corporate governance, to questions of volatility in the marketplace, to changes in SEC

rules relating to disclosure requirements.

SPECIAL CONCERNS OF SMALL INVESTORS AND SMALL BUSINESSES RAISING CAPITAL

We must pay particular attention to developments that affect small investors. Following the events of October 1987, small investors left the market in large numbers, and many have not returned. There is a perception, if not a reality, that the markets are dominated by big institutions, or, alternatively, that they are rigged for the benefit of market professionals with an "inside" track. Many small investors have been lured into fraudulent "penny stock" offerings. Still others have been turning to those individuals and firms offering services as financial planners. The growth of the mutual fund industry may reflect some uncertainty on the part of individual investors about entering the market on their own.

Individual investors have always been, and should remain, an important part of our capital markets. Their presence has been significant in maintaining the liquidity of the market and has helped to ensure that small businesses can raise capital from a broad range of investors. This is an area I have talked about with State regulators and investor groups, and I am hopeful that it can be an important part of the subcommittee's securities agenda.

THE LEGISLATION

Mr. President, let me now turn to a brief discussion of the legislation we are introducing today.

THE INTERNATIONAL SECURITIES ENFORCEMENT COOPERATION ACT OF 1989

Mr. President, the International Securities Enforcement Cooperation Act of 1989 is designed to strengthen international cooperation in the enforcement of securities laws, so that U.S. investors will continue to be afforded the protection of our laws in an increasingly global trading environment. This proposal was submitted to Congress by the Securities and Exchange Commission on March 1 of this year, and we are introducing it at the request of the agency.

The legislation would further international cooperation among securities regulators by giving the Commission the authority to maintain the confidentiality of certain foreign evidence. The Commission has expressed concern that in the past, negotiations of bilateral assistance agreements have been frustrated by the agency's inability to assure foreign authorities that documents and testimony they transmit to the Commission will be kept confidential, as is often required under their resident laws. The Commission currently has disclosure obligations under the Freedom of Information Act and pursuant to third party subpoenas. This legislation would exempt documents furnished to the Commission from disclosure if the foreign authority represents that the disclosure of the documents would violate confidentiality requirements of its country's laws.

The bill also would make explicit the Commission's rulemaking authority to provide documents and other information to foreign and domestic authorities.

In addition, the bill would amend the Exchange Act, the Investment Advisers Act, and the Investment Company Act to authorize the Commission, based upon the findings of a foreign court or foreign securities authority, to censure, revoke the registration of, or impose employment restrictions upon securities professionals registered to do securities business in the United States. The Commission already has this authority as to illegal or improper activity in this country, and it has imposed limitations on activities of securities professionals based upon the findings of a foreign court as to certain illegal activity abroad. This bill would make this authority explicit, and would add to the Commission's authority as well. The legislation would give the Commission authority to suspend or bar securities professionals who have made false filings with foreign authorities; who have been convicted of certain crimes by foreign courts; who have been enjoined by a foreign court from committing securities law violations; who have violated foreign securities laws; or who have aided and abetted such violations.

The legislation also would expand the grounds on which a self-regulatory organization could deny a person membership in, participation in, or association with a member of, the SRO. It would permit the Commission and the SRO's to provide special scrutiny of persons who have been convicted of crimes that currently are not specified as grounds for denying a person membership, participation, or association, such as drug trafficking, assault, and other crimes.

Finally, the bill would permit the Commission to accept reimbursement from a foreign securities authority for travel and other expenses incurred by the Commission in carrying out investigations for that foreign authority.

Mr. President, I ask unanimous consent to insert in the RECORD at this point a more detailed section-by-section analysis of the legislation, which was prepared by the Securities and Exchange Commission. I further ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

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

S. 646

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "International Securities Enforcement Cooperation Act of 1989".

(b) TABLE OF CONTENTS.—



SEC. 2. RELEASE OF RECORDS BY THE COMMISSION.

Section 24 of the Securities Exchange Act of 1934 (15 U.S.C. 78x) is amended—

(a) in subsection (b) by striking "Nothing in this subsection shall authorize the Commission to withhold information from the Congress."; and

(b) by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of law, the Commission may, in its discretion and upon a showing that such information is needed, provide all 'records' (as defined in subsection (a)) and other information in its possession to such persons, both domestic and foreign, as the Commission by rule deems appropriate if the person receiving such records or information provides such assurances of confidentiality as the Commission deems appropriate.

"(d) Notwithstanding the provisions of Section 552 of title 5, United States Code, popularly referred to as the Freedom of Information Act, or of any other law, the Commission shall not be compelled to disclose records obtained from a foreign securities authority if the foreign securities authority has in good faith represented to the Commission that public disclosure of such records would be contrary to the laws applicable to that foreign securities authority.

"(e) Nothing in this section shall—

"(1) alter the Commission's responsibilities under the Right to Financial Privacy Act, (12 U.S.C 3401 *et seq.*), as limited by Section 21(h) of the Securities Exchange Act, (15 U.S.C. 78u(h)), with respect to transfers of records covered by such statutes, or

"(2) authorize the Commission to withhold information from the Congress or prevent the Commission from complying with an order of a court of the United States in an action commenced by the United States or the Commission."

SEC. 3. SANCTIONS AGAINST BROKER OR DEALER, ASSOCIATED PERSONS, OR PERSONS SEEKING ASSOCIATION.

(a) AUTHORITY OF THE COMMISSION TO SANCTION BROKERS AND DEALERS FOR FOREIGN VIOLATIONS.—Section 15(b) (15 U.S.C. 78o(b)) of the Securities Exchange Act of 1934 is amended—

(1) in paragraph (4)(B), by inserting after "misdemeanor" the following: "or has been convicted within ten years of a substantially

equivalent crime by a foreign court of competent jurisdiction";

(2) in paragraph (4)(B)(i), by inserting after "burglary," the following: "any substantially equivalent activity however denominated by the laws of the relevant foreign government";

(3) in paragraph (4)(B)(ii)—

(A) by inserting after "transfer agent," the following: "foreign person performing a function substantially equivalent to any of the above,";

(B) by inserting after "(7 U.S.C. 1 *et seq.*)" the following: "or any substantially equivalent foreign statute or regulation";

(4) in paragraph (4)(B)(iii), by inserting after "securities," the following: "or substantially equivalent activity however denominated by the laws of the relevent foreign government,";

(5) in paragraph (4)(B)(iv), by inserting after "United States Code" the following: ", or a violation of a substantially equivalent foreign statute.";

(6) in paragraph (4)(C)—

(A) by inserting after "transfer agent," "foreign person performing a function substantially equivalent to any of the above,";

(B) by inserting after "Commodity Exchange Act" each time it appears, "or any substantially equivalent foreign statute or regulation"; and

(C) by inserting after "insurance company," "foreign entity substantially equivalent to any of the above,"; and

(7) by inserting after subparagraph (F) of paragraph 4 the following:

"(G) has been found by a foreign financial regulatory authority to have—

"(i) made or caused to be made in any application for registration or report required to be filed with a foreign financial regulatory authority, or in any proceeding before a foreign financial regulatory authority with respect to registration, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign financial regulatory authority any material fact that is required to be stated therein;

"(ii) violated any foreign statute or regulation regarding transactions in securities, or contracts of sale of a commodity for future delivery, traded on or subject to the rules of a contract market or any board of trade;

"(iii) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign financial regulatory authority regarding transactions in securities, or contracts of sale of a commodity for future delivery, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign financial regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision."

(b) EXTENSION OF DEFINITION OF STATUTORY DISQUALIFICATION TO INCLUDE FOREIGN VIOLATIONS.—Section 3(a)(39) of such Act (15 U.S.C. 78c(a)(39)) is amended—

(1) in subparagraph (A)—

(A) by inserting after "self-regulatory organization," the following: "foreign equivalent of a self-regulatory organization, foreign or international securities exchange,"; and

(B) by inserting after both "(7 U.S.C. 7)," and "(7 U.S.C. 21),", the following: "or any substantially equivalent foreign statute or regulation,";

(C) by inserting after "contract market", the following: "or foreign equivalent";

(2) in subparagraph (B)—

(A) by striking "Commission or other appropriate regulatory agency" and inserting "Commission, other appropriate regulatory agency, or foreign financial regulatory authority";

(B) by inserting after "government securities dealer," the first place it appears, the following: "or limiting his activities as a foreign person performing a function substantially equivalent to any of the above,";

(C) by inserting after "government securities dealer," the second place it appears, the following: ", or foreign person performing a function substantially equivalent to any of the above,";

(D) by striking the semicolon and inserting the following: ", or is subject to an order by a foreign financial regulatory authority denying, suspending, or revoking the person's authority to engage in transactions in contracts of sale of a commodity for future delivery or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent thereof;".

(3) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(4) by inserting after subparagraph (C) the following:

"(D) by his conduct while associated with any broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or any other entity engaged in transactions in securities, or while associated with an entity engaged in transactions in contracts of sale of a commodity for future delivery or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent thereof, has been found to be a cause of any effective suspension expulsion, or order by a foreign or international securities exchange or foreign financial regulatory authority empowered by a foreign government to administer or enforce its laws relating to financial transactions as described in subparagraph (A) or (B) of this paragraph;";

(5) in subparagraph (E) (as redesignated by paragraph (3) of this subsection) by striking "(A), (B), or (C)" and inserting "(A), (B), (C), or (D)".

(6) in subparagraph F (as redesignated) by striking "(D) or (E)" and inserting in lieu thereof "(D), (E), or (G)" and by inserting after "such paragraph (4)" the first place it appears the following: "or any other felony".

(c) CONFORMING AMENDMENTS.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—

(1) in sections 15(b)(6), 15B(c)(2), 15B(c)(4), 15C(1)(A), 15C(c)(1)(c), 17A(c)(3)(A), and 17A(c)(3)(C), by striking "(A), (D), or (E)" and inserting "(A), (D), (E), or (G)"; and

(2) in section 15C(f)(2), by striking "or the rules or regulations under any such other provision" and inserting "the rules of regulations under any such other provision, or investigations pursuant to section 21(a)(2) of this title to assist a foreign securities authority.".

SEC. 4. DEFINITION OF FOREIGN FINANCIAL REGULATORY AUTHORITY.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), is further, amended by adding at the end thereof the following new paragraph:

"(51) The term 'foreign financial regulatory authority' means any (A) foreign securities authority, (B) other governmental body or foreign equivalent of a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of fiduciaries, trusts, commercial lending, insurance, trading in contracts of sale of a commodity for future delivery, or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent, or other financial activities, or (C) membership organization a function of which is to regulate participation of its members in activities listed above."

SEC. 5. SANCTIONS AGAINST INVESTMENT ADVISERS OR PERSONS ASSOCIATED OR SEEKING ASSOCIATION WITH A REGISTERED INVESTMENT ADVISER OR INVESTMENT COMPANY.

(a) INVESTMENT COMPANY ACT OF 1940.—Section 9(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(b)) is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting a semicolon; and by inserting after paragraph (3) the following:

"(4) has been found by a foreign financial regulatory authority to have—

"(A) made or caused to be made in any application for registration or report required to be filed with a foreign securities authority, or in any proceeding before a foreign securities authority with respect to registration, any statement that was at the time and in light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to a foreign securities authority any material fact that is required to be stated therein;

"(B) violated any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade;

"(C) aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade;

"(5) within ten years has been convicted by a foreign court of competent jurisdiction of a crime, however denominated by the laws of the relevant foreign government, that is substantially equivalent to an offense set forth in paragraph (1) of subsection (a); or

"(6) by reason of any misconduct, is temporarily or permanently enjoined by any foreign court of competent jurisdiction from acting in any of the capacities, set forth in paragraph (2) of subsection (a), or a substantially equivalent foreign capacity, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security."

(b) INVESTMENT ADVISERS ACT OF 1940.—Section 203(e) of the Investment Advisers

Act of 1940 (15 U.S.C. 80b-3(e)) is amended—

(1) in paragraph (2) by inserting after "misdemeanor" the following: "or has been convicted within ten years of a substantially equivalent crime by a foreign court of competent jurisdiction";

(2) in paragraph (2)(A), by inserting after "burglary," the following: "any substantially equivalent activity however denominated by the laws of the relevant foreign government,";

(3) in paragraphs (2)(B) and (3)—

(A) by inserting after "transfer agent" the following: "foreign person performing a function substantially equivalent to any of the above,"; and

(B) after "Commodity Exchange Act" each place it appears, the following: "or any substantially equivalent statute or regulation";

(4) in paragraph (2)(C), by inserting after "securities" the following: "or substantially equivalent activity however denominated by the laws of the relevant foreign government";

(5) in paragraph (2)(D) by inserting after "United States Code" the following: ", or a violation of a substantially equivalent foreign statute";

(6) in paragraph (3)—

(A) by inserting after "court of competent jurisdiction" the following: ", including any foreign court of competent jurisdiction,"; and

(B) by inserting after "insurance company," the following: "foreign entity substantially equivalent to any of the above,";

(7) in paragraph (5), by inserting after "this title," the following: "the Commodity Exchange Act,";

(8) by inserting after paragraph (6) the following new paragraph:

"(7) has been found by a foreign financial regulatory authority to have—

"(A) made or caused to be made in any application for registration or report required to be filed with a foreign securities authority, or in any proceeding before a foreign securities authority with respect to registration, any statement that was at the time and in light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to a foreign securities authority any material fact that is required to be stated therein;

"(B) violated any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade;

"(C) aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade, or has been found, by the foreign financial regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of statutory provisions, and rules and regulations promulgated thereunder, another person who commits such a violation, if such other person is subject to his supervision."

(c) CONFORMING AMENDMENT.—Section 203(f) of the Investment Advisors Act of 1940 (15 U.S.C. 80b-3(f)) is amended by striking "paragraph (1), (4), or (5)" and inserting "paragraph (1), (4), (5), or (7)".

SEC. 6. DEFINITIONS OF FOREIGN SECURITIES AUTHORITY AND FOREIGN FINANCIAL REGULATORY AUTHORITY.

(a) INVESTMENT COMPANY ACT OF 1940.—Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)) is amended by inserting after paragraph (48) the following:

"(49) 'Foreign securities authority' means any foreign government or any governmental body or regulatory organization empowered by a foreign government to administer or enforce its laws as they relate to securities matters.

"(50) 'Foreign financial regulatory authority' means any (A) foreign securities authority, (B) other governmental body or foreign equivalent of a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of fiduciaries, trusts, commercial lending, insurance, trading in contracts of sale of a commodity for further delivery, or other instruments traded on or subject to the rules of a contract market, board of trade or foreign equivalent, or other financial activities, or (C) membership organization a function of which is to regulate the participation of its members in activities listed above."

(b) INVESTMENT ADVISORS ACT OF 1940.—Section 202(a) of the Investment Advisors Act of 1940 (15 U.S.C. 80b-2(a)) is amended by inserting after paragraph (22) the following:

"(23) 'Foreign securities authority' means any foreign government, or any governmental body or regulatory organization empowered by a foreign government to administer or enforce its laws as they relate to securities matters.

"(24) 'Foreign financial regulatory authority' means any (A) foreign securities authority, (B) other governmental body or foreign equivalent of a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of fiduciaries, trusts, commercial lending, insurance, trading in contracts of sale of a commodity for future delivery, or other instruments traded on or subject to the rules of a contract market, board of trade or foreign equivalent, or other financial activities, or (C) membership organization a function of which is to regulate participation of its members in activities listed above."

SEC. 7. REIMBURSEMENT OF EXPENSES INCURRED IN AN INVESTIGATION UNDERTAKEN AT THE REQUEST OF A FOREIGN SECURITIES AUTHORITY.

Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d(c)) is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of law, the Commission may accept payment and reimbursement, in cash or in kind, from a foreign securities authority, or made on behalf of such authority, for necessary expenses incurred by the Commission, its members, and employees in carrying out any investigation pursuant to section 21(a)(2) of this title or in providing any other assistance to a foreign securities authority. Any payment or reimbursement accepted shall be considered a reimbursement to the appropriated funds of the Commission."

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED LEGISLATION—THE INTERNATIONAL SECURITIES ENFORCEMENT COOPERATION ACT OF 1989

Section 2.—Section 2 of the Act amends Section 24 of the Exchange Act by adding new subsections authorizing the Commission to withhold from disclosure documents furnished to the Commission by foreign securities officials upon certain conditions.

Section 2(a).—Section 2(a) is an amendment necessitated by the scheme of amended Section 24 of the Exchange Act, to which the Act adds several subsections. It strikes from Section 24(b) the sentence, "Nothing in this subsection shall authorize the Commission to withhold information from the Congress." That sentence becomes part of new Section 24(e) of the Exchange Act under Section 2(b) of the Act.

Section 2(b).—Section 2(b) adds new subsections (c), (d), and (e) to Section 24 of the Exchange Act. New Section 24(c) clarifies the Commission's authority to provide records, as defined in Section 24(a) of the Exchange Act, in its discretion and upon a showing that the information is needed, to any persons deemed appropriate by the Commission by rule. The subsection conditions this discretionary authority on the person receiving the information assuring its confidentiality as the Commission deems appropriate. Section 2(b) of the Act also adds new Section 24(d) to the Exchange Act. Section 24(d) states that notwithstanding the provisions of the Freedom of Information Act or of any other law, the Commission shall not be compelled to disclose records obtained from a foreign securities authority, if the foreign authority has in good faith represented to the Commission that public disclosure of such records would be contrary to the laws applicable to that foreign securities authority. This amendment will allow the Commission to obtain otherwise unobtainable confidential documents from foreign countries for law enforcement purposes. New Section 24(e) clarifies that nothing in Section 24 authorizes the Commission to withhold information from Congress or not to comply with an order of a United States court in an action initiated by the United States or the Commission. It also clarifies that this section does not alter the Commission's responsibilities under the Right to Financial Privacy Act, 12 U.S.C. 3401 *et seq.*, as limited by Section 21(h) of the Exchange Act, with respect to transfers of records covered by these statutes.

Section 3.—Section 3 of the Act amends the Exchange Act to authorize the Commission to impose sanctions on brokers or dealers, their associated persons, and individuals seeking to become associated persons of brokers or dealers on the basis of misconduct in a foreign country.

Section 3(a).—Section 3(a) of the Act amends Section 15(b) of the Exchange Act, the Exchange Act's registration provision. Subsection (a)(1) provides for Commission censure of, limitations on the activities of or revocation or suspension of the registration of brokers or dealers, based upon a conviction within ten years rendered by a foreign court of competent jurisdiction of a crime which is substantially equivalent to a felony or misdemeanor as provided by Section 15(b)(4)(B). The Act thus clarifies the Commission's authority to consider offenses from foreign jurisdictions that might not classify crimes formally as felonies or misdemeanors, *e.g.*, non-common law jurisdiction.

Section 15(b)(4)(B)(i) lists offenses involving the purchase or sale of any security, the taking of a false oath, the making of a false report, bribery, perjury, burglary, or conspiracy to commit any such offense as within the class of felonies and misdemeanors that permit the Commission to sanction brokers or dealers. Subsection (a)(2) of the Act amends this provision by including within this list any substantially equivalent activity, however denominated by the laws of a foreign government. The Act therefore clarifies the Commission's authority to consider such activities even if the foreign government does not denominate them as precisely the same offenses that they constitute within the United States.

Section 15(b)(4)(B)(ii) also allows the Commission to consider offenses arising out of the conduct of various securities-related businesses, including the business of a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, investment adviser, bank, insurance company, fiduciary, or transfer agent. Subsection (a)(3)(A) of the Act amends Section 15(b)(4)(B)(ii) by including any substantially equivalent activity, however denominated by the laws of a foreign government. The Act accordingly clarifies the Commission's authority to consider such offenses regardless of the employment terms involved, which may differ in foreign countries. Section 15(b)(4)(B)(ii) also permits the Commission to consider offenses arising out of the conduct of the business of an entity or person required to be registered under the Commodity Exchange Act (7 U.S.C. 1 et seq.). Subsection (a)(3)(B), therefore, also amends Section 15(b)(4)(B)(ii) by including any equivalent foreign statute or regulation. The Act thus clarifies the Commission's authority to consider foreign offenses arising out of the commodities trading business.

Section 15(b)(4)(B)(iii) includes larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, and misappropriation of funds or securities within the list of offenses that trigger Commission sanctions. Subsection (a)(4) of the Act adds any substantially equivalent activity, however donominated by the laws of a foreign government.

Section 15(b)(4)(B)(iv) of the Exchange Act includes violations of Sections 152, 1341, 1342, or 1343 or Chapter 25 or 47 of Title 18 of the U.S. Code within the list of offenses that the Commission may consider. These provisions concern concealment of assets, false oaths and claims, and bribery in connection with bankruptcy; mail fraud; wire fraud; counterfeiting and forgery; and fraud and false statements, respectively. Subsection (a)(5) amends Section 15(b)(4)(B)(iv) by including a violation of a substantially equivalent foreign statute.

Section 15(b)(4)(C) also empowers the Commission to impose sanctions on the basis of permanent or temporary injunctions against acting in the securities-related or commodities-related capacities enumerated in Section 15(b)(4)(B)(ii) and against engaging in or continuing any conduct or practice in connection with such activity or in connection with the purchase or sale of any security. Section (a)(6)(A) amends Section 15(b)(4)(C) by including foreign persons performing substantially equivalent functions, and subsection (a)(6)(C) includes substantially equivalent foreign entities. The Act thereby clarifies the Commission's authority on this point in the same way and for the same reasons as subsection (a)(3)(A). Subsection (a)(6)(B) amends Section 15(b)(4)(C) by including any foreign statute or regulation substantially equivalent to the Commodity Exchange Act, thus clarifying the Commission's authority with the same basis and purpose as subsection (a)(3)(B).

Subsection (a)(7) adds new Section 15(b)(4)(G) to the Exchange Act. Subparagraph (G) empowers the Commission to base sanctions on findings by a foreign securities authority of (1) false or misleading statements in registration or reporting materials filed with the foreign securities authority, (2) violations of statutory provisions concerning securities or commodities transactions, or (3) aiding, abetting, or otherwise causing another person's violation of such foreign securities or commodities provisions, or failing to supervise a person who has committed such a violation. Subparagraph (G) substantially parallels the provisions of existing Sections 15(b)(4) (A), (D), and (E) concerning such findings by the Commission or other securities and commodities regulatory authorities.

Section 3(b).—Section 3(b) of the Act amends Section 3(a)(39) of the Exchange Act, which concerns statutory disqualification from self-regulatory organization ("SRO") membership. Under the present statutory and regulatory scheme, a person subject to statutory disqualification is not excluded automatically from the securities business. However, when such a person seeks to become associated with a member of an SRO, that SRO and the Commission have the opportunity, under Section 15A(g)(2) of the Exchange Act and Rule 19h-1 thereunder, to give special review to the person's employment application or to restrict or prevent reentry into the business where appropriate for the protection of investors. This structural use of statutory disqualification does not change with the Act's amendments. Rather, the amendments expand, by incorporation, the list of findings that result in statutory disqualification.

Section 3(b)(1) of the Act amends Section 3(a)(39)(A), which now lists expulsion or suspension from membership or participation in, or association with a member of, an SRO, commodity contract market, or futures association as resulting in statutory disqualification, to include exclusion in the described manner from the foreign equivalent of an SRO, foreign or international securities exchange, or a foreign contract market, board of trade, or futures association.

Similarly, Section 3(b)(2) amends Section 3(a)(39)(B) by expanding it. It currently refers to orders of the Commission or another appropriate regulatory agency suspending or revoking registration as a broker, dealer, municipal securities dealer, or government securities dealer or broker. The amendments to Section 3(a)(39) apply to brokers, dealers, municipal securities dealers, government securities brokers, and government securities dealers of any nationality, because these terms are defined in Exchange Act Sections 3(a)(4), 3(a)(5), 3(a)(30), 3(a)(43), and 3(a)(44) without reference to nationality. Under Section 3(b)(2), orders by an appropriate foreign financial regulatory authority denying, suspending, or revoking authority to engage in transactions in contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market, board of trade, or foreign equivalent also will result in statutory disqualification.

Section 3(b)(3) redesignates subparagraphs (D) and (E) of Section 3(a)(39) as subparagraphs (E) and (F), respectively. Section 3(b)(4) adds new subparagraph (D), which includes among the conditions that result in statutory disqualification findings by a foreign or international securities exchange, foreign securities authority, or other foreign authority empowered by a foreign government to administer or enforce its laws relating to financial transactions, to the effect that an individual, by his conduct, was a cause of a suspension, expulsion, or order by the foreign securities authority or other foreign financial regulator or administrator.

Sections 3(b) (5) and (6) of the Act make conforming amendments in newly redesignated subparagraphs (E) and (F) of Section 3(a)(39) of the Exchange Act, adding references to new Sections 3(a)(39)(D) and 15(b)(4)(G) of the Exchange Act, respectively. In addition, under the Act, subparagraph (F), which by cross reference to Section 15(b)(4) of the Exchange Act makes persons convicted of specified felonies and misdemeanors subject to statutory disqualification, adds "any other felony" to the list of crimes that warrant special review. This provision permits the Commission and the SROs to provide special scrutiny of persons who have been convicted of crimes that are not currently specified, such as taking of property, assault, murder, and drug trafficking. This amendment does not automatically exclude every person convicted of a felony from the securities business. Rather, it permits SROs, subject to Commission review, to consider the facts and circumstances surrounding a particular felony and to impose necessary safeguards to protect the markets and investors from unreasonable risks.

Section 3(c).—Section 3(c) of the Act makes conforming amendments. It amends Section 15(b)(6) of the Exchange Act, which authorizes the Commission to censure, limit the activities of, or bar or suspend from association with a broker or dealer any person who has committed or ommitted any act or omission enumerated in subparagraphs (A), (D), or (E), has been convicted of any offense enumerated in subparagraph (B), or has been enjoined as specified in subparagaph (C). By adding to Section 15(b)(6) findings by a foreign securities authority under new subparagraph (G), Section 3(c) authorizes the Commission to consider such findings when imposing sanctions upon persons who are, or who seek to become, associated persons of a broker or dealer.

Section 3(c) similarly amends Sections 15B(c)(2), 15B(c)(4), 15C(1)(A), 15C(c)(1)(C), 17A(c)(3)(A), and 17A(c)(3)(C) of the Exchange Act by adding new subparagraph 15(B)(4)(G) as a basis for Commission action under those provisions.

Sections 15B(c) (2) and (4), which concern the Commission's disciplinary authority over municipal securities dealers and their associated persons, and which parallel Sections 15(b) (4) and (6), are amended to include a reference to new Section 15(b)(4)(G). Findings of misconduct by a foreign securities authority thus can support Commission sanctions against municipal securities dealers and their associated persons.

Sections 15C)(c)(1) (A) and (C), which concern the Commission's sanctioning authority over government securities brokers and dealers and their associated persons, and which also parallel Sections 15(b) (4) and (6), are amended to include a reference to new Section 15(b)(4)(G), for the same reason as above.

Sections 17A(c)(3) (A) and (C), which concern the Commission's sanctioning authority over transfer agents and their associated persons, and which further parallel Sections 15(b) (4) and (6), are amended to include a reference to new Section 15(b)(4)(G) for the same reason.

Section 15C(f)(2) of the Exchange Act currently forbids the Commission from investigating or taking any other action under the Exchange Act against a government securities broker or dealer or its associated persons for violations of Section 15C or the rules or regulations thereunder. The exception is where the Commission, rather than one of the banking regulators (Comptroller of the Currency for national banks, Board of Governors of the Federal Reserve System for state member banks, Federal Deposit Insurance Corporation for insured nonmember state banks, and Federal Home Loan Bank Board for federally insured savings and loan associations), is the appropriate regulatory agency for the government securities broker or dealer. Section 15C(f)(2), by its own terms, also does not limit the Commission's authority with respect to violations of any other provisions of the Exchange Act or of corresponding rules or regulations. Section 6(c) of the Act extends this exception by forbidding limitations on investigations pursuant to Section 21(a)(2) of the Exchange Act to assist a foreign securities authority.

Section 4.—In order to ensure that orders of any regulatory body, foreign or domestic, with authority to suspend or revoke registration or its equivalent are available to the Commission, Section 4 of the Act adds a new definition of the term "foreign financial regulatory authority," as Section 3(a)(51) of the Exchange Act. A "foreign financial regulatory authority" is defined to include any foreign securities authority, which is defined in Section 3(a)(50) of the Exchange Act; governmental or regulatory bodies empowered to administer or enforce laws relating to enumerated financial matters; and membership organizations that regulate members' participation in financial matters. Pursuant to the Act's amendments to Section 3(a)(39) of the Exchange Act, orders of foreign financial regulatory authorities are deemed sufficient to result in "statutory disqualification," as will such an order limiting registration of the foreign equivalent of any of the enumerated entities.

Section 5.—Section 5 of the Act makes parallel amendments to the Investment Company Act of 1940 ("1940 Act") and the Investment Advisers Act of 1940 ("Advisers Act") to clarify and strengthen violations of foreign law, on investment advisers or on persons associated or seeking to become associated with an investment adviser or a registered investment company.

Section 5(a).—Section 5(a) of the Act amends Section 9(b) of the 1940 Act. Section 9(a) of the 1940 Act generally prohibits a person convicted of a felony or misdemeanor involving securities or the securities business or subject to a temporary or permanent injunction restricting his ability to engage in the securities business from serving as an employee, officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company, or principal underwriter for any registered open-end company, unit investment trust, or face-amount certificate company. The automatic statutory disqualification in Section 9(a) is supplemented by the Commission's authority under Section 9(b). Under Section 9(b), the Commission may, after notice and opportunity for hearing, prohibit a person from serving in any of the capacities cited in Section 9(a) or as an affiliated person of a registered investment company's investment adviser, depositor, or principal underwriter if the person has willfully caused a false or misleading statement to be made in any registration statement, application, or report filed with the Commission or if the person has willfully violated or willfully aided and abetted a violation of any provision (including rules and regulations) of the federal securities laws or the Commodity Exchange Act.

In an amendment parallel to Sections 3(a)(7) and 5(b)(8) of the Act, Section 9(b) is amended to add a new paragraph (4) that will authorize the Commission to restrict the activities of any person that has been found by a foreign authority to have (1) made any false or misleading statement in an application or report filed with a foreign securities authority or in a proceeding before the foreign securities authority, or (2) violated or aided and abetted the violation of foreign securities or commodities statutes. Paragraph (4) will therefore, parallel the provisions of paragraphs (1), (2), and (3) of Section 9(b), and extend the statute to equivalent foreign violations.

Section 9(b) also is amended to add two new provisions, Sections 9(b)(5) and 9(b)(6), that will allow the Commission by order to prohibit a person from serving in any of the designated capacities if the person has been convicted by a foreign court of any of the offenses designated in Section 9(a)(1) or has been enjoined by a foreign court in a manner set forth in Section 9(a)(2). Sections 9(a) (1) and (2) automatically disqualify anyone who within the past 10 years has been convicted of any felony or misdemeanor involving, or is subject to a permanent or temporary injunction relating to, acting as an underwriter, broker, dealer, investment adviser, municipal securities dealer, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman, or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or in connection with the purchase of sale of any security. Although a conviction or injunction under Section 9(a) (1) or (2) results in an automatic statutory disqualification, a substantially equivalent foreign conviction or injunction would not. However, a substantially equivalent foreign finding will provide a basis for a Commission order prohibiting the individual's association with a registered investment company in any of the capacities designated in the statute. The automatic disqualification provisions of Section 9(a), coupled with the Commission's exemptive authority under Section 9(c) to avoid any inequitable results, are indispensable means of safeguarding the integrity of registered investment companies. The amended Section 9(b) does not automatically bar a person solely on the basis of a foreign finding of a violation of foreign law without any prior notice or opportunity for hearing by a U.S. court or adminstrative agency. Instead, amended Section 9(b) provides that the Commission may impose a bar on a case-by-case basis if it determines that the foreign finding justifies such a sanction. The amendment does not create competitive disparities because, just as Section 9(a) applies equally to U.S. and foreign persons that have been convicted or enjoined in a manner specified in the statute, Section 9(b), as amended, grants the Commission authority to institute an administrative proceeding against either a U.S. or foreign person that has committed an equivalent foreign violation and has been sanctioned by a foreign authority.

Section 5(b).—Section 5(b) of the Act amends Section 203(e) of the Advisers Act. Section 203(e) authorizes the Commission to censure, place limitations on the activities of, suspend for up to twelve months, or revoke the registration of an investment adviser where the adviser or an associated person of the adviser has committed, or has been sanctioned for, certain specified violations. Section 5(b) of the Act amends Section 203(e) to include, among the factors that the Commission may consider, violations of foreign law that are substantially equivalent to a violation currently set forth in the statute.

Subsection 203(e)(2) of the Advisers Act authorizes the Commission to consider convictions within the past ten years of certain felonies and misdemeanors. Section 5(b)(1) of the Act amends this section to include convictions by a foreign court of competent jurisdiction of crimes substantially equivalent to a felony or misdemeanor. The Act thus clarifies the Commission's authority to consider foreign criminal findings that the foreign jurisdiction may not classify as a "felony" or "misdemeanor."

Section 203(e)(2)(A) of the Advisers Act lists offenses involving the purchase or sale of any security, the taking of a false oath, the making of a false report, bribery, perjury, burglary, or conspiracy to commit any such offense as within the class of felonies and misdemeanors that authorize the Commission to discipline investment advisers. Section 5(b)(2) of the Act amends Section 203(e)(2)(A) by including within this list any substantially equivalent activity, however denominated by the laws of a foreign government.

Section 203(e)(2)(B) of the Advisers Act authorizes the Commission to consider offenses arising out of the conduct of various securities-related businesses. Included is any broker, dealer, municipal securities dealer, government securities broker, government securities dealer, investment adviser, bank, insurance company, fiduciary, transfer agent, or entity or person required to be registered under the Commodity Exchange Act. Subsection 5(b)(3) of the Act amends Sections 203(e)(2)(B) and (e)(3) to include offenses arising out of the conduct of any foreign person performing a function substantially equivalent to any of the above.

Section 203(e)(2)(C) of the Advisers Act includes larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, and misappropriation of funds or securities within the list of offenses that may trigger Commission sanctions. Section 5(b)(4) of the Act adds any substantially equivalent offense, however denominated by the laws of a foreign government.

Section 203(e)(2)(D) of the Advisers Act includes violations of Sections 152, 1341, 1342, or 1343 or Chapter 25 or 47 of Title 18 of the U.S. Code within the list of offenses that the Commission may consider. These provisions concern concealment of assets, false oaths and claims, and bribery in connection with bankruptcy; mail fraud; wire fraud; counterfeiting and forgery; and fraud and false statements, respectively. Section 5(b)(5) of the Act amends Section 203(e)(2)(D) to include a violation of a substantially equivalent foreign statute.

Section 203(e)(3) of the Advisers Act authorizes the Commission to impose sanctions where an investment adviser or associated person has been enjoined from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person or employee of any investment company, bank or insurance company or entity or person required to be registered under the Commodity Exchange Act, or from engaging in any practice in connection with any of these activities or in connection with the purchase or sale of any security. Sections 5(b)(3) and 5(b)(6) of the Act amend Advisers Act Section 203(e)(3) to include injunctions issued by any foreign court of competent jurisdiction that concern substantially equivalent activities.

Section 5(b)(7) of the Act is a technical amendment to Section 203(e)(5) of the Advisers Act. Section 203(e)(5) is amended to include violations of the Commodity Exchange Act. This technical amendment conforms Section 203(e)(5) with Section 203(e)(4) of the Advisers Act and Sections 15(b)(4)(D) and 15(b)(4)(E) of the Exchange Act.

Section 5(b)(8) of the Act adds new Section 203(e)(7) to the Advisers Act. This new subsection empowers the Commission to base sanctions on findings by a foreign financial regulatory authority of (1) false or misleading statements in registration or reporting materials filed with a foreign securities authority, (2) violations of statutory provisions concerning securities or commodities transactions, or (3) aiding, abetting, or otherwise causing another person's violation of such foreign securities or commodities provisions, or failing to supervise a person who has committed such a violation. Subsection (e)(7) substantially parallels the provisions of existing Section 203(e)(1), (4) and (5) concerning such findings by the Commission or other securities and commodities regulatory authorities. This section of the Act parallels Sections 3(a)(7) and 5(a) of the Act, which adds Subsection 15(b)(4)(7) and 5(a) of the Act, which add Subsection 15(b)(4)(7) of the Exchange Act and Section 9(b)(4) of the 1940 Act.

Section 5(c).—Section 5(c) of the Act amends Section 203(f) of the Advisors Act, which authorizes the Commission to impose sanctions upon persons associated or seeking to become associated with an investment adviser if the person has committed or omitted any act or omission set forth in Sections 203(e)(1), (4) or (5) or has been convicted or enjoined as set forth in Sections 203(e)(2) or 203(e)(3). Section 203(f) is amended to include a reference to new Section 203(e)(7), thus authorizing the Commission to consider such findings when imposing sanctions upon persons who are, or seek to become, associated with an investment adviser.

Section 6.—Section 6 amends Section 2(a) of the 1940 Act and Section 202(a) of the Advisers Act to include definitions of "foreign securities authority" and "foreign financial regulatory authority". These definitions are identical to the definitions of foreign securities authority in Section 21(a)(2) of the Exchange Act and the definition of foreign financial regulatory authority added by Section 4 of the Act.

Section 7.—Section 7 adds a new subsection (f) to Section 4 of the Exchange Act to authorize the Commission to accept reimbursement of expenses from or on behalf of foreign securities authorities for expenses incurred by the Commission in conducting investigations on their behalf or in providing other assistance. This new subsection is similar to subsection (c) of the section, which authorizes the Commission to accept reimbursement from private sources for the expenses incurred by Commission members and employees in attending meetings and conferences concerning the functions or activities of the Commission.●

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By Mr. DODD (for himself and Mr. HEINZ) (by request):

S. 647. A bill to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws; to the Committee on Banking, Housing, and Urban Affairs.

SECURITIES LAW ENFORCEMENT REMEDIES ACT

● Mr. DODD. Mr. President, the Securities Law Enforcement Remedies Act of 1989 is designed to strengthen the enforcement capabilities of the Securities and Exchange Commission and enable the Commission to tailor enforcement remedies more appropriate for particular facts and defendants. It was submitted to Congress by the Commission on January 18 of this year, and we are introducing it at the request of the agency.

This legislation in large measure builds upon the philosophy underlying the Insider Trading Sanctions Act and subsequent amendments to that act, which gave the Commission authority to seek civil penalties for insider trading violations. This legislation would authorize the Commission to request that Federal courts impose civil penalties for certain other violations of the Federal securities laws. In addition, it would authorize the Commission to impose civil penalties in certain administrative proceedings under the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940.

In addition to the civil penalty provisions, the proposal contains three other new enforcement remedies. It contains express authority to provide that Federal courts can, as ancillary relief in Commission injunctive actions, prohibit an individual from serving as an officer or director of any reporting company. It would permit the Commission to impose such a prohibition in its administrative proceedings under section 15(c)(4) of the Exchange Act, and it would give the SEC authority to bring administrative proceedings against officers and directors and principal stockholders for violations of the reporting provisions of section 16(a) of the Exchange Act.

In its memorandum in support of the legislation, the Commission stated that the legislation was based in large part upon the Commission's response to certain recommendations of the National Commission on Fraudulent Financial Reporting, known as the Treadway Commission. In addition, the Insider Trading and Securities Fraud Enforcement Act of 1988 directed the Commission to submit to Congress recommendations with respect to civil penalties and administrative fines.

The Commission has urged Congress to adopt this legislation on the basis that the additional sanctioning authority will enable the Commission to tailor enforcement remedies more precisely to particular facts, and thereby to maximize the effectiveness of its enforcement actions. In addition, the Commission has said the creation of more severe penalties would inject a greater general deterrence aspect into its enforcement program. The Commission currently believes that it does not have the flexibility in seeking or imposing civil money damages that several of the self-regulatory organizations have. Finally, the Commission has urged that, by giving it express authority to impose corporate bars and suspensions, the legislation would resolve any doubts about the propriety of this remedy, which has been obtained in Commission injunctive actions by consent.

Let me add that, while I believe the subcommittee should give serious attention to this proposal, I also believe we should proceed cautiously. New civil penalties alone will not solve the tremendous challenges before the SEC in an expanding, increasingly complicated trading environment. Commentators have raised questions about the breadth of the new remedies, particularly as they relate to corporate officials. Others suggest that these proposals could shift the emphasis of SEC enforcement efforts from a program primarily focused upon remedial action for the protection of investors, to one that is more punitive in nature. I invite, and look forward to, a full airing of these views.

I ask unanimous consent to insert in the RECORD at this point a more detailed section-by-section analysis of the legislation prepared by the SEC. I further ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

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

S. 647

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; EFFECTIVE DATE.

(a) SHORT TITLE.—This Act may be cited as the "Securities Law Enforcement Remedies Act of 1989".

(b) TABLE OF CONTENTS.—

(c) EFFECTIVE DATE.—The amendments made by this Act shall not apply to any conduct occurring before the date of the enactment of this Act.

## TITLE I—AMENDMENTS TO THE SECURITIES ACT OF 1933

### SEC. 101. AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.

Section 20(b) of the Securities Act of 1933 (15 U.S.C. 77t(b)) is amended by inserting after the first sentence thereof the following: "In any proceeding under this subsection, the court may prohibit, conditionally or unconditionally, either permanently or for such period of time as it shall determine, any person found to have violated any provision of this title or any rule or regulation thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports pursuant to subsection (d) of section 15 of such Act (15 U.S.C. 78o)."

### SEC. 102. MONETARY PENALTIES IN CIVIL PROCEEDINGS.

Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c)(1) Whenever it shall appear to the Commission that any person has violated any provision of this title or the rules or regulations thereunder, the Commission may bring an action seeking to impose, and the court shall have jurisdiction to impose, based upon a finding of a violation, a civil penalty against such person. The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (1) $100,000 for a natural person or $500,000 for any other person, or (2) the gross amount of pecuniary gain to such defendant as a result of the violation. The penalty shall be payable into the Treasury of the United States.

"(2) If a person upon whom a penalty is assessed under this subsection fails to pay such penalty within the time prescribed in the court's order, the Commission shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(3) The actions authorized by this subsection may be brought in addition to any other actions that the Commission or the Attorney General is entitled to bring. For purposes of section 22 of this title, actions under this subsection shall be actions to enforce a liability or a duty created by this title.".

## TITLE II—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

### SEC. 201. AMENDMENTS TO SECTION 15(C)(4).

Section 15(c)(4) of the Securities Act of 1934 (15 U.S.C. 78o(c)(4)) is amended—

(1) by striking ", or" the first time it appears; and

(2) by inserting after "15" the following: ", or subsection (a) of section 16"; and

(3) by adding at the end thereof the following: "In such an order, the Commission may also prohibit, conditionally or unconditionally, either permanently or for such period of time as it shall determine, any person found to have failed to comply or to have been a cause of the failure to comply from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to subsection (d) of section 15 of this title, if the Commission finds that such prohibition is in the public interest.".

### SEC. 202. ENFORCEMENT OF TITLE.

Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended to read as follows:

"(d)(1) Whenever it shall appear to the Commission that any person is engaged or is about to engage in acts or practices constituting a violation of any provision of this title, the rules or regulations thereunder, the rules of a national securities exchange or registered securities association of which such person is a member or a person associated with such member, the rules of a registered clearing agency in which such person is a participant, or the rules of the Municipal Securities Rulemaking Board, the Commission may in its discretion bring an action in the proper district court of the United States, the United States District Court for the District of Columbia, or the United States courts of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. In any proceeding under this paragraph, the court may prohibit, conditionally or unconditionally, either permanently or for such period of time as it shall determine, any person found to have violated any provision of this title or the rules and regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to subsection (d) of section 15 of this title. The Commission may transmit such evidence of acts or practices as may constitute a violation of any provision of this title or the rules or regulations thereunder to the Attorney General, who may, in his discretion, institute the necessary criminal proceedings under this title.

"(2) Whenever it shall appear to the Commission that any person has violated any provision of this title or the rules or regulations thereunder, other than by committing a violation subject to a penalty pursuant to section 21A, the Commission may bring an action seeking to impose, and the court shall have jurisdiction to impose, based upon a finding of a violation, a civil penalty against such person. The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (A) $100,000 for a natural person or $500,000 for any other person, or (B) the gross amount of pecuniary gain to such defendant as a result of the violation. The penalty shall be payable into the Treasury of the United States. If a person upon whom such a penalty is assessed shall fail to pay such penalty within the time prescribed in the court's order, the Commission shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court. The action authorized by this paragraph may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring. For purposes of section 27 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title.".

### SEC. 203. MONETARY PENALTIES IN ADMINISTRATIVE PROCEEDINGS.

The Securities Exchange Act of 1934 is amended by inserting after section 21A (15 U.S.C. 78u-1) the following:

"MONETARY PENALTIES IN ADMINISTRATIVE PROCEEDINGS

"SEC. B. (a) In any proceeding instituted pursuant to section 15(c)(4) of this title against any person, the Commission may assess a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

"(1) failed to comply with any provision of sections 12, 13, 14, subsection (d) of section 15, or subsection (a) of section 16 of this title, or any rule or regulation thereunder, in any material respect, or

"(2) was a cause of any other person's failure to so comply due to an act or omission the person knew or should have known would contribute to the failure to comply,

and that such penalty is in the public interest. The maximum amount of the penalty for each failure to comply or for each such failure to comply for which a person was a cause, shall be $100,000 for a natural person or $500,000 for any other person.

"(b) In any proceeding instituted pursuant to section 15(b)(4), 15(b)(6), 15B, 15C, or 17A of this title against any person, the Commission or the appropriate regulatory agency may assess a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

"(1) has wilfully violated any provision of the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.), or this title, or the rules or regulations thereunder, or the rules of the Municipal Securities Rulemaking Board;

"(2) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person;

"(3) has willfully made or caused to be made in any application for registration or report required to be filed with the Commission or with any other appropriate regulatory agency under this title, or in any proceeding before the Commission with respect to registration, any statement which was at the time in the light of the circumstances under which it was made false or misleading with respect to any material fact, of has omitted to state in any such application or report any material fact which is required to be stated therein; or

"(4) has failed reasonably to supervise within the meaning of section 15(b)(4)(E) of

this title, with a view to preventing violations of the provisions of such statutes, rules and regulations, another person who commits such a violation, if such other person is subject to his supervision;
and that such penalty is in the public interest. The maximum amount of penalty for each such act or omission shall be $100,000 for a natural person or $500,000 for any other person.

"(c) In consideration under this section whether a penalty is in the public interest, the Commission or the appropriate regulatory agency may consider—

"(1) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

"(2) the harm to other persons resulting either directly or indirectly from such act or omission;

"(3) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(4) whether such person previously has been found by the Commission, other appropriate regulatory agency, or self-regulatory organization to have violated the Federal securities laws, State securities laws, or the rules of a self-regulatory organization, or has been enjoined by a court of competent jurisdiction from violations of such laws or rules;

"(5) the need to deter such person and other persons from committing such acts or omissions; and

"(6) such other matters as justice may require.

"(d) In any proceeding in which the Commission or the appropriate regulatory agency may assess a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission or the appropriate regulatory agency may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business, and the collectability of a penalty, taking into account any other claims of the United States of third parties upon such person's assets and the amount of such person's assets.".

SEC. 204. CONFORMING AMENDMENTS TO SECTION 15B.

Section 15B(c)(6)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)(6)(A)) is amended—

(1) by striking "and" after "identity of such municipal securities dealer or person associated with such municipal securities dealer" and inserting a comma;

(2) by inserting a comma after "proposed action"; and

(3) by inserting before "(ii)" the following: "whether the Commission is seeking a monetary penalty against such municipal securities dealer or such associated person pursuant to section 21B of this title; and".

## TITLE III—AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

SEC. 301. MONETARY PENALTIES IN ADMINISTRATIVE PROCEEDINGS.

Section 9 of the Investment Company Act of 1940 (15 U.S.C. 80a-9) is amended—

(1) by redesignating subsection (d) as subsection (e);

(2) by inserting after subsection (c) the following:

"(d)(1) In any proceeding instituted pursuant to subsection (b) against any person, the Commission may assess a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

"(A) has willfully violated any provision of the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.), or this title, or the rules or regulations thereunder;

"(B) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person; or

"(C) has willfully made or caused to be made in any registration statement, application, or report required to be filled with the Commission under this title, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such registration statement, application, or report any material fact which was required to be stated therein;
and that such penalty is in the public interest. The maximum amount of the penalty for each such act or omission shall be $100,000 for a natural person or $500,000 for any other person.

"(2) In considering under this section whether a penalty is in the public interest, the Commission may consider—

"(A) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, of deliberate or reckless disregard of a regulatory requirement;

"(B) the harm to other persons resulting either directly or indirectly from such act or omission;

"(C) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(D) whether such a person previously has been found by the Commission, other appropriate regulatory agency, of self-regulatory organization to have violated the Federal securities laws, State securities laws, or the rules of a self-regulatory organization, or has been enjoined by a court of competent jurisdiction from violations of such laws or rules;

"(E) the need to deter such person and other persons from committing such acts or omissions; and

"(F) such other matters as justice may require.

"(3) In any other proceeding in which the Commission may assess a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business, and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets."; and

(3) in redesignated subsection (e), by striking the following: "subsections (a) through (c) of".

SEC. 302. ENFORCEMENT OF TITLE.

Section 42 of the Investment Company Act of 1940 (15 U.S.C. 80a-41) is amended by—

(1) inserting after the first sentence of subsection (d) the following: "In any proceeding under this subsection the court may prohibit, conditionally or unconditionally, either permanently or for such period of time as it shall determine, any person found to have violated any provision of this title or any rule, regulation, or order hereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports pursuant to subsection (d) of section 15 of such Act (15 U.S.C. 78o(d))."; and

(2) adding at the end the following:

"(e) Whenever it shall appear to the Commission that any person has violated any provision of this title or the rules or regulations thereunder, the Commission may bring an action seeking to impose, and the court shall have jurisdiction to impose, based upon a finding of a violation, a civil penalty against such person. The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (1) $100,000 for a natural person or $500,000 for any other person, or (2) the gross amount of pecuniary gain to such defendant as a result of the violation. The penalty shall be payable into the Treasury of the United States. If a person upon whom such a penalty is assessed shall fail to pay such penalty within the time prescribed in the court's order, the Commission shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court. The actions authorized by this subsection may be brought in addition to any other actions that the Commission or the Attorney General is entitled to bring. For purposes of section 44 of this title, actions under this subsection shall be actions to enforce a liability or a duty created by this title.".

## TITLE IV—AMENDMENTS TO THE INVESTMENT ADVISERS ACT OF 1940

SEC. 401. MONETARY PENALTIES IN ADMINISTRATIVE PROCEEDINGS.

Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) is amended by adding at the end the following:

"(i)(1) In any proceeding instituted pursuant to subsection (e) or (f) against any person, the Commission may assess a civil penalty if it finds, upon the record after notice and opportunity for hearing, that such person—

"(A) has willfully violated any provision of the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), or this title, or the rules and regulations thereunder;

"(B) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person;

"(C) has willfully made or caused to be made in any application for registration or report required to be filed with the Commission under this title, or in any proceeding before the Commission with respect to registration, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such registration statement, application, or report any material fact which was required to be stated therein; or

"(D) has failed reasonably to supervise, within the meaning of section 203(e)(5) of this title, with a view to preventing violations of the provisions of this title and such rules and regulations, another person who

commits such a violation, if such other person is subject to his supervision;

and that such penalty is in the public interest. The maximum amount of the penalty for each such act or omission shall be $100,000 for a natural person or $500,000 for any other person.

"(2) In considering under this section whether a penalty is in the public interest, the Commission may consider—

"(A) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

"(B) the harm to other persons resulting either directly or indirectly from such act or omission;

"(C) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(D) whether such a person previously had been found by the Commission, other appropriate regulatory agency, or self-regulatory organization to have violated the Federal securities laws, State securities laws, or the rules of a self-regulatory organization, or has been enjoined by a court of competent jurisdiction from violations of such laws or rules;

"(E) the need to deter such person and other persons from committing such acts or omissions; and

"(F) such other matters as justice may require.

"(3) In any proceeding in which the Commission may assess a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business, and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.".

SEC. 402. ENFORCEMENT OF TITLE.

Section 209 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9) is amended—

(1) by inserting after the first sentence of subsection (d) the following: "In any proceeding under this paragraph, the court may prohibit, conditionally or unconditionally, either permanently or for such period of time as it shall determine, any person found to have violated any provision of this title, or of any rule, regulation, or order hereunder or has aided, abetted, counseled, commanded, induced, or procured such a violation, from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports pursuant to subsection (d) of section 15 of such Act (15 U.S.C. 78o)."; and

(2) by adding at the end the following:

"(e) Whenever it shall appear to the Commission that any person has violated any provision of this title or the rules or regulations thereunder, the Commission may bring an action seeking to impose, and the court shall have jurisdiction to impose, based upon a finding of a violation, a civil penalty against such person. The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (1) $100,000 for a natural person or $500,000 for any other person, or (2) the gross amount of pecuniary gain to such defendant as a result of the violation. The penalty shall be payable into the Treasury of the United States. If a person upon whom such a penalty is assessed shall fail to pay such penalty within the time prescribed in the court's order, the Commission shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court. The actions authorized by this subsection may be brought in addition to any other actions that the Commission or the Attorney General is entitled to bring. For purposes of section 214 of this title, actions under this subsection shall be actions to enforce a liability or a duty created by this title.".

SEC. 403. CONFORMING AMENDMENT TO SECTION 214.

Section 214 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-14) is amended—

(1) by inserting after "all suits in equity", the following: "and actions at law brought to enforce any liability or duty created by, or"; and

(2) by inserting after "Any suit or action", the following: "to enforce any liability or duty created by, or".

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SECTION-BY-SECTION ANALYSIS OF THE PROPOSED LEGISLATION—THE SECURITIES LAW ENFORCEMENT REMEDIES ACT OF 1989

Section 101. Section 101 of the Act amends Section 20(b) of the Securities Act of 1933 ("Securities Act") by adding language to clarify the ability of the Commission to obtain court orders barring persons from serving as officers or directors of any issuer that has a class of securities registered under Section 12 of the Securities Exchange Act of 1934 ("Exchange Act") or that is required to file periodic reports under Section 15(d) of the Exchange Act. While Section 20(b) as currently in force does not refer to any form of relief other than an injunction, courts have recognized that they have available the full range of equitable remedies, including disgorgement, appointment of a receiver, and a prohibition against acting as a director or officer of reporting companies. For example, in *J.I. Case Company* v. *Borak*, 377 U.S. 426, 433 (1964), the Supreme Court held that under the Exchange Act a court could order all relief necessary for the protection of investors. See also *SEC* v. *Materia*, 745 F.2d 197 (2d Cir. 1984) (once equity jurisdiction invoked, court has power to order all equitable relief necessary under the circumstances).

This amendment is intended to clarify the court's authority to enter an order barring an individual from serving as an officer or director of a reporting company, a remedy which has been obtained by the Commission in prior cases. See, e.g., *SEC* v. *San Saba Nu-Tech, Inc.*, Litig. Rel. 10,531, 31 S.E.C. Dock. 510 (D.D.C. 1984); *SEC* v. *Florafax International, Inc.*, Litig. Rel. 10,617, 31 S.E.C. Dock. 1038 (N.D. Okla. 1984). It is intended that by specifying this particular type of ancillary relief, the Act does not restrict the Commission's ability to obtain other forms of such relief. These could include the appointment of a special agent to conduct an investigation or insure compliance, see e.g., *SEC* v. *Beisinger Indus. Corp.*, 552 F.2d 15, 18 (1st Cir. 1977), setting aside a merger, see *Mills* v. *Electric Auto-Lite Co.*, 396 U.S. 375, 386 (1970), ousting or appointing directors, see *International Controls Corp.* v. *Vesco*, 490 F.2d 1334, 1339-40 (2d. Cir.), cert. denied, 417 U.S. 932 (1974), freezing assets, see *Deckert* v. *Independence Shares Corp*, 311 U.S. 282, 290 (1940), establishing an audit committee, see *SEC* v. *Mattell, Inc.*, 4 S.E.C. Doc. 724, [1974-75] Fed. Sec. L. Rep. (CCH) ¶ 94,754 (D.D.C. 1974), or ordering a defendant to perform specified acts not otherwise required by law, see, e.g., *Wright* v. *Heizer Corp.*, 560 F.2d 236, 256 (7th Cir. 1977). Parallel amendments are made to the Exchange Act, the Investment Company Act of 1940 and the Investment Advisers Act of 1940, in Sections 202, 302, and 402, respectively.

Section 102. Section 102 of the Act amends Section 20 of the Securities Act, by redesignating current subsection (c) as subsection (d), and by adding a new subsection (c), to provide that the Commission may seek civil penalties in civil actions. A court can impose such penalties in any case where it finds a violation of the federal securities laws. The amount of the penalty is determined by the court in light of the facts and circumstances in the particular case, but cannot exceed the greater of (1) $100,000 for natural persons or $500,000 for other persons or (2) the gross amount of pecuniary gain to the defendant as a result of the violation. The penalty is payable into the Treasury, and the Attorney General is charged with enforcing payment of penalties. Parallel amendments are made to the Exchange Act, the Investment Company Act and the Investment Advisers Act, in Sections 202, 302, and 402, respectively. Although it is contemplated that civil penalties will be sought in conjunction with actions seeking to enjoin future violations, under new Section 20(d) of the Securities Act and those subsections added to the other acts by the parallel amendments, a court may impose a money penalty even if it finds that there is an insufficient basis to grant injunctive relief.

Section 201. Section 201 of the Act makes two changes to the Commission's authority in proceeding under Section 15(c)(4) of Exchange Act. first, it adds violations of Section 16(a) of the Act to the list of bases for proceedings.

Second, Section 201 authorizes the Commission to bar or suspend a respondent from acting as officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act or that is required to file periodic reports pursuant to Section 15(d) of the Exchage Act. Such bars can be imposed against any person found to have failed to comply with Sections 12, 13, 14, subsection (d) of Section 15, or subsection (a) of Section 16 or to have been a cause of such failure to comply, if the Commission finds that the bar was in the public interest. The bar can be either conditional or unconditional, and for such period of time as the Commission determines.

Section 202. Section 202 of the Act makes amendments to the Exchange Act, paralleling those made to the Securities Act by Sections 101 and 102. First, it amends Section 21(d) of the Exchange Act by redesignating it as paragraph (1) of that section, and by adding language to that paragraph to clarify the authority of courts to prohibit persons from serving as officers or directors of any issuer that has a class of securities registered under Section 12 of the Exchange Act or that is required to file periodic reports under Section 15(d) of the Exchange Act. This language parallels the language added to Section 20(b) of the Securities Act by Section 102, to Section 42(d) of the Investment Company Act by Section 302 and

to Section 209(d) of the Investment Advisers Act by Section 402.

Second, it adds new paragraph (2) to permit the Commission to seek and a court to impose monetary penalties in injunctive actions for violations of the securities laws. The provision excepts those violations that are subject to the civil penalty provisions of Section 21A. This new paragraph parallels new Section 20(c) of the Securities Act added by Section 102, new Section 42(e) of the Investment Company Act added by Section 302, and new Section 209(e) of the Investment Advisers Act added by Section 402.

Section 203. Section 203 of the Act adds new Section 21B to the Exchange Act, to authorize the Commission or other appropriate regulatory agency to impose civil penalties in administrative proceedings. Subsection (a) of Sections 15(c)(4) of the Exchange Act. Subsection (b) of Section 21B authorizes such penalties in proceedings under Section 15(b)(4), 15(b)(6), 15B, 15C and 17A of that Act. Under subsections (a) and (b) of Section 21B, the Commission may assess a penalty if it finds that the respondent violated the federal securities laws; or willfully aided, abetted, counseled, commanded, induced or procured a violation by any other person; or made willful misstatements in any registration application, report required to be filed, or Commission proceeding with respect to registration; or failed reasonably to supervise, with a view to preventing violations of the federal securities laws, another person who committed a violation, if the other person was subject to his supervision; and also finds that a penalty is in the public interest. By authorizing the imposition of civil penalties against securities firms in administrative proceedings, this section is not intended to expand the substantive scope of firm liability for the misconduct of controlled or supervised persons. Subsection (c) of Section 21B provides that in determining whether the penalty is in the public interest, the Commission or other appropriate regulatory agency may consider the following factors:

(1) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

(2) the harm to other persons resulting either directly or indirectly from such act or omission;

(3) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

(4) whether such person previously has been found by the Commission, other appropriate regulatory agency, or self-regulatory organization to have violated the federal securities laws, state securities laws, or the rules of a self-regulatory organization, or has been enjoined by a court of competent jurisdiction from violations of such laws or rules;

(5) the need to deter such person and other persons from committing such acts or omissions; and

(6) such other matters as justice may require.

The maximum amount of the penalty is $100,000 for natural persons or $500,000 for all other persons. The penalty is payable into the Treasury, and the Attorney General is charged with enforcing payment of penalties.

The six factors enumerated in these subsections are intended to be permissive considerations in determining whether a penalty is in the public interest, taken into account according to the facts of any given case. They are intended to be specific, yet flexible enough to allow the Commission to assess appropriate penalties for a broad range of violations.

Subsection (d) of Section 21B provides that a respondent may present evidence that the Commission or other appropriate regulatory agency may consider in determining whether a penalty is in the public interest. That evidence could relate to his ability to pay a penalty, including evidence of his ability to continue in business, and the collectability of the penalty, taking into account other claims of the United States or third parties upon his assets and the amount of his assets. This subsection is intended to give respondents the opportunity to show their inability to pay a penalty. It is appropriate for a respondent to have the burden of proof as to his ability to pay, because he has better access to his financial records than does the Commission. Under this subsection, the Commission has the discretion to impose a penalty even if a respondent presents evidence that his business would be affected adversely by imposition of a penalty.

Section 204. Section 204 of the Act is a conforming amendment to Section 15B of the Exchange Act, necessitated by the Commission's authority to seek a penalty in administrative proceedings pursuant to new Section 21B. It requires the Commission to inform the appropriate regulatory agency for a municipal securities dealer of whether the Commission is seeking a penalty against the dealer pursuant to new Section 21B of the Exchange Act.

Section 301. Section 301 of the Act adds new subsection (d) to Section 9 of the Investment Company Act of 1940 authorizing the Commission to assess monetary penalties in administrative proceedings instituted pursuant to Section 9(b) of the Investment Company Act. This new subsection parallels new Section 21B of the Exchange Act added by Section 203, and new Section 203(i) of the Investment Advisers Act added by Section 401. Section 301 also makes conforming amendments to Section 9 by redesignating current subsection (d) as subsection (e), and by amending subsection (e) so that the clarification of the term "investment adviser" applies to all of Section 9.

Section 302. Section 302 of the Act makes amendments to Section 42 of the Investment Company Act paralleling those made to the Securities Act by Sections 101 and 102, to the Exchange Act by Section 202, and to the Investment Advisers Act by Section 402.

First, it adds language to Section 42(d) to clarify the authority of courts to enter orders prohibiting persons from serving as officers or directors of any issuer that has a class of securities registered under Section 12 of the Exchange Act of 1934 or that is required to file periodic reports under Section 15(d) of the Exchange Act. This language parallels the language added to Section 20(b) of the Securities Act by Section 102, to newly redesignated Section 21(d)(1) of the Exchange Act by Section 202, and to Section 209(d) of the Investment Advisers Act by Section 402. Other provisions of the Investment Company Act provide prohibitions against securities law violators from serving as an officer or director, among other things, of any registered investment company. First, Section 9(a) of the Investment Company Act makes unlawful such service by any person who within 10 years has been criminally convicted of, or who has been enjoined by a court from securities law violations. Second, Section 9(b) authorizes the Commission to prohibit service as an officer or director of a registered investment company by persons who have violated the federal securities laws. Third, Section 36(a) authorizes the Commission to institute a civil injunctive action against any person who has served as an officer or director of a registered investment company and who engaged in or is about to engage in any breach of fiduciary duty involving personal misconduct in respect of any registered investment company for which he acts as an officer or director, to obtain an injunction from such service.

Second, it adds new subsection (e) to Section 42 to permit the Commission to seek and a court to impose monetary penalties in injunctive actions. This new subsection parallels new Section 20(c) of the Securities Act added by Section 102, new Section 9(d) of the Investment Company Act added by Section 202, and new Section 209(e) of the Investment Advisers Act added by Section 402.

Section 401. Section 401 of the Act adds new subsection (i) to Section 203 of the Investment Advisers Act of 1940 to authorize the Commission to assess monetary penalties in administrative proceedings instituted pursuant to Sections 203 (e) or (f) of the Investment Advisers Act. This new subsection parallels new Section 21B of the Exchange Act added by Section 203, and new Section 9 (d) of the Investment Company Act added by Section 301.

Section 402. Section 402 of the Act makes amendments to Section 209 of the Investment Advisers Act paralleling those made to the Securities Act by Sections 101 and 102, to the Exchange Act by Section 202, and to the Investment Company Act by Section 302. First, it adds language of Section 209 (d) of the Investment Company Act to clarify the ability of the Commission to obtain court-ordered bars prohibiting persons from serving as officers or directors of any issuer that has a class of securities registered under Section 12 of the Exchange Act of 1934 or that is required to file periodic reports under Section 15(d) of the Exchange Act. This language parallels the language added to Section 20(b) of the Securities Act by Section 102, to newly redesignated Section 21(d)(1) of the Exchange Act by Section 202, and to Section 42(d) of the Investment Company Act by Section 302.

Second, it adds new subsection (e) to Section 209 of the Investment Advisers Act to permit the Commission to seek and a court to impose monetary penalties in injunctive actions. This new subsection parallels new Section 20(c) of the Securities Act as added by Section 102, new Section 9(d) of the Investment Company Act added by Section 202, and new Section 42(e) of the Investment Company Act added by Section 302.

Section 403. Section 403 of the Act is a conforming amendment that amends Section 214 of the Investment Advisers Act to expand the jurisdiction of the district courts of the United States to include actions at law, as well as equitable or injunctive actions, under that act. This amendment is necessitated by the addition of the new Section 209 (e), the civil penalty provision, to the Investment Advisers Act, since that new section requires the courts to have jurisdiction in penalty actions.●

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By Mr. DODD (for himself and Mr. HEINZ) (by request):

S. 648. A bill to amend the Securities Exchange Act of 1934; to the Committee on Banking, Housing, and Urban Affairs.

MARKET REFORM ACT

● Mr. DODD. Mr. President, the Market Reform Act of 1989 is designed to address potential gaps and weaknesses in current market regulation and market practices identified in studies by the Securities and Exchange Commission and others following the October 1987 market crash. The legislation was submitted to Congress by the Commission on June 23, 1988, as four separate provisions. At the time, the Commission unanimously endorsed the provisions, stating that they were necessary to increase investor confidence in the stability and resiliency of the U.S. securities markets. The Commission urged prompt enactment of the measures. The agency has not reconsidered the proposal after the addition of a new, fifth Commissioner.

Although the proposals were the subject of a number of discussions involving representatives of the securities and futures industry and the staffs of the Commission, CFTC, and Senate, the measures were not introduced as legislation, and no hearing record was established. Consequently, we believe it is useful to introduce them in this Congress in order to continue those discussions as part of a public debate over the need to improve and strengthen our capital markets.

The four measures, which are identical to provisions requested by the Commission in its letter of June 23, 1988, have been combined for the purpose of introduction as the Market Reform Act of 1989. Let me briefly discuss each provision.

EMERGENCY AUTHORITY/TRADING HALTS

The legislation would provide the Commission with authority to take temporary emergency action without procedural delay in response to a major market disturbance. This authority would include, but not be limited to, the ability to alter, supplement, suspend, or impose requirements or restrictions with respect to hours of trading, position limits and clearance and settlement. This emergency authority could be exercised if there is a substantial threat of sudden and excessive fluctations of securities prices generally that would threaten fair and orderly markets, or a substantial disruption of a safe or efficient operation of the national system for clearance and settlement of securities. The Commission's action taken under this legislation would be subject to judicial review.

LARGE TRADER REPORTING

The legislation also would provide the Commission with authority to adopt reporting rules relating to large securities transactions and certain transactions in the futures markets that are related to transactions in the securities market. In its memorandum supporting the legislation, the Commission noted that this section is modeled after the large trader reporting authority of the CFTC. It is designed to assist the Commission in its surveillance of the U.S. securities markets by providing it with broad authority to adopt reporting rules for the purpose of monitoring the impact on the securities markets of large transactions in publicly traded securities involving a substantial volume or a large market value in equity index futures and options on such futures. The Commission could use information contained in the reports for surveillance, enforcement, and other regulatory purposes.

It is my understanding that this provision has caused some consternation among industry participants, who have argued that the benefits of large trader reporting may be outweighed by its effects on longstanding trading practices. I look forward to hearing those views, as well as the further views of the Commission and self-regulatory organizations on the need for, and consequences of, large trader reporting.

RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS

The legislation would expressly authorize the Commission to require certain entities registered with the Commission, including brokers and dealers, to report information relating to their associated persons that may have a material impact on the financial or operational condition of the registered entity. Under this legislation, the Commission could adopt rules requiring information concerning, among other things, assets, liabilities, contingent liabilities, material contracts, loan commitments, trading or investment positions, lines of credit, letters of credit, and financial guarantees. However, where information regarding the activities of banks, insurance companies, futures Commission merchants and other regulated institutions is available to another supervisory agency, information would not be required under this provision. Moreover, the Commission would have exemptive authority.

As with the provisions on large trader reporting, the merits of this provision have been questioned by some industry participants, who believe that these reporting requirements may not be necessary and could simply be too burdensome. I look forward to hearing their views, as well as the Commission's views, as the Securities Subcommittee explores the benefits and burdens inherent in these provisions.

COORDINATED CLEARING

The legislation would direct the Commission and the Commodity Futures Trading Commission, in consultation with the Board of Governors of the Federal Reserve System, to facilitate the establishment of linked, coordinated, or centralized facilities for clearance and settlement.

In its memorandum in support of the legislation, the Commission observed that the clearing system for securities, securities options, futures contracts and options on futures, and commodity options affect the Nation's financial systems. The clearing procedures employed for these products potentially can affect, through settlement default or lack of coordination with other clearing systems, other cleared products, clearing systems, and financial systems.

The clearance and settlement systems are an important component of our financial system. Resolving any potential weakness, under this legislation, would require amendments to the Commodity Exchange Act, as well as the Securities Exchange Act. I hope to work closely with members of the Committee on Agriculture, as well as with officials from both the SEC and CFTC, to enhance and strengthen our clearance and settlement systems.

I ask unanimous consent to insert in the RECORD at this point an analysis of the legislation prepared by the Commission.

I further ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

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

S. 648

*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 "Market Reform Act of 1989".

SEC. 2. EMERGENCY AUTHORITY; TRADING HALTS.

Section 12 of the Securities Exchange Act of 1934 (12 U.S.C. 781) is amended by adding at the end the following:

"(m)(1) The Commission, in an emergency, may by order summarily take such action to alter, supplement, suspend, or impose requirements or restrictions with respect to any matter or action subject to regulation by the Commission or a self-regulatory organization under this title, as the Commission determines is necessary in the public interest and for the protection of investors to maintain or restore fair and orderly securities markets (other than markets in exempted securities) or to ensure prompt and accurate clearance and settlement of transactions in securities (other than exempted securities). An order of the Commission under this paragraph shall continue in effect for the period specified by the Commission, and may be extended, except that in no event shall the Commission's action continue in effect for more than 10 business days, including extensions. In exercising its authority under this paragraph, the Commission shall not be required to comply with the provisions of section 553

of title 5, United States Code, or with the provisions of section 19(c) of this title.

"(2) In the exercise of its emergency powers pursuant to paragraph (1) of this subsection, the Commission is authorized to suspend summarily all trading in any or all securities (other than exempted securities) on any national securities exchange or otherwise for such period specified by the Commission, or until such time as the Commission authorizes the resumption of trading, but not for more than 24 hours. The Commission, with the approval of the President, may determine to extend such suspension for not more than two additional 24-hour periods.

"(3) The President may direct that emergency action taken by the Commission under paragraph (1) or (2) of this subsection shall not continue in effect.

"(4) For purpose of this subsection, the term 'emergency' means a major market disturbance characterized by, or constituting—

"(A) a substantial threat of sudden and excessive fluctuations of securities prices generally that threaten fair and orderly markets, or

"(B) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of securities.

"(5) No member of a national securities exchange, broker, or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any security in contravention of an order entered by the Commission under this subsection unless such order has been stayed, modified, or set aside as provided in paragraph (6) of this subsection.

"(6) Any action taken by the Commission pursuant to this subsection shall be subject to review only as provided in section 25(a) of this title. Review shall be based on an examination of all the information before the Commission at the time such action was taken. The reviewing court shall not enter a stay, writ of mandamus, or similar relief unless the court finds, after notice and hearing before a panel of the court, that the Commission's action is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

SEC. 3. LARGE TRADER REPORTING.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

"(h)(1) For the purpose of monitoring the impact on the securities markets of securities transactions involving a substantial volume or a large fair market value or exercise value, and related transactions in equity index futures and options on such futures, every person who, for his own account or an account for which he exercises investment discretion, effects—

"(A) transactions for the purchase or sale of any publicly traded securities or options, or

"(B) transactions in contracts of sale (or options on such contracts) for future delivery of a group or index of publicly traded securities (or any interest therein or based on the value thereof) that are related to transactions in publicly traded securities or options,

by use of any means or instrumentality of interstate commerce or of the mails, or of any facility of a national securities exchange or board of trade, during any 24-hour period in an amount equal to or in excess of such amount as shall be fixed from time to time by the Commission, shall file reports regarding such transactions with the Commission, or any self-regulatory organization as the Commission shall designate by rule, regulation or order to receive such reports. Reports required under this subsection shall be filed at such times, and include such information with respect to any transaction or series of transactions subject to this subsection, as the Commission, by rule, regulation, or order may prescribe.

"(2) For purposes of this subsection—

"(A) the term 'publicly traded securities or options' means any equity securities, including options on individual equity securities, and options on a group or index of such securities, listed, or admitted to unlisted trading privileges, on a national securities exchange, or quoted in an automated interdealer quotation system;

"(B) two or more persons acting as a partnership, limited partnership, syndicate, or other group, for the purpose of effecting transactions described in paragraph (1) of this subsection, shall be deemed a 'person'.

"(3) The Commission may prescribe rules governing the manner in which transactions and accounts shall be aggregated for the purpose of paragraph (1) of this subsection.

"(4) Notwithstanding the provisions of section 552 of title 5, United States Code, or of any other law, the Commission shall not be compelled to disclose any information required to be reported under this subsection. Nothing in this subsection shall prevent the Commission from complying with a request for information from a duly authorized committee or subcommittee of the Congress or complying with an order of a court of the United States in an action commenced by the United States or the Commission.

"(5) The Commission, by rule, regulation or order, may exempt any person or classes of persons or any transaction or classes of transactions, either conditionally or upon specified terms and conditions or for stated periods, from the operation of this subsection, and the rules and regulations thereunder.".

SEC. 4. RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS.

Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q), is amended by adding at the end the following:

"(h)(1) For the purpose of monitoring the financial and operational condition of persons subject to this section, and to provide greater protection for investors, every person who is (A) a registered broker or dealer, or (B) a government securities broker, or government securities dealer, for which the Commission is the appropriate regulatory agency, shall make such reports as the Commission, by rule, regulation, or order prescribes concerning any aspect of the financial or operational condition of its associated persons, other than a natural person, that the Commission determines is reasonably likely to have a material impact on the financial or operational condition of such registered broker or dealer, government securities broker, government securities dealer, or municipal securities dealer. Reports prescribed by the Commission under this section may include, but shall not be limited to, information concerning assets, liabilities, contingent liabilities, material contracts, loan commitments, trading or investment positions, lines of credit, letters of credit, and financial guarantees.

"(2) No information shall be required of any person subject to paragraph (1) of this subsection regarding any associated person that is—

"(A) a financial institution as defined in section 3(a)(46) of this title;

"(B) a bank holding company, as defined in section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a));

"(C) a savings and loan holding company, as defined in section 408(a)(1)(D) of the National Housing Act (12 U.S.C. 1730a(a)(1)(D));

"(D) an insurance company, as defined in section 2(13) of the Securities Act of 1933 (15 U.S.C. 77b(13)); or

"(E) a futures commission merchant or introducing broker as defined in section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2);

if information substantially similar to that required to be included in reports under paragraph (1) of this subsection is available to a supervisory agency, as defined in section 1101(6) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(6)), a State insurance commission, or similar State agency, or the Commodity Futures Trading Commission.

"(3) The Commission, by rule, regulation or order, may exempt any person or classes of persons, or any transaction or classes of transactions, either conditionally or upon specified terms and conditions or for stated periods, from the provisions of this subsection, and the rules and regulations thereunder. In granting such exemptions, the Commission shall consider, among other factors, the primary business of any associated person, the nature and extent of domestic or foreign regulation of the associated person's activities and, with respect to the person required to report pursuant to this subsection and its associated persons, on a consolidated basis, the proportion of assets devoted to, and revenues derived from, activities in the United States financial markets.

"(4) Notwithstanding the provisions of section 552 of title 5, United States Code, or of any other law, the Commission shall not be compelled to disclose any information required to be reported under this subsection. Nothing in this subsection shall prevent the Commission from complying with a request for information from a duly authorized committee or subcommittee of the Congress or complying with an order of a court of the United States in an action commenced by the United States or the Commission.".

SEC. 5. COORDINATED CLEARING.

(a) Section 17A(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1(a)(1)) is amended by adding at the end the following:

"(E)(i) The clearance and settlement systems for transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options are integrally related.

"(ii) The absence of links or coordination among clearing facilities for transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options may impose unnecessary costs and add unnecessary liquidity demands to the nation's financial systems.".

(b) Section 17A(a)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1(a)(2)) is amended to read as follows:

"(2)(A) The Commission is directed, therefore, having due regard for the public interest, the protection of investors, the safeguarding of securities and funds, and maintenance of fair competition among brokers and dealers, clearing agencies, and transfer agents, to use its authority under this title—

"(i) to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities (other than exempted securities); and

"(ii) to facilitate the establishment of linked, coordinated, or centralized facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options in accordance with the findings and to carry out the objectives set forth in paragraph (1) of this subsection. The Commission shall use its authority under this title to assure equal regulation under this title of registered clearing agencies and registered transfer agents. In carrying out its responsibilities set forth in clause (ii) of this subparagraph, the Commission shall consult with the Commodity Futures Trading Commission and the Board of Governors of the Federal Reserve System.

"(B) The Securities and Exchange Commission and the Commodity Futures Trading Commission, in consultation with the Board of Governors of the Federal Reserve System, shall examine progress toward establishing linked, coordinated, or centralized facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options, and shall submit to Congress, not later than 2 years from the date of enactment of this provision, a report detailing and evaluating such progress.".

(c) Section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1) is amended by adding at the end the following:

"(f) In order to promote prompt and accurate clearance and settlement of securities transactions, notwithstanding any provision of State law, the Commission is authorized to adopt rules concerning the transfer of certificated or uncertificated securities or limited interests (including security interests) therein (but is not authorized to adopt rules concerning the transfer of securities or limited interests (including security interests) therein with respect to government securities issued pursuant to chapter 31 of title 31, United States Code, or securities otherwise processed within a book-entry system operated by the Federal Reserve Banks) if the Commission finds that, in the absence of such rules, the safe and efficient operation of the national system for clearance and settlement of securities transactions is substantially impeded. In exercising its authority under this subsection, the Commission shall consult with the Secretary of the Treasury.".

(d)(1) Section 5 of the Commodity Exchange Act (7 U.S.C. 22) is amended by adding at the end the following:

"(c)(1) The Congress finds that:

"(A) Commodity clearing organizations play a vital role in the functioning of contract markets and in ensuring the financial integrity of the marketplace in which transactions are executed.

"(B) The clearance and settlement systems for securities, securities options, contracts of sale for future delivery and options thereon, and commodity options are integrally related.

"(C) The absence of links or coordination among clearing facilities for contracts of sale for future delivery and options thereon, commodity options, securities, and securities options may impose unnecessary costs and add unnecessary liquidity demands to the Nation's financial systems.

"(2) The Commission is directed, therefore, having due regard for the public interest and maintenance of fair competition among contract markets, commodities and futures clearing organizations, members thereof, and futures commission merchants, to use its authority under this Act to facilitate the establishment of linked, coordinated, or centralized facilities for clearance and settlement of contracts of sale for future delivery and options thereon, commodity options, securities, and securities options, in accordance with the findings set forth in paragraph (1). In carrying out its responsibilities set forth in this paragraph, the Commission shall consult with the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System.".

(3) The Commodity Futures Trading Commission and the Securities and Exchange Commission, in consultation with the Board of Governors of the Federal Reserve System, shall examine progress toward establishing linked, coordinated, or centralized facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options, and shall submit to Congress, not later than 2 years from the date of enactment of this subsection, a report detailing and evaluating such progress.

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SECTION-BY-SECTION ANALYSIS OF THE PROPOSED LEGISLATION—THE MARKET REFORM ACT

SECTION 2.—EMERGENCY AUTHORITY/TRADING HALTS

This section would authorize the Commission, by order, to take temporary emergency action with respect to any matter subject to regulation under the Exchange Act. The Commission's authority to take summary action under this section would extend to all matters subject to regulation under the Exchange Act by the Commission, and the securities self-regulatory organizations, including, but not limited to, the ability to alter, supplement, suspend, or impose requirements or restrictions with respect to hours of trading, position limits, and clearance and settlement. Thus, the Commission's emergency authority could be used to relax or to impose more stringent requirements or restrictions in an emergency. However, under current law, the Commission would not have the authority to relax or restrict initial levels of margin for transactions in any security other than options.

Prior to taking temporary emergency action, the Commission would be required to make only those findings required by this section, and would not be required to make findings or observe procedures prescribed by any other provisions of the Exchange Act. To ensure that the Commission would be able to take emergency action without procedural delay, the section would expressly exempt the Commission, in exercising its emergency authority, from the agency rulemaking requirements prescribed by the Administrative Procedures Act, and from the requirements prescribed by Exchange Act Section 19(c) for abrogating, adding to, or deleting from the rules of a self-regulatory organization.

Emergency actions ordered by the Commission under this section would remain in effect for the time specified by the Commission. The Commission would be authorized to extend the effectiveness of emergency actions, but in no event would any action taken in response to a particular emergency remain in effect for more than ten business days, including extensions. This limitation would not apply with respect to actions taken in response to any other emergency that might occur during the ten business day period. While many of the measures authorized under this section would necessary only for very short periods, perhaps hours or minutes, other matters, such as those relating to hours of business and clearance and settlement, might be required for longer periods, up to ten days, in order to be effective.

In exercising its emergency powers, the Commission would be authorized summarily to suspend all trading in any or all securities (other than exempted securities) on any exchange or otherwise. However, the Commission's trading suspension authority is expressly limited in three respects. First, the Commission would be authorized to suspend trading for a maximum of twenty-four hours. Second, although the Commission would be authorized to extend a suspension of trading for not more than two additional twenty-four hour periods, specific approval of the President would be required for such extension. Third, the section provides that the President may terminate any suspension of trading or other summary action by the Commission under this section. It should also be noted that, by the terms of the section, only members of a national securities exchange, brokers, and dealers are expressly subject to orders issued by the Commission.

The section defines "emergency" to mean a major market disturbance characterized by, or constituting a substantial threat of sudden and excessive fluctuating of securities prices generally that threaten fair and orderly markets, or a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of securities. While the characterization of circumstances as an emergency would depend on the particular facts, the authority provided by this section is not intended to be used to prevent or limit market downturns or fluctuations in securities prices generally, other than those that threaten fair and orderly markets. It is intended to permit the Commission to act, through actions directed to specific problems, in response to extraordinary situations in which there is a major disturbance in the securities markets, like the October 1987 market break, or imminent danger of such a disturbance.

Emergency action taken by the Commission under this section would be subject to judicial review in the United States Courts of Appeals as provided in Section 25(a) of the Exchange Act, based on an examination of all information before the Commission at the time such action was taken, subject to the assertion of any applicable privilege by the Commission. The reviewing court would be prohibited from entering a stay, writ of mandamus or similar relief unless the courts finds, after notice and hearing before a panel of the court, that the Commission's action is arbitrary, capricious, and abuse of discretion, or otherwise not in accordance with law. Thus, a court reviewing emergency action taken by the Commission would be permitted to act only after the Commission had an opportunity to explain the basis for its action.

SECTION 3.—LARGE TRADER REPORTING

This section is modeled after the large trader reporting authority of the Commodity Futures Trading Commission and is designed to assist the Commission in its surveillance of the U.S. securities markets by providing it with broad authority to adopt

reporting rules for the purpose of monitoring the impact on the securities markets of large transactions in publicly traded securities involving a substantial volume or a large fair market value or exercise value, and related transactions in equity index futures and options on such futures. The section only applies to transactions effected using the U.S. jurisdictional means. The Commission is authorized to adopt rules requiring any person effecting such large transactions for its own account, or for an account for which it exercises investment discretion, to file reports with the Commission or with a self-regulatory organization designated by the Commission. The Commission could use information contained in these reports for surveillance, enforcement, and other appropriate regulatory purposes.

The section applies to large transactions, or series of transactions, in "publicly traded securities or options," and related transactions in futures on such securities and options thereon. The term "publicly traded securities or options" is defined in the section to mean any equity security, including options on individual equity securities, and options on an index or group of equity securities, listed, or admitted to unlisted trading privileges on a national securities exchange, or quoted in an automated inter-dealer quotation system.

The Commission would also be authorized to adopt rules prescribing the manner in which transactions and accounts would be aggregated for the purposes of this section. Two or more persons acting as a partnership, limited partnership, syndicate or other group, including joint trading accounts, for the purpose of trading, acquiring, holding, or disposing of securities would be considered a "person." The section would permit the Commission, by rule, regulation or order, to exempt any person, transactions, or classes of persons or transactions, either conditionally or upon specified terms and conditions or for stated periods of time, from the operation of this section and the rules and regulations thereunder.

In adopting rules pursuant to its authority under this section, the Commission would take into account whether other means of obtaining the relevant information are available. In this connection, the Commission would consult with the CFTC in order to avoid duplicative reporting whenever practical. With respect to foreign persons or accounts, the Commission would continue its current program of negotiating memoranda of understanding with foreign governments and would seek to include within such agreements the exchange of trading information for investigatory purposes. The Commission generally would not seek to use its authority under this section to obtain information concerning foreign persons or accounts under the jurisdiction of a foreign government if the Commission has entered into an agreement for sharing investigatory information with that government.

The Commission could not be compelled to disclose publicly any information required to be reported under this section for which disclosure might otherwise be required pursuant to the Freedom of Information Act, 5 U.S.C. 552. However, the Commission is not authorized under this section to withhold information from Congress or a court of the United States in an action commenced by the United States or the Commission.

SECTION 4.—RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS

This section would enhance the Commission's ability to monitor the financial and operational condition of brokers and dealers, and government securities brokers, government securities dealers, and municipal securities brokers or dealers for which the Commission is the appropriate regulatory agency, by clarifying the Commission's authority to require reports regarding the activities of associated persons that have the potential materially to affect the financial or operational condition of such entities. The section would permit the Commission to adopt rules requiring information concerning, among other things, assets, liabilities, contingent liabilities, material contracts, loan commitments, trading or investment positions, lines of credit, letters of credit, and financial guarantees.

The section would not require information to be provided concerning the activities of any natural person. In addition, information would not be required relating to certain classes of regulated entities. Specifically, information regarding the activities of banks, savings and loan associations, bank holding companies, savings and loan holding companies, insurance companies, futures commission merchants and introducing brokers would not need to be provided directly to the Commission, so long as similar information is available to a supervisory agency as defined in 12 U.S.C. 3401(6), a state insurance commission or similar state agency, or the Commodity Futures Trading Commission.

In addition to enumerating classes of entities for whom information need not be provided directly to the Commission, the section permits the Commission to provide exemptions from the reporting requirements either conditionally or upon specified terms and conditions or for stated periods. Among other things, this provision would allow the Commission to exclude from the reporting requirement any information regarding diversified holding companies and international financial organizations that do not devote a significant portion of their consolidated assets to activities in the U.S. financial markets. The section also notes that in granting exemptions, the Commission shall consider the primary business of any associated person, and the nature and extent of domestic or foreign regulation of the associated person's activities. Thus, for example, the Commission may wish to exclude small broker-dealers from the reporting requirements, or not to require information concerning holding companies or their affiliates who are primarily engaged in non-financial activities, such as merchandising, or major foreign banks whose subsidiaries or affiliates include a U.S. broker-dealer.

The Commission could not be compelled to disclose publicly any information required to be reported under this section for which disclosure might otherwise be required pursuant to the Freedom of Information Act, 5 U.S.C. 552. However, the Commission is not authorized under this section to withhold information from Congress or a court of the United States in an action commenced by the United States or the Commission.

SECTION 5.—COORDINATED CLEARING

*Securities Exchange Act Amendments*

These provisions would amend Section 17A(a)(1) of the Exchange Act to add congressional findings concerning the need for linked or coordinated facilities for clearance and settlement of transactions in securities, securities option, contracts of sale for future delivery and options thereon, and commodity options to the findings already contained in Section 17A(a)(1) of the Exchange Act. The findings recognize that clearing systems for securities, securities options, contracts of sale for future delivery and options thereon, and commodity options (collectively, "cleared products") affect the nation's financial systems. The clearing procedures employed for any cleared product potentially can affect, through settlement default or lack of coordination with other clearing systems, other cleared products, clearing systems, and financial systems.

In addition to these congressional findings, Exchange Act Section 17A(a)(2) would be amended to direct the Securities and Exchange Commission ("SEC") to use its authority under the Exchange Act to facilitate the establishment of linked, coordinated, or centralized facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options. This section does not mandate any particular clearance or settlement system structure, although Section 17A(a)(1)(E) contains a finding that the absence of links or coordination among clearing facilities may impose unnecessary costs and liquidity demands on the nation's financial systems. Although centralization of clearance and settlement facilities is included in Section 17A(a)(2) as an option, the factors listed in Section 17A(a)(2)(A), as well as other competitive considerations discussed below, must be considered in conjunction with any regulatory efforts, pursuant to this section, to centralize the clearing facilities of the securities, options and contract markets.

Although this amendment applies to all cleared products, it is expected that the SEC will exercise its authority only in instances where a particular cleared product or clearing system within its jurisdiction demonstrates a significant effect on other cleared products, clearing systems, or the financial system generally. In carrying out this responsibility, the SEC would be directed to consult with the Commodity Futures Trading Commission ("CFTC") and the Board of Governors of the Federal Reserve System ("FRB").

These provisions also would amend Section 17A of the Exchange Act to authorize the SEC to promulgate rules concerning the transfer and pledge of certificated and uncertificated securities. New Section 17A(f) would authorize the SEC to preempt state commercial laws (such as those based on the Uniform Commercial Code) governing transfer and pledge of securities, but only upon a finding that state commercial laws substantially impede the safe or efficient operation of the national system for clearance and settlement of securities transactions (for example, due to the lack of scope or inconsistent standards of such state laws). The SEC would not be authorized to promulgate rules with respect to government securities issued pursuant to Chapter 31 of Title 31, United States Code, or securities otherwise processed within a book-entry system operated by the Federal Reserve Banks. Because the Department of the Treasury has similar expertise and authority in this area with regard to government securities, the Commission would be required to consult with the Department of the Treasury in exercising its authority under this Section.

The provisions would direct the SEC and the CFTC, in consultation with the FRB, to

examine progress toward the establishment of linked, coordinated, or centralized facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options and to submit to Congress within two years from the date of enactment of this amendment a report detailing and evaluating such progress.

*Commodity Exchange Act Amendments*

These provisions would amend the Commodity Exchange Act by adding Section 5c to that Act. Section 5c(1) would set forth certain congressional findings concerning the need for linked or coordinated facilities for clearance and settlement of transactions in contracts of sale for future delivery and options thereon, commodity options, securities, and securities options. Those findings recognize that clearing systems for contracts of sale for future delivery and options thereon, commodity options, securities, and securities options (collectively, "cleared products") affect the nation's financial systems. The clearing procedures employed for any cleared product potentially can affect, through settlement default or lack of coordination with other clearing systems, other cleared products, clearing systems, and financial systems. Section 5c(2) would direct the CFTC to use its authority under the Commodity Exchange Act, in accordance with the findings set forth in Section 5c(1), to facilitate the establishment of linked, coordinated, or centralized facilities for clearance and settlement of transactions in contracts of sale for future delivery and options thereon, commodity options, securities and securities options. Section 5c(2) requires the CFTC to consider, among other factors, the maintenance of fair competition among contract markets. A corresponding provision is not specifically added to the Securities Exchange Act because Sections 11A and 23 of that Act already impose an obligation on the SEC to consider competition among securities markets when using its authority under that Act. In this regard, it is not intended that the enumeration of specific competitive concerns will operate to the exclusion of others. Thus, the maintenance of competition between and among contract markets, securities markets, clearing organizations, broker-dealers, and futures commission merchants is a proper subject for the CFTC's and the SEC's consideration under these amendments.

Although Section 5c(2) applies to all cleared products (*i.e.*, it includes non-financial contracts of sale for future delivery such as agricultural products), it is expected that the CFTC will exercise its authority only in instances where a particular cleared product or clearing system within its jurisdiction demonstrates a significant effect on other cleared products, clearing systems, and financial systems generally. The scope of the amendment, however, is necessary to recognize that the clearing systems for those products often involve the same money payment systems. Section 5c(2) would direct the CFTC to consult with the SEC and the FRB in carrying out its responsibilities under Section 5c.

The provisions would direct the SEC and the CFTC, in consultation with the FRB, to examine progress toward the establishment of linked, coordinated, or centralized facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options and to submit to Congress within two years from the date of enactment of this amendment a report detailing and evaluating such progress.

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SECTION-BY-SECTION ANALYSIS OF THE PROPOSED LEGISLATION—THE SHAREHOLDER COMMUNICATIONS IMPROVEMENT ACT OF 1989

Section 2: Section 2 of the Act amends Section 14 of the Securities Exchange Act of 1934.

Section 2(a)(1): Section 2(a)(1) will extend to investment company security holders the benefits of the shareholder communications rules which require brokers and dealers, banks, associations, and other entities that exercise fiduciary powers holding securities as nominees to provide proxies, consents, and authorizations to beneficial security holders and to provide registrants, upon request, with beneficial owner information so that registrants can send annual reports and voluntary communications directly to the beneficial security holders. Currently, Section 14(b) and the rules adopted thereunder only apply with respect to securities registered under Section 12 of the Exchange Act, which most investment company securities are not. This amendment recognizes the changes that have occurred in the form of ownership of investment company securities and will facilitate communication between investment companies and beneficial owners of investment company securities.

Section 2(a)(2): Section 2(a)(2) of the Act will amend Section 14 (b) to require broker and bank nominees to transmit information statements to the beneficial owners of securities. Currently, only proxies, consents, and authorizations are required to be delivered to beneficial owners of securities when securities are held in nominee name. This amendment will assure that beneficial owners of securities held in nominee name receive information statement as well as proxies.

Section 2(b): Section 2(b) of the Act will amend Section 14(c) of the Exchange Act to require investment companies, in addition to other registrants, to transmit information statements to security holders of record. Currently, Section 14(c) requires the issuance of information statements only with respect to securities registered pursuant to Section 12 of the Exchange Act. Like the amendments to Section 14(b), this amendment will facilitate communication between security holders and issuers of information statements and will provide investment company security holders the same communications as that accorded to non-investment company security holders.

Section 3: Section 3 of the Act provides for its effective date. The amendment to Section 14(b) will be effective on the expiration of one-hundred and eighty days after the date of enactment so that nominees can integrate investment company security holders into their established proxy delivery and communication systems. The delayed effective date also will permit broker and bank nominees to extend existing proxy delivery systems to include information statements. The amendment to Section 14(c) also would take effect on the expiration of one hundred and eighty days after the date of enactment to allow invesment companies to extend established communication systems for proxy delivery to include information statements.●

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By Mr. DODD (for himself and Mr. HEINZ) (by request):

S. 649. A bill to amend the Securities Exchange Act of 1934 to require that members of exchanges, brokers, dealers, banks, associations, or other entities that exercise fiduciary powers holding securities as nominees provide proxy and other shareholder communications to investment company beneficial securityholders; to require these same entities, holding securities as nominees, to provide information statements to investment company and noninvestment company beneficial security holders; and to require investment companies to provide information statements to recordholders prior to any securityholder vote when proxies, consents, or authorizations are not solicited; to the Committee on Banking, Housing, and Urban Affairs.

SHAREHOLDER COMMUNICATIONS IMPROVEMENT ACT

● Mr. DODD. Mr. President, the Shareholder Communications Improvement Act of 1989 is designed to improve the flow of information to mutual fund and other investment company shareholders. The proposal was submitted to Congress by the Securities and Exchange Commission on June 13 of last year, and we are introducing it at the request of the agency.

The legislation would extend to mutual fund and other investment company securityholders the benefits of the Commission's shareholder communication rules which now require brokers and dealers, banks, associations, and other entities that exercise fiduciary powers holding securities in nominee name to deliver proxy materials to the beneficial owners and to supply registrants, upon request, with beneficial owner information so that they can send annual reports and voluntary communications directly to beneficial owners.

It also would require broker and bank nominees to transmit information statements to the beneficial owners of the securities. In addition, beneficial owners of investment company securities also will be included among those securityholders to whom nominees must deliver information statements.

The Commission has urged passage of this legislation, because the number of mutual fund shares being held on behalf of customers is increasing, and banks are getting more involved in the administration and distribution of shares, especially mutual fund shares. The amendments will encourage better communication between beneficial shareholders and the issuers of shares, thus increasing investor protection. In addition, the amendments will ensure that—whether their shares are held by a broker or a bank—mutual fund shareholders will have the opportunity to exercise their voting rights.

I ask unanimous consent to insert in the RECORD at this point an analysis of the legislation. I further ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

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

S. 649

*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 shall be cited as the "Shareholder Communications Improvement Act of 1989."

SEC. 2. AMENDMENTS TO 1934 ACT.

(a) SECTION 14(B).—Section 14(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(b)(1)) is amended by—

(1) striking "section 12 of this title" and inserting "section 12 of this title or any security issued by an investment company registered under the Investment Company Act of 1940"; and

(2) striking "or authorization" and inserting "authorization, or information statement".

(b) SECTION 14(C).—Section 14(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(c)) is amended by striking "title" and inserting "title or a security issued by an investment company registered under the Investment Company Act of 1940".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 of this Act shall take effect upon the expiration of 180 days after the date of enactment of this Act.●

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By Mr. KENNEDY (for himself, Mr. DODD, and Mr. INOUYE):

S. 650. A bill to establish a national program to expand opportunities for Americans, especially students, to serve their communities; to the Committee on Labor and Human Resources.

SERVE AMERICA, THE SERVICE TO AMERICA ACT

Mr. KENNEDY. Mr. President, in his inaugural address more than a quarter century ago, President Kennedy inspired the Nation and the world when he called upon Americans of all ages to ask what they could do for their country. Citizens responded by the millions, and today the Peace Corps, VISTA, the Older American Volunteer Programs, and numerous projects in communities across America bear witness to those words and their enduring appeal.

In recent years, however, the worth of national service has been obscured by other values of society. Too often, young people are not asked to serve. They are viewed as part of the problem, not part of the solution. And that easily becomes a self-fulfilling prophecy.

I am introducing legislation today to renew President Kennedy's challenge for our own day and generation. We do not have to compel young Americans to serve their country. All we have to do is ask—and provide the opportunity.

The purpose of the legislation is to establish nationwide opportunities for voluntary service for Americans of all ages, without distinctions because of class or income. The special emphasis of the bill will be on school-based and college-based programs for pupils and students at every level to serve in their own communities.

Our goal is to make such programs available by 1995 to every student in America, from kindergarten through college. The "me decade" is over. The 1990's can be the decade when we rediscover the importance of giving something back to our country, in return for all it has given us.

I call this idea serve America, and I am proposing a $100 million appropriation to enable schools and local agencies to create service opportunities for young people in thousands of communities across the Nation to serve their country. Before long, I hope to see a familiar poster in every classroom in the United States, with the figure of Uncle Sam saying "America needs you"—because we do.

Under my proposal, matching grants will be available to schools, colleges, and community-based organizations to create or expand service opportunities. Communities will have the flexibility to design programs that meet local needs, but all projects will include an age-appropriate learning component, training for students and supervisors, and a sustained commitment by students. The best projects will receive grants for up to 3 years to pay for a program coordinator, training, transportation costs, insurance, and other startup costs.

While the legislation will be primarily concerned with school and college-based service, it will contain other provisions as well. Using existing Federal resources, serve America will also encourage the creation of full-time service corps for out-of-school youth and summer service corps for all youth. National recognition awards will be established for the best participants and programs in each State. To make the most effective use of Federal resources, the legislation will mandate that all Federal agencies seek ways, in their existing programs, to provide or expand opportunities for service; President Bush could do this with the stroke of a pen—by executive order—and I urge him to do so as part of the youth service initiative he is planning.

In addition to serve America, I will soon introduce three small bills that use cost-effective programs for adults to respond to critical national needs.

For 25 years, VISTA volunteers—receiving only subsistence level stipends—have served in the front lines in the war on poverty. It is time to bring VISTA back to full strength. At a minimum, we should double the number of volunteers by 1993, which would restore the program to its peak level of the past.

Older Americans also represent an indispensable resource in meeting the country's most urgent challenges, especially in areas such as long-term care and home care for the elderly, services to teenage parents, and assistance to the disabled. Today, 450,000 senior citizens serve in the Older American Volunteer Programs run by the ACTION Agency. As part of our comprehensive approach to community service, we should substantially expand the corps of older volunteers working in such areas.

Finally, we should revitalize the National Health Service Corps as part of our nationwide effort to deal more effectively with the aids crisis.

Serve America also builds on effective existing programs. Across the country, young Americans are working against homelessness and hunger, crime and drug abuse, illiteracy and pollution. They serve in schools and hospitals, shelters and senior citizen centers and other community agencies.

These young citizens know that the satisfaction of helping their communities is the reward for their efforts. Their teachers and parents have seen the students' self-esteem grow, as they learn through helping others that they can take charge of their own lives. And their communities have learned that young people who serve others become good neighbors and good citizens.

Too often, however, service programs of the sort represented here are the exception, not the rule. The 60 million students from kindergarten through college across America are a powerful national resource that is largely untapped. The time has come to harness their energy, ability and idealism to meet our most pressing national goals.

Equally important, the pupils of today are the voters and leaders of tomorrow. Community service should be the common experience of all citizens—and the call to service should come early. It should be a vital part of the education for citizenship in every school system in the Nation. The genius of America education is that we are not just educating the young to be teachers, doctors, lawyers, scientists, workers, or business men and women—we are educating them to be Americans. The lesson of service to their country to be learned in youth will last a lifetime, and produce a better, fairer, and stronger America in the years ahead.

I urge my colleagues to support Serve America.

I ask unanimous consent that the letters in support of Serve America be placed in the RECORD.

I ask unanimous consent that the full text 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. 650

*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 "Serve America, the Service to America Act of 1989".

SEC. 2. TABLE OF CONTENTS.

This table of contents for this Act is as follows:



SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) service to the community is a responsibility of all American citizens, regardless of their economic level or age;

(2) children who become engaged in community service early will understand better the responsibilities of citizenship and often continue to serve the community into adulthood;

(3) serving others builds self-esteem and teaches teamwork, decisionmaking, and problem-solving; and

(4) America's 60-million students, from kindergarten to college, offer a powerful, largely untapped resource for community service.

(b) PURPOSE.—The purposes of this Act are—

(1) to enable the call to service to begin in the earliest grades, to grow into sustained community action in secondary schools and colleges, and to become a lifelong habit;

(2) to provide out-of-school youth with service opportunities;

(3) to build on the existing organizational framework provided by state and local educational agencies, schools, institutions of higher education, and community agencies;

(4) to promote the expansion of full-time and summer youth corps programs;

(5) to inspire others to serve by providing national and local recognition to outstanding individuals and programs involved in community service; and

(6) to involve agencies of the Federal Government in seeking ways through existing programs to expand service opportunities for all Americans.

## TITLE I—SCHOOL AND CAMPUS BASED COMMUNITY SERVICE

SEC. 101. PROGRAM AUTHORIZED.

(a) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this Act, to make grants to States or local applicants to create or expand service opportunities for students and out-of-school youth.

(b) TERM OF GRANT.—The term of the grants may be for a period of not longer than 3 years.

SEC. 102. DEFINITIONS.

For purposes of this title—

(1) The term "community-based agency" means a private nonprofit organization that is representative of a community or a significant segment of a community and that is engaged in meeting human, social, educational, or environmental community needs.

(2) The term "education institution" means a local educational agency, elementary or secondary school, institution of higher education, or a community-based agency that provides educational services.

(3) The term "elementary school" has the same meaning given that term in section 1471(8) of the Elementary and Secondary Education Act of 1965.

(4) The term "institution of higher education" has the same meaning given that term in section 1201(a) of the Higher Education Act of 1965.

(5) The term "local educational agency" has the same meaning given that term in section 1471(12) of the Elementary and Secondary Education Act of 1965.

(6) The term "local government agency" means a public agency that is engaged in meeting human, social, educational, or environmental needs.

(7) The term "out-of-school youth" means an individual who has not attained the age of 25, has not completed high school or the equivalent, and is not enrolled in an elementary or secondary school or institution of higher education.

(8) The term "participant" means a student or out-of-school youth who provides services pursuant to a program funded under this title.

(9) The term "project" means any activity that results in a specific identifiable service or product that otherwise would not be done with existing funds, and which shall not duplicate the routine services or functions of the employer to whom participants are assigned.

(10) The term "secondary school" has the same meaning given that term in section 1471(21) of the Elementary and Secondary Education Act of 1965.

(11) The term "Secretary" means the Secretary of Education.

(12) The term "service opportunity" means a program or project enabling students or out-of-school youth to perform meaningful and constructive service in agencies, institutions, and situations where the application of human talent and dedication may help to meet human, social, educational, and environmental community needs, especially those relating to poverty.

(13) The term "State" means a State, the Commonwealth of Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, or the Trust Territory of the Pacific Islands.

(14) The term "State agency for higher education" means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(15) The term "State educational agency" has the same meaning given that term in section 1471(23) of the Elementary and Secondary Education Act of 1965.

(16) The term "student" means an individual who is enrolled full-time or part-time in an elementary or secondary school or institution of higher education.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the purposes of carrying out the provisions of this title $100,000,000 for each of the fiscal years 1990, 1991, 1992, 1993, and 1994.

SEC. 104. ALLOCATION OF FUNDS.

(a) IN GENERAL.—The Secretary shall allocate 85 percent of the funds appropriated under section 103 according to the chapter 1 basic grant formula described in section 1005 of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 to States that have applications approved under section 105.

(b) REMAINDER.—The Secretary shall use the remaining 15 percent of the funds appropriated under section 103 for program support, evaluation, training, technical assistance, and activities described in section 109.

(c) LOCALITY APPLICATION.—(1) If a State does not apply for assistance under this Act or if a State does not have an application approved under section 105, the Secretary, in consultation with the Director of the ACTION Agency, may make grants directly to local applicants. The Secretary shall apply the criteria described in section 106 in evaluating such local applications.

(2) In no case shall the aggregate amount of funds awarded to local applicants in a State exceed the amount the State would have been entitled to receive under subsections (a) and (b).

SEC. 105. STATE APPLICATION.

(a) APPLICATION REQUIRED.—Each State desiring to receive a grant under this Act shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. Each of such applications shall describe how—

(1) local applications will be ranked according to criteria described in section 106;

(2) the State will coordinate service programs in the State;

(3) the State will encourage cooperative efforts among education institutions, local government agencies, community-based agencies, businesses, and State agencies to provide service opportunities, including those that involve the participation of urban, suburban, and rural youth working together;

(4) the State will ensure that economically and educationally disadvantaged students are offered service opportunities;

(5) the State will evaluate service programs receiving funds under this title;

(6) the State educational agency and State agency for higher education will ensure that programs funded under this Act will serve urban and rural areas and any tribal areas that exist in such State;

(7) the State will provide technical assistance and training to service programs in the State; and

(8) the State intends to use non-Federal funds to expand service opportunities for students and out-of-school youth.

(b) APPROVAL.—The Secretary, in consultation with the Director of the ACTION Agency, shall review State applications and approve those applications which meet the requirements of this Act.

(c) STATE LEGISLATION.—Nothing in this Act shall be interpreted to preclude the enactment of State legislation providing for the implementation, consistent with the provisions of this Act, of the programs administered under this Act.

SEC. 106. LOCAL APPLICATION.

(a) APPLICATION REQUIRED.—Any education institution, local government agency, community-based agency, or consortia thereof desiring to receive a grant under this Act shall apply to the State educational agency and the State agency for higher education at such time and in such manner as the State educational agency or State agency for higher education may reasonably require. Each of such applications shall—

(1) contain a written agreement between one or more education institutions and one or more representatives of the community where service opportunities will be provided that the program was jointly developed by the parties and that the program will be jointly executed by the parties;

(2) contain assurances that the local labor organization representing employees who are engaged in the same or similar work as that proposed to be carried out in a project assisted under this title, has been provided an opportunity to review and comment on the application required by this section;

(3) describe the goals of the program, including goals that are quantifiable, measurable, and show benefits to the participants and the community;

(4) set forth the service opportunities to be provided;

(5) describe how participants will be recruited;

(6) describe how participants were or will be involved in the design and operation of the program;

(7) describe an age-appropriate learning component for participants that includes, but is not limited to, a chance for participants to reflect on their service experiences and expected learning outcomes;

(8) describe whether or not participants will receive academic credit for their participation;

(9) describe the membership and role of any advisory committee associated with administration of service programs assisted under this Act;

(10) state the name, if available, qualifications, and responsibilities of the coordinator of any program assisted under this Act;

(11) describe preservice and inservice training to be provided to supervisors and participants;

(12) describe the means by which outstanding service will be recognized;

(13) set forth the target numbers of students and out-of-school youth who will participate;

(14) set forth the target numbers of hours of service such participants will provide individually and as a group;

(15) describe the proportion of expected participants who are educationally or economically disadvantaged;

(16) describe the ages or grade levels of expected participants;

(17) include other relevant demographic information about expected participants;

(18) describe the activities and services for which assistance is sought;

(19) describe potential resources that will permit continuation of the program, if needed, upon the conclusion of Federal funding; and

(20) provide assurances that participants will be provided with information on VISTA, the Peace Corps, the Montgomery G.I. Bill Act of 1984, and other service options and their benefits, such as student loan deferment and forgiveness, as appropriate.

(b) APPROVAL.—The State educational agency and the State higher education agency shall approve only local applications describing programs that provide—

(1) an age-appropriate learning component for participants to reflect on service experiences;

(2) preservice and inservice training for both supervisors and participants involving representatives of the community where service opportunities will be provided; and

(3) evidence that participants will make a sustained commitment to the service project.

(c) PRIORITY.—In providing assistance pursuant to this Act, the State educational agency and the State agency for higher education shall give priority to applications describing—

(1) programs which involve participants in the design and operation of the program;

(2) programs in greatest need of assistance;

(3) programs which involve individuals of different ages, races, sexes, ethnic groups, and economic backgrounds serving together.

(d) DURATION.—Grants to local applicants under this title may be for up to a 3-year period and are renewable for a second period of up to 3 years to expand or improve an existing program or to initiate a new program.

SEC. 107. USE OF FUNDS.

(a) FEDERAL SHARE.—(1) Funds provided pursuant to this title may not be used by a local applicant to pay more than—

(A) 80 percent of the costs of programs assisted under this title for the first year in which the applicant receives funds under this title;

(B) 70 percent of the costs of programs assisted under this title for the second year in which the applicant receives funds under this title;

(C) 60 percent of the costs of programs assisted under this title for the third year in which the applicant receives funds under this title; and

(D) 50 percent of the costs of programs assisted under this title for the fourth and each succeeding year in which the applicant receives funds under this title.

(2) The portion of the costs of programs assisted under this title that are to be paid from sources other than Federal funds may be paid in cash or in kind, fairly evaluated.

(3) If the portion of the costs of programs assisted under this title to be paid from sources other than Federal funds are paid by private profitmaking organizations then subsection (a) shall be applied by substituting—

(A) "85 percent" for "80 percent";

(B) "75 percent" for "70 percent"; and

(C) "65 percent" for "60 percent".

(b) COSTS OF ADMINISTRATION.—States shall use no more than 5 percent of funds allocated under section 103 for the costs of administration, including training, technical assistance, and coordination activities.

(c) LOCAL APPLICANTS.—Local applicants may use funds provided under this title for supervision of participants, program administration, training, reasonable transportation costs, insurance, and other reasonable expenses.

(d) STIPENDS.—Funds provided under this title shall not be used to pay any stipend, allowance, or other financial support to any participant except reimbursement for transportation, meals, and other reasonable out-of-pocket expenses incident to participation in a program assisted under this title.

(e) PROHIBITION.—(1) Funds provided under this title shall not be used by program participants and program staff to—

(A) give religious instruction, conduct worship services, or engage in any form of proselytization; or

(B) assist, promote, or deter union organizing.

(2) No project assisted under this title shall impair existing contracts for services or collective bargaining agreements.

(f) SUPPLEMENTATION.—(1) All Federal funds and funds used to pay the remainder of the costs of programs assisted under this title shall be used to supplement the level of State and local public funds expended for services assisted under this title in the previous fiscal year.

(2) The supplementation requirement of this subsection shall be satisfied with respect to a particular program if the aggregate expenditure in such program for the fiscal year in which services are to be provided will not be less than the aggregate expenditure in such program in the previous fiscal year, excluding Federal funds and funds used to pay the remainder of the costs of programs assisted under this title.

SEC. 108. REPORTS.

(a) STATE REPORTS.—Each State receiving funds pursuant to section 104 shall submit an annual report to the Secretary on the status of youth service programs in the State. Each State may require local grantees to supply such information as is necessary to complete such report, including a comparison of actual accomplishments with the goals established for the program, the number of participants in the program, the number of service hours generated, and problems, delays or adverse conditions that have affected or will affect the attainment of program goals.

(b) ANNUAL REPORT.—The Secretary shall, not later than 120 days after the end of each fiscal year, prepare and submit to the appropriate authorizing and appropriation committees in Congress a report on programs funded under this title. Such report shall summarize information contained in State reports required under subsection (a). Such report shall reflect the findings and actions taken as a result of any evaluation conducted pursuant to section 110.

SEC. 109. FEDERAL ACTIVITIES.

(a)(1) The Secretary, in consultation with the Director of the ACTION Agency, is authorized to fund one or more national or regional clearinghouses on service.

(2) Public and private nonprofit agencies with extensive experience in community service programs, particularly those involving students, shall be eligible to receive funds under paragraph (1) of this subsection.

(3) National and regional clearinghouses funded under paragraph (1) shall provide information, curriculum materials, technical

assistance, and training to States and local entities eligible to receive funds under section 106.

(b)(1) The Secretary, in consultation with the Director of the ACTION Agency, is authorized to fund national model youth service programs.

(2) States, education institutions, local government agencies, community-based agencies, or consortia of the above organizations shall be eligible to receive grants under paragraph (1) of this subsection.

(3) The Secretary shall widely disseminate information about national model youth service programs funded under paragraph (1) of this subsection.

SEC. 110. EVALUATION.

(a) The Secretary shall provide, through grants or contracts, for the continuing evaluation of programs assisted under this title, including evaluations that measure and evaluate the impact of programs authorized by this title, in order to determine program effectiveness in achieving stated goals in general and in relation to cost, the impact on related programs, and the structure and mechanisms for delivery. Such evaluations shall include, where appropriate, comparisons with appropriate control groups composed of individuals who have not participated in such programs. Evaluations shall be conducted by individuals not directly involved in the administration of the program evaluated.

(b) STANDARDS.—The Secretary shall develop and publish general standards for evaluation of program effectiveness in achieving the objectives of this title. Reports submitted pursuant to section 108 shall describe the actions taken as a result of evaluations carried out pursuant to this section.

(c) INPUT.—In carrying out evaluations under this title, the Secretary shall include the opinions of program participants and members of the communities where services are delivered concerning the strengths and weaknesses of such programs.

(d) PUBLICATION.—The Secretary shall publish summaries of the results of evaluations of program impact and effectiveness no later than 60 days after the completion of such evaluation.

(e) OWNERSHIP OF PROPERTY.—All studies, evaluations, proposals, and data produced or developed with assistance under this title shall become the property of the United States.

SEC. 111. NONDISCRIMINATION.

(a) IN GENERAL.—Any financial assistance provided under this Act shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and the regulations issued thereunder.

(b) NONDISCRIMINATION.—No person with responsibility for the operation of a program funded under this title shall discriminate with respect to any activity or program funded under this title because of race, religion, color, national origin, sex, age, handicap, or political affiliation.

SEC. 112. NONDUPLICATION AND NONDISPLACEMENT.

(a) NONDUPLICATION.—(1) Funds provided under this title shall be used only for activities which do not duplicate, and are in addition to, programs and activities otherwise available in the locality.

(2) No funds available under this title may be provided to any private nonprofit entity to conduct activities that are the same or substantially equivalent to activities provided by the State or local government agency unless the requirements of subsection (b) are met.

(b) NONDISPLACEMENT.—(1) No employee shall be displaced by any employer (including partial displacement such as reduction in hours, wages, or employment benefits) as a result of the use of a participant in a program established by this title.

(2) No service opportunities shall be created in a promotional line that will infringe in any manner upon the promotional opportunities of employed individuals.

(c) SPECIAL RESTRICTIONS REGARDING FULL-TIME PARTICIPANTS.—(1) No participant shall be assigned on a full-time basis to any local government agency unless the number of employees in such agency is at least equal to the number of regular employees who were employed in such agency in the preceding year.

(2) No participant shall be assigned on a full-time basis to any position in a State agency or local government agency if the rate of increase in such agency in the number of employees in substantially equivalent positions is less than the rate of increase of regular local employees in all positions of such agency in the 2 preceding years.

(3) No participant shall be assigned on a full-time basis to any position in a State agency or local government agency if the rate of increase in the number of employees in such agency is less than the rate of increase of employees in all agencies of such State or local government in the 2 preceding years.

(d) COMPLIANCE REPORT.—Any local labor organization representing government employees who are engaged in work similar to the service performed by participants on a full-time basis may request local grantees to furnish to the local labor organization an annual report demonstrating compliance with subsection (b).

(e) LABOR ORGANIZATION APPROVAL.— In order to conduct a program or project assisted under this Act, a grantee must obtain the approval of any labor organization representing employees who are engaged in the same or similar work as that proposed to be carried out in such program or project.

SEC. 113. POLITICAL ACTIVITIES.

(a)(1) IN GENERAL.—No funds provided pursuant to this title shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office or the outcome of any election to any State or local public office, or any voter registration activity.

(2) DEFINITIONS.—As used in this section—

(A) the term "election" has the same meaning (when referring to an election for Federal office) given such term by section 301(1) of the Federal Election Campaign Act of 1971; and

(B) the term "Federal office" has the same meaning given that term by section 301(3) of the Federal Election Campaign Act of 1971.

(b) PROHIBITIONS.—(1) No funds provided pursuant to this title shall be used to finance, directly or indirectly—

(A) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office;

(B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

(C) any voter registration activity.

(2) No funds provided under this title shall be used by any program assisted under this title in any activity for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition, except—

(A) in any case in which a legislative body, a committee of a legislative body, or a member of a legislative body requests any participant in or employee of such a program to draft, review, or testify regarding measures or to make representations to such legislative body, committee, or member; or

(B) in connection with an authorization or appropriations measure directly affecting the operation of the program.

(c) RULES AND REGULATIONS.—The Secretary shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance for no more than 30 days, on an emergency basis, until notice and an opportunity to be heard can be provided.

SEC. 114. NOTICE, HEARING, AND GRIEVANCE PROCEDURES.

(a) IN GENERAL.—(1) The Secretary is authorized, in accordance with the provisions of this title, to suspend payments or to terminate payments under any contract or grant providing assistance under this title whenever the Secretary determines there is a material failure to comply with the provisions of this title or the applicable terms and conditions of any such grant or contract issued pursuant to this title. The Secretary shall prescribe procedures to ensure that—

(A) assistance under this title shall not be suspended for failure to comply with the applicable terms and conditions, except in emergency situations for 30 days; and

(B) assistance under this title shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

(b) HEARINGS.—Hearings or other meetings as may be necessary to fulfill the requirements of this section shall be held at locations convenient to the recipient agency.

(c) TRANSCRIPT OR RECORDING.—A transcript or recording shall be made of any hearing conducted under this section and shall be available for inspection by any individual.

(d) GRIEVANCE PROCEDURE.—(1) The State educational agency and the State agency for higher education shall establish and maintain a procedure for grievances from participants, labor organizations, and other interested persons concerning projects funded under this title. Hearings on any grievance shall be conducted within 30 days of filing of a grievance and decisions shall be made not later than 60 days after the filing of a grievance. Except for complaints alleging fraud or criminal activity, complaints shall be made within 1 year after the date of the alleged occurrence.

(2) Upon the occurrence of an adverse grievance decision, or where the Secretary, or the Secretary of Labor in the case of a grievance or complaint filed by a labor organization, has reason to believe that a State educational agency or State agency for higher education is failing to comply with the requirements of this title, the Secretary, or the Secretary of Labor in the case of a grievance or complaint filed by a labor organization, shall investigate the allegation within the complaint and determine, within

129 days after receiving the complaint, whether such allegation is true.

TITLE II—YOUTH SERVICE CORPS AMENDMENTS

SEC. 201. DEFINITION.

Section 4 of the Job Training Partnership Act (hereinafter in this title referred to as the "Act") is amended by adding the following at the end thereof:

"(30) The term 'youth service corps' means a program offering full-time, stipended productive work with visible community benefits in a natural resource or human service setting and giving participants a mix of work experience, basic and life skills education, training, and support services.".

SEC. 202. USE OF FUNDS.

Section 204 of the Job Training Partnership Act is amended by—

(1) redesignating paragraphs (27) and (28) as paragraphs (28) and (29), respectively; and

(2) adding the following new paragraph after paragraph (26):

"(27) full-time youth service corps programs,".

SEC. 203. TRAINING AND TECHNICAL ASSISTANCE.

(a) Section 455(a) of the Act is amended by—

(1) inserting "and youth service corps leaders" after "job skills teachers"; and

(2) inserting "and to youth service corps programs" after "migrant and seasonal farmworkers".

(b) Section 455(b) of the Act is amended by inserting ", including exemplary youth service corps programs," after "exemplary program experience".

(c) YOUTH SERVICE CORPS.—Part E of title IV of the Act is amended by adding the following new section at the end thereof:

"YOUTH SERVICE CORPS

"SEC. 466. The Secretary of Labor shall take appropriate steps to encourage States and local communities to use funds provided pursuant to this Act to establish or expand summer and year-round youth service corps."

(d) TECHNICAL AMENDMENT.—The table of contents of the Act is amended by adding after "Sec. 465. Job bank program." the following:

"Sec. 466. Youth service corps.".

(e) SUPPLEMENTATION.—The Secretary of Labor shall encourage States and local communities to supplement Federal assistance with non-Federal resources to allow summer and year-round youth service corps programs to include youth of all social and economic backgrounds.

TITLE III—NATIONAL RECOGNITION

SEC. 301. PRESIDENTIAL AWARDS FOR SERVICE.

(a) PRESIDENTIAL AWARDS.—(1) The President is authorized to make Presidential Awards for service to individuals demonstrating outstanding community service and to outstanding service programs.

(2) The President is authorized to make 1 individual and 1 program award in each Congressional district, and 1 statewide program award in each State. The President shall consult with the Governor of each State in the selection of individuals and programs for Presidential Awards. Individuals receiving awards need not be participants in programs assisted under this Act.

(b) INFORMATION.—The President shall ensure that information concerning individuals and programs receiving awards is widely disseminated.

SEC. 302. CONGRESSIONAL AWARDS FOR SERVICE.

(a) IN GENERAL.—The Secretary and the Director of the ACTION Agency shall publicize the Congressional Award program authorized under the Congressional Award Act.

(b) ELIGIBILITY AMENDMENT. Section 3(a) of the Congressional Award Act is amended by striking "aged fourteen through twenty-three" and inserting "through age twenty-four".

TITLE IV—MANDATE FOR A COMPREHENSIVE FEDERAL SERVICE STRATEGY

SEC. 401. COMPREHENSIVE SERVICE STRATEGY.

The President shall design a comprehensive Federal service strategy. Such strategy shall include—

(1) the review of existing programs to identify and expand opportunities for service, especially by students and out-of-school youth;

(2) the designation of a senior official in each Federal agency who will be responsible for developing youth service opportunities in existing programs nationwide;

(3) establishment of service projects in each Federal agency;

(4) encouraging Federal employees to participate in service projects;

(5) designation of an executive branch official to coordinate the Federal service strategy; and

(6) annual recognition of outstanding service programs by a Federal agency.

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NATIONAL EDUCATION ASSOCIATION,
*Washington, DC, February 17, 1989.*

Hon. EDWARD M. KENNEDY,
*Chairman, Senate Labor and Human Resources Committee, 632 Hart Senate Office Building, Washington, DC.*

DEAR CHAIRMAN KENNEDY: I am writing to express the strong support of the National Education Association for your new initiative, "Serve America: the National Youth Service Act."

NEA has long recognized both the importance of appropriate volunteer efforts to society and the value of service experiences for our nation's youth. The legislation which you propose would rightly provide federal assistance for the creation of opportunities for our nation's youth to provide meaningful service to their communities while simultaneously gaining a valuable educational experience.

Your proposed bill correctly targets local schools as a key element of youth service initiatives at the local level. As you are no doubt aware, many local schools and communities have already undertaken youth service projects of their own. These efforts deserve the recognition and support that the Youth Service Act will provide. The inclusion of provisions for an age-appropriate learning component to allow students to achieve maximum benefit from their service experiences is also something NEA strongly endorses. In addition, your recognition of the need for training for both service supervisors and the young people providing service is insightful and will facilitate the implementation of local programs.

We applaud your leadership in addressing this critical area of need. NEA will be providing you and other Members of the Labor and Human Resources Committee with a more detailed analysis as the Committee proceeds with hearings on the bill.

As always, if I can be of any further assistance to you, please do not hesitate to contact me.

Sincerely,

KENNETH F. MELLEY,
*Director of Government Relations.*

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[From the American Federation of State, County and Municipal Employees, AFL-CIO, Washington, DC, Feb. 17, 1989]

AFSCME SUPPORTS STUDENT COMMUNITY SERVICE

Gerald W. McEntee, president of the 1.1 million-member American Federation of State, County and Municipal Employees, expressed his support for the concept of student community service announced today by Senator Edward Kennedy (D-MA) and Congressman Major Owens (D-NY).

"It is time," McEntee said, "to turn away from the self-centeredness of the last decade and instead to nurture the values of generosity and responsibility toward our neighbors and community. Through programs like voluntary student community service, we can encourage young people to discover the satisfaction of helping others and in so doing increases their self-esteem and sense of control over their lives."

In particular, McEntee praised the proposal's focus on schoolbased programs, its mandate for an educational component, and its emphasis on student involvement in the development of projects. "Early intervention through programs like this can help young people resist the temptation of drugs and crime as an escape from the hopelessness of poverty in the inner cities or the boredom and isolation of the suburbs," McEntee said. "By designing the federal program as a catalyst for local programs operated by educational institutions, Senator Kennedy and Congressman Owens have found a way to stimulate local programs, without increasing pressure on the federal budget."

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COUNCIL OF CHIEF STATE SCHOOL OFFICERS,
*Washington, DC, February 17, 1989.*

Hon. EDWARD M. KENNEDY,
*Chairman, Senate Labor and Human Resources Committee, Washington, DC.*

DEAR SENATOR KENNEDY: The Council of Chief State School Officers applauds your initiative for federal support of programs which enable young people to serve their communities. We support "SERVE AMERICA: The National Youth Service Act of 1989."

Title I of your proposal promotes a close relation between education and community service. It incorporates the key principles our Council recommends for youth service legislation and will increase the numbers of elementary, secondary, and postsecondary students who participate in community service programs.

The proposal provides that school- and campus-based community service programs are to be connected closely to the student's academic study and the concept of service integrated into the curricula. It provides for efficient and effective administration of this program through state plans and state education agencies.

Our Council supports the four major parts of your proposed bill. We look forward to continuing our work with you and your colleagues toward enactment of this important legislation.

Sincerely,

GORDON M. AMBACH.

YOUTH SERVICE AMERICA,
*Washington, DC.*

Senator EDWARD M. KENNEDY,
*Room 315, Russell Senate Office Building, Washington, DC.*

DEAR SENATOR KENNEDY: We applaud and welcome the introduction of your bill, Students Engaged in Reviving Voluntary Efforts (SERVE). Youth Service America has worked for many years to insure that youth service legislation should:

Ensure that young people from all segments of our society participate, with the goal of expanding young people's opportunities to serve until the ethic of service becomes a regular part of growing up in America.

Promote and encourage a wide diversity of program models, including school- and campus-based programs, kindergarten through college, as well as programs for young people who do not go on to college.

Build on the established base of workable program models (rather than creating a cumbersome and costly administrative structure) so that increasing numbers of young Americans are involved in community service from childhood to adulthood, generation after generation.

Ensure that substantive work is accomplished and that these accomplishments are reported to the public—including conservation, housing rehabilitation, and such human services as education/tutoring, literacy, daycare, and maintaining the quality of life for our elderly citizens.

Encourage innovation, creativity, and long-term sustainability of youth service, and utilize funds to leverage more public/private support—including state and local support—for youth service.

Recognize that good programs require training and reflection for both supervisors and students, and that service requires a sustained commitment, at least several hours a week and/or fulltime during the summer.

Your bill embodies all these principles of proven value and recognizes that service is an important component of learning. We in the youth service movement congratulate you.

Sincerely yours,

FRANK SLOBIG,
*Codirector, Youth Service America.*

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[From the National Association of Service & Conservation Corps, Washington, DC, Feb. 21, 1989]

SENATOR KENNEDY'S PROPOSAL FOR YOUTH SERVICE WELCOMED BY NATIONAL ORGANIZATION

The National Association of Service and Conservation Corps (NASCC) today announced support for Senator Ted Kennedy's new national youth service initiative, "Serve America".

"NASCC applauds Senator Kennedy for offering a legislative proposal that will provide service opportunities to a wide variety of America's children and youth," said Margaret Rosenberry, Executive Director of the Association. "School-based programs and other project designs are important components of a national youth service system. It is time that they have a federal partner."

Serve America offers community service, volunteer, and youth development opportunities for children, other students, and their young people, some of whom may be economically or educationally disadvantaged. Senator Kennedy's proposal also provides for training and technical assistance to states, schools, and community groups that want to establish youth service programs.

"Too often we view young people as clients of our social service system and not as resources," said Ms. Rosenberry. "They have much to give, and the federal government has a role to play in providing them with opportunities to serve."

NASCC is a national, non-profit membership organization for youth conservation and service corps programs and program supporters. Headquartered in Washington, D.C., NASCC provides information, training, and other technical services to its members and to federal, state, and local officials and organizations.

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NATIONAL CRIME PREVENTION COUNCIL,
*Washington, DC, February 20, 1989.*

Senator EDWARD M. KENNEDY,
*Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.*

DEAR SENATOR KENNEDY: We are delighted that you will soon introduce legislation to create "Serve America," a school- and college-based program using the talents of our young people as resources to address pressing community problems.

As you know, the National Crime Prevention Council has been active in developing and promoting the youth as resources ethic in community-building endeavors. The Lilly Endowment has sponsored one of our major efforts, teen-led projects which confront some of our most vexing social issues—teen pregnancy, drug abuse, hunger, poor housing, illiteracy and more. Our Teens, Crime and the Community Initiative challenges teens in more than 300 secondary schools in 20 major cities to make their schools and communities safer and better.

By taking active, responsible roles in such service, young people not only solve community problems but develop their own sense of self-worth and stake in the community's future.

Our just-published book, "Reaching Out: School-Based Community Service Programs," capsulizes the many lessons we've learned from those who have pioneered these programs at the local level. It is a worthy companion to our two prior books in this field—"Making A Difference" and "Teens, Crime and the Community."

We look forward to working with you in bringing the skills of our young people to bear on pressing local needs throughout our nation.

Sincerely,

JOHN A. CALHOUN,
*Executive Director.*

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[From People For the American Way Action Fund, Washington, DC, Feb. 21, 1989]

PEOPLE FOR THE AMERICAN WAY ACTION FUND ENDORSES KENNEDY STUDENT COMMUNITY SERVICE PROPOSAL

People For the American Way Action Fund, a 275,000 member nonpartisan citizens organization dedicated to promoting democratic values, enthusiastically endorses legislation introduced by Senator Edward Kennedy to support and promote student community service. We believe that this vital legislation recognizes a serious national need.

Those who are involved in community service know their participation can make a difference to them and to those they serve. Evidence is abundant, however, that today's youth feel less a part of the community than previous generations. This has been documented in a number of studies, including a recent report by the Carnegie Foundation for the Advancement of Teaching. In 1988, People For the American Way commissioned a series of youth "focus groups"—small group discussions with a cross section of youth between the ages of 18 and 24. These young Americans offered uninformed, hollow definitions of what it means to be a "good citizen." In their view, good citizenship was confined to not breaking the laws. There was no recognition that citizens not only have rights, but also responsibilities; not only benefits, but also obligations. Their definition of citizenship did not reflect an understanding of community and the many ways in which individuals can serve and enrich community life.

The habits of good citizenship must be fostered in the early grades and continue through adolescence and beyond. The civics lessons taught in our schools need to be understood and realized through citizen action in the community. Sen. Kennedy's bill recognizes both these principles. It targets children in kindergarten through college, and it recognizes the need to integrate community service with the school experience.

Many laudable "service" proposals aimed primarily at college-age youth already have been introduced in this Congress. Existing programs such as the Peace Corps and VISTA deserve increased support. Sen. Kennedy's Student Service approach fills another, perhaps even more basic need: the need to help younger Americans experience and benefit from service to others. If the communitarian spirit that is essential to a democracy is to be revitalized, it must be translated into programs that will provide today's young Americans the opportunity to learn the worth of helping others. At its core, community service is what good citizenship is all about.

Passage of this legislation is a priority for People For the American Way Action Fund. We believe that it deserves the bipartisan support of the Congress and of all Americans.

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THE COUNCIL OF THE GREAT CITY SCHOOLS,
*Washington, DC, February 20, 1989.*

Hon. EDWARD KENNEDY,
*Committee on Labor and Human Resources, U.S. Senate, Washington, DC.*

DEAR SENATOR KENNEDY: On behalf of the Council of the Great City Schools, a coalition of the nation's largest urban public school systems, I would like to express our enthusiasm and support for your new "Youth Community Service Program" proposal. This legislation, in both concept and form, is badly needed to encourage state and local volunteerism among our young people.

A recent survey of big city school systems conducted by the St. Paul Public Schools showed that many are in the first throes of doing exactly what your bill would provide resources for. Urban school systems are attempting to develop local programs that will encourage their own students to volunteer in the community, and for the community to volunteer in the schools. The Dade County Public Schools and others even have plans to require such service of students as part of their educational growth. One of the important aspects of your bill is that it would encourage such local efforts, provide the resources to expand them, and provide others with information on how such efforts can work.

We are also pleased to see that your proposal does not tie other educational aid or benefits to such service. To do so would be punative, we believe. Rather, your bill would encourage local collaboration in program planning and operation, and would emphasize learning, training and sustained commitment—all essential ingredients to successful programs of this type.

As the measure moves through the legislative process, we would be pleased to testify on its behalf, offer additional ideas, and to assist in its progress. Thank you for seeking our suggestions and support for your bill. If we can be of assistance to you, please do not hesitate to call on us.

Sincerely,

MICHAEL CASSERLY,
*Associate Director.*

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THE INSTITUTE FOR EDUCATIONAL LEADERSHIP, INC.,
*Washington, DC, February 17, 1989.*

DEAR SENATOR KENNEDY: Young people become leaders through the experience of leadership. But only through the experience of service to others will tomorrow's leaders be equipped as citizens in a kinder and gentler society.

The youngest schoolchild's every instinct is to help others—not only to show how much he or she knows—but also out of genuine concern for the other's well-being. While sports, social groups, and academic activities provide young people with valuable avenues to excellence, they do little to tap young people's natural idealism and to fuel their belief in their own ability to make the world a better place. If college freshmen today—the young men and women who will lead our corporations, write and implement our laws, and raise the next century's children—show more interest in becoming "well-off financially" than in participating in the civic life of their communities, their comments only reflect a society that too narrowly defines success and provides young people with few opportunities to know the rewards of contribution and service.

Young people need more chances to be all that they can be. Senator Kennedy's youth service proposals will put those opportunities where they belong—in schools and community-based organizations—where young people can work with adults to shape programs that meet local needs. Whether planting flowers in a community garden, recycling bottles or newspapers, peer tutoring, running a visiting service for shut-ins, delivering meals to the elderly or in countless other acts of service and mutual responsibility, the Senator's service proposal can build stronger neighborhoods, better neighbors, healthier cities, and good citizens. America needs them all, and youth service is one effective way to achieve them all.

MICHAEL D. USDAN,
*President.*

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CAMPUS COMPACT,
*Providence, RI, February 18, 1989.*

Senator EDWARD KENNEDY,
*Chairman, Senate Committee on Labor and Human Resources, U.S. Senate, Washington, DC.*

DEAR SENATOR KENNEDY: I would like to endorse in principle the bill, Serve America, that you are planning to introduce in the Senate in support of youth community service. The bill will help to provide the necessary resources to school and campus based community service programs to support well designed and responsible programs that encourage student to serve their communities.

The Campus Compact is a national coalition of 150 college and university presidents established to create public service opportunities for their students and to develop an expectation of service as an integral part of students' undergradute education. The Campus Compact is a project of the Education Commission of the States. The coalition represents the full spectrum of higher education institutions in the United States—large public research institutions, community colleges, small private colleges. The efforts of the Compact staff are directed at assisting the campuses to build effective programs to engage students in working with their communities to meet critical human needs. In the four years that the Compact has been organized, we have witnessed a remarkable response on the part of college students to the call to service. I believe that the time is right to ask students to become part of the solution to the problems of their communities. Their energy, talents and commitment is needed in communities all across the United States.

I especially commend you for the important emphasis that your bill places on the educational value of service. As schools and colleges, we must find ways of linking the powerful learning that results through community service with classroom learning. The financial resources made available through your legislation will be essential to creating programs, training faculty and staff, and involving community learders in that process.

Sincerely,

SUSAN STROUD,
*Director.*

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THE WILLIAM T. GRANT FOUNDATION, COMMISSION ON WORK, FAMILY AND CITIZENSHIP,
*Washington, DC.*

YOUTH AND AMERICA'S FUTURE

DEAR SENATOR KENNEDY: In its two-year study of America's 16-24-year-olds, Youth and America's Future: The William T. Grant Foundation, Commission on Work, Family and Citizenship concluded that a major unmet need of many young Americans is for more rewarding association with adults and participation in activities valued by adults. Youth service is a particularly effective way to connect young people to the real world, to activities that adults care about. Any time any of us do something that others, whose approval we seek, think is important, we are likely to do it again and again. It is from this crucible of learning—good citizenship by doing good citizenship—that the next generation can prepare itself for the large challenges that face us.

While a central value of youth is its rile in citizenship education, there are many other reasons to support youth service activities—school and campus-based, as well as full-time year-around and intensive summer programs. Great numbers of our youth have idealism and energy. The efforts of tens of millions of young people—tutoring, working with older people, working to clean up the environment, feeding the hungry, rehabilitating housing for the homeless—can make an important and measurable difference. The nation's needs are great, but the talents embodied in our youth are nearly endless. We must mobilize and tap those boundless resources.

Community service, we also believe, is one of the most effective ways known to bridge the economic, social, racial, ethnic, and other social divisions that still plague our society. At its best, service brings together youth of all backgrounds in the pursuit of solutions to common problems.

Finally, youth service helps equip young people to be productive workers. Every genuine employability skill that is a priority for most employees—punctuality, teamwork, discipline, following directions, accepting responsibility—is present in any decent youth community service assignment. Service complements the lessons of school and paid employment as an invaluable way to help our youth grow in competence and self-esteem.

We applaud your youth service initiative and the strong national leadership it provides for the significant expansion of locally-designed and operated youth service programs.

HAROLD HOWE, II, *Chairperson.*

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CONSTITUTION RIGHTS FOUNDATION,
*Los Angeles, CA, February 17, 1989.*

Senator EDWARD M. KENNEDY,
*Chairman, Senate Committee on Labor & Human Resources, Senate Russell Office Building, Washington, DC.*

DEAR SENATOR KENNEDY: The Constitutional Rights Foundation operates one of the largest school-based youth community service programs in the United States. Our program is active in 22 schools throughout Los Angeles and involves over 20,000 students annually in service projects. We believe this program helps participants develop strong positive attitudes toward voluntary service, as well as the skills needed to become effective citizens.

As a community-based organization, we are delighted to hear of the legislation you are planning to introduce to provide financial incentives to help underwrite the development of school-based service programs. Financial support of the type you propose will be of great assistance in stimulating the growth of this important initiative.

We stand ready to assist you in any way possible as you work toward this important goal.

Sincerely,

TODD CLARK,
*Education Director.*

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THE NATIONAL ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS,
*Reston, VA, February 17, 1989.*

Hon. EDWARD M. KENNEDY,
*U.S. Senate, Washington, DC.*

DEAR SENATOR KENNEDY: The National Association of Secondary School Principals applauds your leadership in proposing a voluntary national youth service initiative. The NASSP, representing more than 41,000 secondary school principals, has long believed that youth providing service to their communities, develop a life long ethic of a civic obligation, gain in valuable work and life experience, build their self esteem, expand their interests, compliment their academic experience with practical experience, and grow in their belief that they have genuinely contributed to the life in their communities.

For decades, service has been recognized as an integral part of scholarship. In fact, The National Honor Society, adopted in 1921 and sponsored by NASSP, has long identified school and community service as a major requirement for eligibility in the society, along with character and leadership qualities.

National leadership and resources are needed to establish such opportunities for our youth. Unmet needs exist in every community in the nation. Whether youth participate in peer tutoring, assisting handi-

capped or the elderly, working in a local day care center, working on a local soil or water conservation project, or assisting local authorities in a park beautification project, both the community and its youth are beneficiaries.

Many schools already integrate their curriculum with out-of-school activities, because educators know that youth gain important problem solving skills, develop a sense of responsibility, and learn to work cooperatively with others, ultimately applying their academic experiences to their life experience.

We at NASSP pledge our help in your effort to give youth in every locality the opportunity to contribute and become productive citizens within their community.

Sincerely yours,

SCOTT THOMPSON,
*Executive Director.*

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AMERICAN FEDERATION OF TEACHERS, AFL-CIO,
*Washington, DC, February 21, 1989.*

Hon. EDWARD M. KENNEDY,
*Chairman, Committee on Labor and Human Resources, U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: We are pleased to learn that you will soon introduce legislation to encourage the development of voluntary service programs for our country's youth. We understand that your bill will emphasize school and college-based initiatives.

The AFT believes that voluntary youth service programs foster a sense of community, helps establish an attitude of civic responsibility and provides youth with valuable work or service experience. Such programs also provide youth with an opportunity to contribute to the common welfare and to receive recognition for their efforts.

The AFT looks forward to working with you and the other members of the Senate to enact a Youth Service Bill.

Sincerely,

GREGORY A. HUMPHREY,
*Director of Legislation.*

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STATE HIGHER EDUCATION EXECUTIVE OFFICERS,
*Denver, CO, February 20, 1989.*

Hon. EDWARD M. KENNEDY,
*Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.*

DEAR MR. KENNEDY: Last Thursday, the Committee's Chief Advisor for Education, Terry Hartle, briefed the members of the SHEEO Federal Relations Committee on the outlines of your proposed National Youth Service Act of 1989. Due to the fact that we did not have a draft of the proposed legislation during our meeting, our members were unable to take a formal position on it. Therefore, while I am writing as chair of the SHEEO Federal Relations Comittee, this letter only reflects my personal views. I believe, however, that most if not all of my fellow state higher education executive officers would subscribe to the thoughts set forth in this letter.

SHEEO has long endorsed the concept of student involvement in community service. Indeed, as you are doubtless aware from your knowledge of Massachusetts and elsewhere, many States have established service learning programs to encourage just such involvement. We therefore applaud your efforts to sponsor legislation that would provide additional resources to increase opportunities for our young people to participate in such programs. We are particularly pleased that the proposal acknowledges the critical role of the States in the effective development and implementation of community service efforts, and that it likewise recognizes the importance of forging partnerships among all levels of education, from primary school through college, to accomplish these goals.

I believe I am speaking for all my colleagues in saying that we look forward to continuing to work with you and all those who are supporting new approaches to the concept of community service.

Sincerely,

GARY S. COX,
*Chair, Federal Relations Committee.*

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THE COLLEGE BOARD,
*Washington, DC, February 17, 1989.*

Hon. EDWARD M. KENNEDY,
*Russell Senate Office Building, U.S. Senate, Washington, DC.*

DEAR SENATOR KENNEDY: Providing increased opportunities for American citizens to render service to the nation and their communities is clearly an important item on the agenda of the 101st Congress.

I support and commend your legislative initiative that will focus particular attention on service opportunities incorporating a learning component for students from kindergarten through college. Service should be an integral part of every young person's education and the College Board looks forward to working with you and other Members of Congress to develop legislation that will advance this objective.

Thank you for your endeavors in support of American education and citizen service to the country.

Sincerely,

LAWRENCE E. GLADIEUX,
*Executive Director.*

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UNIVERSITY OF NOTRE DAME,
*Notre Dame, IN, February 17, 1989.*

NICK LITTLEFIELD,
*Staff Director, Senate Committee on Labor and Human Resources.*

I would like to support strongly Senator Edward Kennedy's initiative in backing the most creative idea in America today, voluntary service. Senator Kennedy is right on target when he plans to support voluntary service at the earliest possible age. When young Americans serve, they will also serve for the rest of their lives. I am proud of the fact that almost half of our undergraduate students give several hours a week in voluntary service to the less fortunate. This creates great hope for the future of America.

(Rev.) THEODORE M. HESBURGH,
C.S.C., *President Emeritus, University of Notre Dame.*

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PROJECT SERVICE LEADERSHIP,
*Seattle, WA.,*

Senator EDWARD KENNEDY,
*Chairman, Labor and Human Resources Committee, 315 Russell Building, Washington, DC.*

DEAR SENATOR KENNEDY, I strongly support SERVE AMERICA: The National Youth Service Act of 1989. As a classroom teacher, as a coordinator of service projects, and currently as director of Project Service Leadership, I have seen firsthand the benefit of school-based service projects.

As a teacher in an inner-city eighth grade classroom, I have seen a student who could not read above the second grade reading level suddenly develop a strong commitment to reading and an improved sense of himself when he helped second graders learn to read. To his "students" he became "Mr. Jones, the teacher", and he began to live up to this new image of himself. This same student increased his reading level by four grade levels in one year. I know that much of his success came because he felt valued for the first time.

As a teacher in an affluent private school, I saw adolescents develop a greater compassion for the needs of their society. Students who provided meals for shut-ins discovered that they were frequently the only visitors that these shut-ins received. The students then began to question how could this happen in our society and how could they prevent the problem.

As a social studies teacher, I have seen hunger become more than an article in the newspaper as a student raised $3,000 to help Cambodian relief. I still remember the tears in one student's eyes as she shared with her classmates the fact that her contribution had helped provide food for over 215 children.

As director of Project Service Learning, I am currently working schools and communities throughout Washington State which are committed to infusing service into their curriculum. Schools participating in the project are interested in enabling students to be of service to their peers, to their schools, and to their communities. One of the districts, Tacoma School District plans to require all students to be involved in community contribution in a way that links that contribution with classroom curriculum, insuring that all students have the opportunity to experience the joy of being needed.

These are just a few of many possibilities that your legislation can support. The benefits of community service are extensive.

Students who frequently feel needy can know for the first time that they are also needed.

School learning no longer is an abstraction but to enables them to make the community a better place address and engages students.

It develops compassion and empathy.

It develops a sense of civic virtue and responsibility.

It helps create channels by which at-risk youth can receive assistance from older students and peers.

It creates an important link to help students know that they are important members of their community.

Please let me know if there is any way I can be helpful to you and your efforts to promote an ethic of service within our communities.

Sincerely yours,

KATE MCPHERSON,
*Director, Project Service Leadership.*

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TUFTS UNIVERSITY,
CENTER FOR ENVIRONMENTAL MANAGEMENT,
*March 8, 1989.*

Senator KENNEDY,
*Senate Labor Committee, Washington, DC.*

DEAR SENATOR KENNEDY: At President Mayer's suggestion I am writing to support your legislative proposal to establish a student community service program. As faculty advisor to the Leonard Carmichael Society (LCS) I can tell you that it is a very welcome proposal which will enhance the efforts of existing student volunteering programs and encourage the development of other programs.

The LCS at Tufts is an all-student volunteer organization oriented toward communi-

ty service in Somerville and Medford where the Tufts undergraduate campus is located. Attached is the latest newsletter which describes LCS activities. LCS is very well respected inside the Tufts community and in the larger community because of its dedication to helping people and its policy of being apolitical.

LCS which is named after Leonard Carmichael, president of Tufts from 1938 to 1952, is growing in membership with over 400 students. Your proposal to foster community responsibility and encourage a commitment to community service is a welcome shot in the arm, since LCS has a goal of having every Tufts student do some community service volunteering to help the larger community which has made it possible for them to have the opportunity for higher education. Your proposal would allow LCS to get adult supervision, training programs for volunteers and to expand programs in the community. We have been trying to get funding for these functions with little success. The idea that we could achieve our goal through your legislation is very exciting.

As you know, volunteers started public education, boards of health, the women's suffrage movement, civil rights organizing and environmental protection, to name a few. We cannot hope to improve society and to care for the less advantaged if we do not encourage individual and collective action to assume our community responsibility.

I hope you will be successful in your efforts. I know that the LCS students join me in applauding your efforts and in pledging our support to assist you in getting the legislation passed. Thank you again for your efforts and for your past support of Tufts University.

Sincerely,

ANTHONY D. CORTESE, Sc.D.
*Director.*

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NATIONAL STUDENT SERVICE AND COLLEGE ADMISSION

The National Association of College Admission Counselors looks with favor upon proposals to encourage the youth of the country to engage in meaningful and necessary service to their communities and the nation. Indeed, most of our colleges and universities and many of our schools already have such programs. Some make such service a prerequisite to graduation.

The opportunities to serve are numerous and varied including work with charities; at hospitals; nursing homes, and hospices; in schools; to name a few.

Because of the growing number of new bills before Congress that propose to set up nationwide student service plans, NACAC outlines below criteria that we believe should be present in such legislation.

1. Present student aid programs should not be weakened to fund national service proposals. Funds should supplement and not supplant programs such as Pell Grants, Stafford Loans, and College Work-Study. Over the years, these and other programs have been the cornerstones on which students of ability but with limited means have gained entrance to higher education.

2. No one program can be right for all students. A variety of approaches such as service before, during, and upon completion of a course of study should be included. And, this should be an option, not a requirement for federal financial aid.

3. The issue of interrupting the educational continuum of young adults is one that has many educators concerned. Most vulnerable are the "at-risk learners." To require extensive service before enrollment means that many would never even begin postsecondary education. The distinct needs of the older, part time student should also be addressed in a flexible program because this group is a larger component of our student bodies each year.

4. For youth who are not strong academically and who enroll in a national service plan before they enter higher education, support programs such as tutoring and services such as academic and admission counseling are needed. This would ensure that these students are ready to take on the demands of higher education when they are accepted at the institution.

5. Whatever form the final program takes, a pilot program should be set up and operated for a sufficient number of years to fine tune it into an instrument that serves our country and the students who take part.

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MOUNT WACHUSETT COMMUNITY COLLEGE,
*Gardner, MA, February 24, 1989.*

Hon. EDWARD M. KENNEDY,
*Senator for Massachusetts, U.S. Senate, Washington, DC.*

DEAR SENATOR KENNEDY: I have read your proposal to expand the Student Community Service Program with great interest. It is well worth pursuing.

This proposal, if converted to legislation, will provide a known and workable strategy to help solve some of this nation's appalling social problems, e.g., homelessness, elderly care and substance abuse. The idea of using students for community service promotes a mutually beneficial effect to student and client. This inclusion of academic credit and an "age appropriate learning component" will ensure that significant student learning takes place and can be demonstrated. I especially like the notion of specifically including the participation of disadvantaged students. The mix of students with varied backgrounds is an important feature as well.

My concern is with the requirement that the program be institutionalized upon termination of a three-year award. Why should a good idea be threatened with extinction because the institution could not take over the funding? This is of particular concern in Massachusetts as we in public higher education face many fiscal uncertainties over the next three to five years.

Your initiative should be considered as a pilot project over the three-year time span with careful record-keeping required for later evaluation. Such a database of demonstrated effectiveness should go a long way to ensure continuity. If this legislation is passed, Mount Wachusett Community College will definitely be one of the first applicants.

Thank you for sharing this idea with us and allowing for our comments.

Sincerely,

DANIEL M. ASQUINO,
*President.*

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THE CHILDREN'S MUSEUM OF INDIANAPOLIS,
*Indianapolis, IN, Feb. 22, 1989.*

Hon. EDWARD M. KENNEDY,
*U.S. Senator, Russell Senate Office Building, Washington, DC.*

DEAR SENATOR KENNEDY: As the Executive Director of the largest youth museum in the world (1.6 million visitors in 1988), I hope that you will understand that cultural institutions play a vital role in enriching the lives of young people. Therefore, as a concept of a youth service corps develops into legislation, there should be provision to encourage youthful volunteer work in our cultural agencies.

For example, The Children's Museum of Indianapolis now has over 350 young people ages ten to seventeen volunteering in our activities. They run our Computer Center, maintain our live animal exhibits, act as demonstrators in our science displays as well as serve in a Youth Advisory Board to our adult Board of Trustees. There are, however, additional linkages which could be extremely important in the community. For example, young people could work with the elderly both at cultural institutions and in home settings to enrich their lives. In addition, young people could serve as a catalysts to be involved in issues relating to their future such as recycling and other environmental concerns. Young people could also serve as tutors for other youngsters who are at risk, or who are failing in our school systems, or have already dropped out.

The possibilities are extensive and the network already exists. Representatives of the American Association of Museums and/or directors from individual organizations throughout the country could serve as advisors to you as you and your staff develop legislation.

Again, I applaud the concept and stand ready to help in any way that we can.

Sincerely yours,

PETER V. STERLING,
*Executive Director.*

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THE ASSOCIATION OF URBAN UNIVERSITIES,
*Washington, DC, Mar. 3, 1989.*

Mr. TERRY HARTLE,
*Senate Committee on Labor and Human Resources, Washington, DC.*

DEAR TERRY: Thank you for the opportunity to examine the draft text of Senator Kennedy's youth service bill.

All in all, it seemed like a very elegant draft. Only one question occurs to me—and it runs so close to what I assume to be the heart of your bill that I don't seriously offer it as a drafting suggestion.

But the question continues to occur to me as I read not only your bill, but several of the others—why do so many of these bills focus specifically on a single, youthful age group? It would seem to me—and we may mention it in testimony, that the elimination of the age limitations would do very little to the underlying concept of the bill. I am not suggesting the Nunn approach of having people below 26 do the work, and old gaffers like me do the Administration. I think if anything, that is more of a cliche than having a youth (alone) service bill.

But I would hope that the Senator might contemplate opening the ranks of the service corps to people somewhat beyond the age given in the draft. To be sure, most of the over-25 students are already working, already involved in independent family life, and do not really need the opportunity to learn what work is about. But it would be nice, given the ⅓ or so of our college students who are over 25, if we could open these bills to their participation.

That's not exactly a nit-pick, but neither does it suggest a technical flaw in the bill as drafted. Obviously the bill as it is is intentionally focussed on youth. It does a good job based on that reasonable premise. Thanks again for the opportunity, and I hope we can participate early in the hearings.

Sincerely,

JIM HARRISON.

THOMAS JEFFERSON FORUM, INC.,
*Boston, MA, Feb. 17, 1989.*

Hon. EDWARD M. KENNEDY,
*U.S. Senate, Washington, DC.*

DEAR SENATOR KENNEDY: Your proposed legislation regarding students engaged in voluntary service offers great encouragement to all of us working in the student community service field.

We at the Thomas Jefferson Forum have been supporting high school-based community service programs for nearly three years, and we are currently involved with 23 high schools in the Greater Boston, Merrimack Valley and Worcester areas of our state. Our experience has shown that there is tremendous potential and enthusiasm in schools and among students for voluntary service in their communities. What is needed to realize this potential is some initial leadership, focus and structure to enable young people and adult volunteers to envision the first step and encourage continued participation. Your Bill is designed to do just this, in a way that will require comparatively little money compared to the significant volunteer service it will generate.

I believe it behooves all of us who are concerned with participation of youth in our society to support initiatives such as yours. I am delighted to do whatever I can to help.

Yours truly,

T.J. COOLIDGE, JR.,
*President, Thomas Jefferson Forum.*

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NATIONAL SCHOOL BOARDS ASSOCIATION,
*Alexandria, VA, Feb. 17, 1989.*

Hon. EDWARD M. KENNEDY,
*U.S. Senate, Washington, DC*

DEAR SENATOR KENNEDY: The National School Boards Association (NSBA), on behalf of the 96,000 local school board members across the country, supports the concept of a federal initiative to encourage youth service programs embodied in your proposed bill.

School board members know well how great are the unmet needs in their schools and communities for services and yet how limited are the resources of government and community programs to provide them. School board members also recognize the great potential for service that is present, though often untapped, among their students. Furthermore, increasing numbers of school districts are adopting youth service programs because of the invaluable educational experience they provide for the participants as well as the benefits for those assisted.

Your proposal to provide federal funds for quality youth service programs sponsored by public schools in collaboration with other government, educational, and community agencies promises to be a powerful catalyst for improving the social well-being of local communities and the nation at-large.

NSBA looks forward to working with you in the development and refinement of this bill. Thank you for your leadership in support of public education.

Sincerely,

LEONARD ROVINS,
*President.*

THOMAS A. SHANNON,
*Executive Director.*

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THE PUBLIC SCHOOLS OF SPRINGFIELD, MA,
*Feb. 17, 1989.*

Senator EDWARD KENNEDY,
*Senate Labor Committee, Washington, DC*

DEAR SENATOR KENNEDY: Based on the experiences we have had in the Springfield Public Schools, we wholeheartedly endorse the legislative proposal, "Students Engaged In Reviving Voluntary Efforts," that you are announcing on Tuesday, February 21st.

In 1987, at the urging of our former mayor, now Congressman Richard E. Neal, our school system initiated a community service learning program, kindergarten through grade twelve. The rationale for the program is that those children who become engaged in their community from an early age and follow in a continuum throughout their schooling will learn a sense of service, a greater sense of responsibility and the meaning of participation. In the elementary schools, community service learning can be integrated into the curriculum as a natural process. In the middle/junior high schools, students can thrive on the activities that community service provides as the culminating experience of a unit of study. In addition to serving the curriculum, community service learning provides the educational means to address adolescent idealism and development.

If, indeed, we are to make "service part of every young American's person agenda", as the New York Times suggested in an editorial on January 22, 1989, we should be working to create an environment for this to take place throughout a young person's education. The comprehensive approach that you are proposing will provide opportunities for our young people to contribute and encourage voluntarism to become part of the fabric of our society.

Sincerely,

EDWIN T. SHEA,
*Deputy Superintendent.*

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PARTNERS IN EDUCATION, INC.,
*Alexandria, VA, Feb. 17, 1989.*

Hon. EDWARD M. KENNEDY,
*U.S. Senate, Washington, DC*

DEAR SENATOR KENNEDY: The National Association of Partners in Education, the organization representing school volunteers and business-education partnerships across the Nation, strongly supports your youth community service initiative.

During the past several years, we have witnessed both the growth and value of local progams that involve young people in a variety of community service activities. Students working in senior citizen homes, tutoring peers or younger children in basic skills, serving the handicapped, and volunteering in countless other ways have contributed much to the vitality of their communities.

Our future depends on the active involvement and caring of the next generation. We are very pleased that your bill will help connect young people, nationwide, with their communities and show them—first hand—that volunteering and caring are a part of good citizenship. This initiative will help all of us, young and old together, build a strong America.

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THE CARNEGIE FOUNDATION FOR THE ADVANCEMENT OF TEACHING,
*Princeton, NJ, Feb. 20, 1989.*

Hon. EDWARD M. KENNEDY,
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: I have long supported youth service as an essential part of education, both at the school and college levels.

Students urgently need to connect learning and living, and in our report High School, we proposed that every student complete a community service requirement—a new "Carnegie" unit—to involve them in activities beyond the classroom. In our 1987 report College, we urge that undergraduates become engaged in the larger communities of which they are a part.

Community service will do much to help build, within the young people of the nation, a sense of common purpose. National leadership is now needed to help schools and colleges link this larger vision to academic goals.

Sincerely,

ERNEST L. BOYER,
*President.*

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ASSUMPTION COLLEGE,
*Worcester, MA, Mar. 8, 1989.*

Hon. EDWARD M. KENNEDY,
*Senate Office Building, Washington, DC.*

DEAR TED: Thank your for your recent letter regarding your proposal to encourage students to become more involved in community service activities. I appreciate the opportunity to comment on this proposal and to describe the community service programs that we have for the students of Assumption College.

I am very supportive of the intent of the various community service bills now before Congress but also concerned about the provisions of some of the legislation. From an educational standpoint, I find your proposal to be most encouraging because it offers students the opportunity to take part in the design and the delivery of service activities, favors programs that provide learning as well as service experiences, and requires the establishment of local advisory boards composed of educational and service agency representatives. Your proposal will also benefit students by supplementing rather than replacing the federal need-based aid programs that are necessary to maintain equal access to our colleges and universities.

Assumption College offers several opportunities for student involvement in community service. For several years now, our Office of Campus Ministry has sponsored a two-week summer program for students in San Ildefonso, Mexico. This program allows students to work with the impoverished families in the village, be totally immersed in a culture vastly different from their own and reflect upon the experience in a systematic, in-depth fashion. Campus Ministry sponsors a similar program for students to work with the homeless, handicapped and disadvantaged of West Phildelphia. *Communitas,* a very active student service group on campus, supervises a Big Brother/Big Sister program, organizes fund drives for the homeless and various charitable organizations, and works with the sick, the handicapped and the poor.

I hope I have been of some assistance in this matter.

With best wishes,

Sincerely,

JOSEPH H. HAGAN,
*President.*

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By Mr. DODD (for himself and Mr. HEINZ) (by request):

S. 651. A bill to amend the Trust Indenture Act of 1939; to the Committee on Banking, Housing, and Urban Affairs.

TRUST INDENTURE REFORM ACT

● Mr. DODD. Mr. President, the Trust Indenture Reform Act of 1989, which we are introducing today at the request of the Securities and Exchange Commission, is designed to

streamline and improve the disclosure requirements for the issuance of debt securities and enhance the protection of security holders. The legislation was first submitted to Congress by the SEC on November 17, 1987, and it was introduced at the request of the agency by Senators PROXMIRE and GARN on June 24 of last year. Subsequent to its introduction, there have been discussions involving the Commission, industry representatives, and congressional staff with respect to further changes in the proposal. We are introducing the bill today for the purpose of continuing discussions begun on this measure in the last Congress.

The Commission developed this legislation for the purpose of modernizing the Trust Indenture Act of 1939, which currently regulates the public issuance of debt securities and the relationships among security holders, the indenture trustee, and the obligor. Since the adoption of the current law, there have been significant changes in the markets, with respect to both the types of debt securities offered to the public and the techniques for their sale. As a result, the Commission has advised Congress that aspects of the act have become administratively or substantively obsolete.

The Commission has further stated that this legislation would modernize the law while continuing to mandate necessary protections for debtholders. For example, while current law requires that indentures set forth certain mandatory requirements, this legislation would make those requirements self-executing by law, those avoiding unnecessary "boilerplate" language in disclosure documents.

The legislation would also give the Commission greater exemptive authority in order to permit the Commission to adjust requirements to particular needs when their application would impose undue restrictions and would be unnecessary to serve the act's purposes of the law. The legislation would make further revisions in the conflict of interest provisions of current law, as well as revisions affecting the qualifications of foreign trustees.

Mr. President, I ask unanimous consent that a section-by-section analysis of the legislation be included in the RECORD at this point. I further ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

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

S. 651

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

SECTION 1. This Act may be cited as the "Trust Indenture Reform Act of 1989".

SEC. 2. Section 303(8) of the Trust Indenture Act of 1939 (15 U.S.C. 77ccc(8)) is amended by inserting "section 305 or" after "provided for in".

SEC. 3. Section 304 of the Trust Indenture Act of 1939 (15 U.S.C. 77ddd) is amended—

(1) by striking ", as heretofore amended," in subsection (a)(4)(A); and

(2) by striking subsection (d) and inserting in lieu thereof the following:

"(d) The Commission may, by rules or regulations upon its own motion, or by order on application by an interested person, exempt conditionally or unconditionally any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any one or more of the provisions of this title, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by this title. The Commission shall by rules and regulations determine the procedures under which an exemption under this subsection shall be granted, and may, in its sole discretion, decline to entertain any application for an order of exemption under this subsection.".

SEC. 4. Section 305(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77eee(b)) is amended—

(1) by striking "The" and inserting "(1) Except as may be permitted by paragraph (2) of this subsection, the";

(2) by redesignating paragraph (1) as subparagraph (A) and inserting "or" at the end thereof;

(3) by striking paragraph (2);

(4) by redesignating paragraph (3) as subparagraph (B); and

(5) by adding at the end thereof the following:

"(2) In the case of securities registered under the Securities Act of 1933, which securities shall not be sold until a date subsequent to the effective date of the registration statement relating to such securities, the Commission shall not be required to issue the order described in paragraph (1) if, prior to the sale of such securities, the obligor of such securities has filed an application for qualification for the indenture under which such securities shall be issued pursuant to such rules and regulations as the Commission may prescribe. The Commission shall issue an order prior to the effective date of such an application for qualification refusing to permit such application to become effective, if it finds that—

"(i) the security to which such application relates has not been or is not to be issued under an indenture; or

"(ii) any person designated as trustee under such indenture is not eligible to act as such under subsection (a) of section 310 or has any conflicting interest as defined in subsection (b) of section 310;

but no such order shall be issued except after notice and opportunity for hearing within the periods and in the manner required with respect to refusal orders pursuant to section 8(b) of the Securities Act of 1933. If and when the Commission deems that the objections on which such order was based have been met, the Commission shall enter an order rescinding such refusal order, and the application shall become effective at the time provided in section 8(a) of the Securities Act of 1933, or upon the date of such rescission, whichever shall be the later.".

SEC. 5. Paragraph (2) of section 309(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77iii(a)) is amended by inserting "section 305 or" after "pursuant to".

SEC. 6. Section 310(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77jjj(a)) is amended—

(1) by inserting at the end of paragraph (1) the following: "The Commission may, pursuant to such rules and regulations as it may prescribe, or by order on application, permit a corporation or other person organized and doing business under the laws of a foreign government to act as sole trustee under an indenture qualified or to be qualified pursuant to this title if—

"(A) such corporation or other person—

"(i) is authorized under such laws to exercise corporate trust powers; and

"(ii) is subject to supervision or examination by authority of such foreign government or a political subdivision thereof substantially equivalent to supervision or examination applicable to United States institutional trustees; and

"(B) under such laws, a United States institutional trustee is eligible to act as sole trustee under an indenture relating to securities sold within the jurisdiction of such foreign government.";

(2) by striking "The indenture to be qualified shall require that there" in paragraph (1) and inserting "There";

(3) by striking "The indenture to be qualified shall require that such" in paragraph (2) and inserting "Such";

(4) by striking "such indenture shall provide that" in paragraph (3); and

(5) by striking "the indenture to be qualified shall require that" from paragraph (4), and inserting "shall" after "the indenture trustee or trustees".

SEC. 7. Section 310(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77jjj(a)) is amended by adding at the end the following:

"(5) No obligor upon the indenture securities or person directly or indirectly controlling, controlled by, or under common control with such obligor shall serve as trustee upon such indenture securities.".

SEC. 8. Section 310(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77jjj(b)) is amended to read as follows:

"(b) DISQUALIFICATION OF TRUSTEE.—If any indenture trustee has or shall acquire any conflicting interest as hereinafter defined, (i) such trustee shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign, and the obligor upon the indenture securities shall take prompt steps to have a successor appointed in the manner provided in the indenture; (ii) in the event that such trustee fails to comply with the provisions of clause (i) of this subsection, such trustee shall, within 10 days after the expiration of such 90-day period, transmit notice of such failure to the indenture security holders in the manner and to the extent provided in subsection (c) of section 313; and (iii) subject to the provisions of subsection (e) of section 315, any security holder who has been a bona fide holder of indenture securities for at least 6 months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of such trustee, and the appointment of a successor, if such trustee fails, after written request therefor by such holder to comply with the provisions of clause (i) of this subsection.

"For the purposes of this subsection, an indenture trustee shall be deemed to have a conflicting interest if the indenture securities are in default (as such term is defined in such indenture, but exclusive of any

period of grace or requirement of notice) and—

"(1) such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of an obligor upon the indenture securities are outstanding or is trustee for more than one outstanding series of securities, as hereafter defined, under a single indenture of an obligor, unless (A) the indenture securities are collateral trust notes under which the only collateral consists of securities issued under such other indenture, or (B) such other indenture is a collateral trust indenture under which the only collateral consists of indenture securities, or (C) such obligor has no substantial unmortgaged assets and is engaged primarily in the business of owning, or of owning and developing or operating, real estate, and the indenture to be qualified and such other indenture are secured by wholly separate and distinct parcels of real estate: *Provided*, That the indenture to be qualified may contain a provision excluding from the operation of this paragraph other series under such indenture, another indenture or indentures under which other securities, or certificates of interest or participation in other securities, of such an obligor are outstanding, if (i) the indenture to be qualified and any such other indenture or indentures are wholly unsecured, and such other indenture or indentures are specifically described in the indenture to be qualified or are thereafter qualified under this title, unless the Commission shall have found and declared by order pursuant to subsection (b) of section 305 or subsection (c) of section 307 that differences exist between the provisions of the indenture to be qualified and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as such under one of such indentures, or (ii) the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under the indenture to be qualified and such other indenture or under more than one outstanding series under a single indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as such under one of such indentures or series;

"(2) such trustee or any of its directors or executive officers is an underwriter for an obligor upon the indenture securities;

"(3) such trustee directly or indirectly controls or is directly or indirectly controlled by or is under direct or indirect common control with an underwriter for an obligor upon the indenture securities;

"(4) such trustee or any of its directors or executive officers is a director, officer, partner, employee, appointee, or representative of an obligor upon the indenture securities, or of an underwriter (other than the trustee itself) for such an obligor who is currently engaged in the business of underwriting, except that (i) one individual may be a director and/or an executive officer of the trustee and a director and/or an executive officer of such obligor, but may not be at the same time an executive officer of both the trustee and of such obligor, (ii) if and so long as the number of directors of the trustee in office is more than 9, one additional individual may be a director and/or an executive officer of the trustee and a director of such obligor, and (iii) such trustee may be designated by any such obligor or by any underwriter for any such obligor, to act in the capacity of transfer agent, registrar, custodian, paying agent, fiscal agent, escrow agent, or depositary, or in any other similar capacity, or, subject to the provisions of paragraph (1) of this subsection, to act as trustee, whether under an indenture or otherwise;

"(5) 10 per centum or more of the voting securities of such trustee is beneficially owned either by an obligor upon the indenture securities or by any director, partner, or executive officer thereof, or 20 per centum or more of such voting securities is beneficially owned, collectively by any 2 or more of such persons; or 10 per centum or more of the voting securities of such trustee is beneficially owned either by an underwriter for any such obligor or by any director, partner, or executive officer thereof, or is beneficially owned, collectively, by any 2 or more such persons;

"(6) such trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined, (i) 5 per centum or more of the voting securities, or 10 per centum or more of any other class of security, or an obligor upon the indenture securities, not including indenture securities and securities issued under any other indenture under which such trustee is also trustee, or (ii) 10 per centum or more of any class of security of an underwriter for any such obligor;

"(7) such trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined, 5 per centum or more of the voting securities of any person who, to the knowledge of the trustee, owns 10 per centum or more of the voting securities of, or controls directly or indirectly or is under direct or indirect common control with, an obligor upon the indenture securities;

"(8) such trustee is the beneficial owner of, or holds as the collateral security for an obligation which is in default as hereinafter defined, 10 per centum or more of any class of security of any person who, to the knowledge of the trustee, 50 per centum or more of the voting securities of an obligor upon the indenture securities;

"(9) such trustee owns, on the date of default upon the indenture securities (as such term is defined in such indenture but exclusive of any period of grace or requirement of notice) or any anniversary of such default while such default upon the indenture securities remains outstanding, in the capacity of executor, administrator, testamentary or inter vivos trustee, guardian, committee or conservator, or in any other similar capacity, an aggregate of 25 per centum or more of the voting securities, or of any class of security, of any person, the beneficial ownership of a specified percentage of which would have constituted a conflicting interest under paragraphs (6), (7), or (8) of this paragraph. As to any such securities of which the indenture trustee acquired ownership through becoming executor, administrator or testamentary trustee of an estate which include them, the provisions of the preceding sentence shall not apply for a period of not more than 2 years from the date of such acquisition, to the extent that such securities included in such estate do not exceed 25 per centum of such voting securities or 25 per centum of any such class of security. Promptly after the dates of any such default upon the indenture securities and annually in each succeeding year that the indenture securities remain in default the trustee shall make a check of its holding of such securities in any of the above-mentioned capacities as of such dates. If the obligor upon the indenture securities fails to make payment in full of principal or interest under such indenture when and as the same becomes due and payable, and such failure continues for 30 days thereafter, the trustee shall make a prompt check of its holdings of such securities in any of the above-mentioned capacities as of the date of the expiration of such 30-day period, and after such date, notwithstanding the foregoing provisions of this paragraph, all such securities so held by the trustee, with sole or joint control over such securities vested in it, shall be considered as though beneficially owned by such trustee, for the purposes of paragraphs (6), (7), and (8); or

"(10) except under the circumstances described in paragraphs (1), (3), (4), (5) or (6) of section 311(b) of this title, the trustee shall be or shall become a creditor of the obligor.

"For purposes of this subsection and of section 316(a) of this title, the term 'series of securities' or 'series' means a series, class or group of securities issuable under an indenture pursuant to whose terms holders of one such series may vote to direct the indenture trustee, or otherwise take action pursuant to a vote of such holders, separately from holders of another such series: *Provided*, That 'series of securities' or 'series' shall not include any series of securities issuable under an indenture if all such series are wholly unsecured, unless the Commission shall have found and declared by order pursuant to subsection (b) of section 305 or subsection (c) of section 307 that differences exist between the series under the indenture which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting under one such series.

"The specification of percentages in paragraphs (5) through (9) shall not be construed as indicating that the ownership of such percentages of the securities of a person is or is not necessary or sufficient to constitute direct or indirect control for the purposes of subparagraph (3) or (7).

"For the purposes of paragraphs (6), (7), (8), and (9)—

"(A) the terms 'security' and 'securities' shall include only such securities as are generally known as corporate securities, but shall not include any note or other evidence of indebtedness issued to evidence an obligation to repay moneys lent to a person by one or more banks, trust companies, or banking firms, or any certificate of interest or participation in any such note or evidence of indebtedness;

"(B) an obligation shall be deemed to be in default when a default in payment of principal shall have continued for 30 days or more, and shall not have been cured; and

"(C) the indenture trustee shall not be deemed the owner or holder of (i) any security which it holds as collateral security (as trustee or otherwise) for any obligation which is not in default as above defined, or (ii) any security which it holds as collateral security under the indenture to be qualified, irrespective of any default thereunder, or (iii) any security which it holds as agent for collection, or as custodian, escrow agent or depositary, or in any similar representative capacity.

"For the purposes of this subsection, the term 'underwriter' when used with reference to an obligor upon the indenture securities means every person who, within 1 year prior to the time as of which the determination is made, was an underwriter of any security of such obligor outstanding at the time of the determination.

"Except in the case of a default in the payment of the principal of or interest on any indenture security, or in the payment of any sinking or purchase fund installment, the indenture trustee shall not be required to resign as provided by this subsection if such trustee shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that (A) the default under the indenture may be cured or waived during the period and under the procedures described in such application, and (B) a stay of the trustee's duty to resign will not be inconsistent with the interests of holders of the indenture securities.

"Any resignation of an indenture trustee shall become effective only upon the appointment of a successor trustee and such successors' acceptance of such an appointment.".

SEC. 9. Section 311(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77kkk(a)) is amended—

(1) by striking "the indenture to be qualified shall provide that";

(2) by striking "four" in all references to "four months" or "four months' " and inserting "3" in lieu thereof; and

(3) by adding the following at the end of the subsection:

"In any case commenced under the Bankruptcy Act of July 1, 1898, or any amendment thereto enacted prior to November 6, 1978, all references to periods of 3 months shall be deemed to be references to periods of 4 months.".

SEC. 10. Section 312 of the Trust Indenture Act of 1939 (15 U.S.C. 77lll) is amended—

(1) in subsection (a), by striking "The indenture to be qualified shall contain provisions requiring each obligor upon the indenture securities to" and inserting in lieu thereof "Each obligor upon indenture securities shall"; and

(2) in subsection (b), by striking "The indenture to be qualified shall also contain provisions requiring that, within" and inserting in lieu thereof "Within".

SEC. 11. Section 313(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77mmm(a)) is amended—

(1) by striking "The indenture to be qualified shall contain provisions requiring the indenture trustee to" and inserting in lieu thereof "The indenture trustee shall";

(2) by inserting "any of the following events which may have occurred within the previous 12 months; if no such event has occurred within such period no report need be filed;" after "a brief report with respect to";

(3) by inserting at the beginning of paragraphs (1), (3) and (4) "any change to"; and

(4) by striking from paragraph (1) ", or in lieu thereof, if to the best of its knowledge it has continued to be eligible and qualified under such section, a written statement to such effect".

SEC. 12. Section 313 of the Trust Indenture Act of 1939 (15 U.S.C. 77mmm) is amended—

(1) in subsection (b), by striking "The indenture to be qualified shall also contain provisions requiring the indenture trustee to" and inserting in lieu thereof "The indenture trustee shall"; and

(2) in subsection (c), by striking "The indenture to be qualified shall also provide that reports" and inserting in lieu thereof "Reports"; and

(3) in subsection (d), by striking "The indenture to be qualified shall also provide that a copy" and inserting in lieu thereof "A copy".

SEC. 13. Section 314 of the Trust Indenture Act of 1939 (15 U.S.C. 77nnn) is amended—

(1) in subsection (a)—

(A) by striking "The indenture to be qualified shall contain provisions requiring each" and inserting in lieu thereof "Each";

(B) by inserting "shall" after "thereby";

(C) by striking "to" at the beginning of paragraphs (1), (2), and (3);

(D) by striking "and" at the end of paragraph (2);

(E) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(F) by inserting at the end of paragraph (3) the following new paragraph:

"(4) file with the indenture trustee, at stated intervals of not more than 12 months, a brief certificate from two officers of such obligor as to their knowledge of such obligor's compliance with all conditions and covenants under the indenture. For purposes of this subsection, such compliance shall be determined without regard to any period of grace or requirement of notice provided under the indenture.";

(2) in subsection (b)—

(A) by striking "such indenture shall contain provisions requiring"; and

(B) by striking "to furnish" and inserting in lieu thereof "shall furnish";

(3) in subsection (c)—

(A) by striking "The indenture to be qualified shall contain provisions requiring the obligor" and inserting in lieu thereof "The obligor"; and

(B) by striking "to furnish" and inserting in lieu thereof "shall furnish";

(4) in subsection (d)—

(A) by striking "such indenture shall contain provisions" and inserting in lieu thereof "the obligor upon the indenture securities shall furnish to the indenture trustee a certificate or opinion of an engineer, appraiser, or other expert as to the fair value"; and

(B) by striking "requiring the obligor upon the indenture securities to furnish to the indenture trustee a certificate or opinion of an engineer, appraiser or other expert as to the fair value" from paragraphs (1), (2), and (3).

SEC. 14. Section 315 of the Trust Indenture Act of 1939 (15 U.S.C. 77ooo) is amended—

(1) in subsection (a), by striking "such indenture shall contain provisions requiring the indenture trustee to examine" and inserting in lieu thereof "the indenture trustee shall examine";

(2) in subsection (b), by striking "The indenture to be qualified shall contain provisions requiring the indenture trustee to" and inserting in lieu thereof "The indenture trustee shall"; and

(3) in subsection (c), by striking "The indenture to be qualified shall contain provisions requiring the indenture trustee to" and inserting in lieu thereof "The indenture trustee shall".

SEC. 15. Section 316 of the Trust Indenture Act of 1939 (15 U.S.C. 77ppp) is amended—

(1) in paragraphs (1) and (2) of subsection (a), by inserting "or of the series of securities" after "principal amount of the indenture securities";

(2) in subsection (b), by striking "The indenture to be qualified shall provide that, notwithstanding any other provision thereof," and inserting in lieu thereof "Notwithstanding any other provision thereof, the indenture shall provide that"; and

(3) by adding at the end the following new subsection:

"(c) The obligor upon any indenture qualified under this title may set a record date for purposes of determining the identity of indenture security holders entitled to vote or consent to any action by vote or consent authorized or permitted by subsection (a) of this section. Unless the indenture provides otherwise, such record date shall be the later of not more than 30 days prior to the first solicitation of such consent or the date of the most recent list of holders furnished to the trustee pursuant to section 312 of this title prior to such solicitation.".

SEC. 16. Section 317 of the Trust Indenture Act of 1939 (15 U.S.C. 77qqq) is amended—

(1) in subsection (a), by striking "to be qualified shall contain provisions" and inserting in lieu thereof "trustee shall be authorized";

(2) by striking "authorizing the indenture trustee" in paragraphs (1) and (2) of subsection (a); and

(3) in subsection (b), by striking "The indenture to be qualified shall provide that each" and inserting in lieu thereof "Each".

SEC. 17. Section 318 of the Trust Indenture Act of 1939 (15 U.S.C. 77rrr) is amended—

(1) by striking subsection (a) and inserting in lieu thereof the following:

"(a) If any provision of the indenture to be qualified limits, qualifies, or conflicts with the duties imposed by operation of subsection (c) of this section, the imposed duties shall control."; and

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

"(c) Those provisions of sections 310 through 317, inclusive, that impose duties upon any person are a part of and govern every qualified indenture, whether or not they are physically contained therein. Those provisions of sections 310 through 317, inclusive, that may be included at the option of the obligor are not a part of such an indenture unless they are specifically included.

"(d) The provisions of this title shall be deemed to apply to any indenture heretofore or hereafter qualified under this title.".

SEC. 18. Section 322(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77vvv(b)) is amended by inserting "or duty" after "any liability".

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SECTION-BY-SECTION ANALYSIS OF THE TRUST INDENTURE REFORM ACT OF 1989

*Section 1.* Section 1 contains the Act's title.

*Section 2.* The amendment adds a new reference to section 305 in paragraph (8) of section 303, a change necessitated by new procedures for qualification of indentures after the effective date of the related Securities Act registration statement.

*Section 3.* The Act extends the Commission's exemptive power through amendments to section 304(d), which in its present form is limited to exemptions by order for debt offerings of foreign persons. New section 304(d) permits the Commission to waive or modify the statutory requirements where their application would be unnecessary or inappropriate for the protection of inves-

tors. The Commission will be able to adapt the statutory requirements to particular situations and developing market conditions under standards that look to the statute's fundamental purposes. Changes in the types of debt securities, in the methods of public financing and in the character of relations between obligors and their financial intermediaries have produced situations where the exact demands of the law's requirements do not serve its own intent and are incompatible with reasonable business terms. Under present law, the Commission is unable to provide relief. General exemptive authority is a necessary complement to the self-executing inclusion of mandatory indenture terms effected through new section 318(c). Without such authority in the Commission, needless costs and restrictions may be imposed without corresponding public benefit.

The amendment allows the Commission to grant an exemption from any provisions to any person, security or transaction or any class or classes hereof. Exemptions may be granted in full or in part and with or without such conditions as the Commission may require. Both exemptive rules and orders are contemplated. The Commission will be required to adopt rules prescribing procedures for grants of exemption. Such rules would be designed to expedite the exemptive process without imposing undue burdens on the Commission. The new subsection also vests in the Commission discretion to decline to entertain any application for exemption, a decision that would not be subject to judicial review.

Section 3 also deletes a qualification from section 304(a)(4)(A) that misleadingly suggests a limitation on Trust Indenture Act exemptions related to enumerated exemptions from section 3(a) of the Securities Act.

*Sections 4 and 5.* These sections allow for qualification of indentures in registered debt offerings after the effectiveness of the Securities Act registration statement covering the offering. Under present law, effectiveness of qualification is coordinated with that of the registration statement, a procedure based on the premise that all indenture terms would be fixed at the time of the registration's effectiveness. While this premise conformed to the administrative and financial customs extant in 1939, it has become obsolete because of delayed or continuous offerings now permitted under Securities Act rule 415. The indentures used in such offerings frequently do not specify business terms with significance under the Trust Indenture Act until the actual sale of the securities at some date later than the effective date. Post-effective qualification may be appropriate in delayed offerings and in offerings where debt securities must be included on a registration statement but may never be issued, as is the case with preferred stock exchangable into debt at the issuer's election. Post-effective procedures also would be a useful mechanism in conjunction with section 304(d) applications for exemptive orders where variation from the Act's requirements would be appropriate.

*Section 6.* Section 6 gives the Commission the power to permit certain foreign persons to act as sole trustee under the indenture of a foreign obligor. The section will allow for trusteeships by business organizations that are not in corporate form, but are not natural persons.

The conditions for availability will be substantial equivalence of trust powers and regulation to the powers and regulation of institutional trustees in the United States, and reciprocal treatment of United States trustees. Trustees not meeting these standards would be required to seek permission to serve under amended section 304(d).

The Commission's authority under section 6 may be exercised by rule or order. Rulemaking authority will permit the Commission to exempt trustees of an entire jurisdiction upon a finding of comparability of trust powers and regulation of such jurisdiction's system and reciprocity.

*Section 7.* Section 7 relocates the proscription of an obligor's or its affiliate's serving as trustee under its own indenture. The change is necessitated by the amendment to section 310(b), generally making conflicts of interest irrelevant to a trustee's eligibility prior to default. An obligor should not serve as its own trustee under any circumstances.

*Section 8.* Significant changes to section 310(b) are effected by section 8. Most notably, the amendment will permit a trustee to serve under a qualified indenture so long as there is no default under the indenture. The technical conflicts currently described in section 310(b) furnish no incentive to a trustee to act against the interests of indenture security holders so long as no default exists. Prior to default, the indenture trustee's duties are ministerial, involving no substantial exercise of discretion on behalf of indenture security holders. In contrast, at the time of default, the indenture trustee is transformed into an active party representing the indenture security holders, so that insistence on strict standards of independence is ordinarily necessary.

"Default" for purposes of this amendment means default as defined within the indenture. Periods of grace and requirements of notice, however, must be disregarded for purpose of the conflicts standard in order to prevent avoidance of the disqualification standard through definitions in the indenture.

As further assurance of the trustee's independence after default, the amendment adds new paragraph (10) to section 310(b) to define creditor status as a proscribed conflict. Lending relationships between trustee banks and obligors are conventional and, prior to default, involve little possibility of prejudice to the interests of holders under an indenture. Although present law does not prohibit a trustee that lends to an obligor from serving under a qualified indenture at any time, such trustee almost invariably will resign after a material default, in acknowledgement of the conflict of interest that the lending relationship entails.

New section 310(b)(10) recognizes this reality. The amendment makes exceptions to the disqualification of creditors in the situations described in paragraphs (1), (3), (4), (5) and (6) of section 311. These exceptions generally allow for incidental creditor relations, such as debt acquired through the trustee's ownership of the obligor's debt securities or incurred through rented property, which ordinarily do not involve opportunity for material conflict with the interests of indenture security holders.

The amendment to section 310(b)(1) codifies an interpretative position concerning the possibility of conflict to a trustee serving under several series of a single indenture. Contemporary forms of indenture often allow for significant differences between separate series under a single indenture. The definition of series at the end of the subsection will generally confine application of the position to series with separate voting rights, and, consistent with section 310(b)(1)(i), will create no conflict between series that are wholly unsecured and rank *pari passu*.

Section 310(b) (2) and (3) are modified to delete reference to obligors. The prohibition of an obligor's acting as trustee on its own indenture is now covered by new section 310(a)(5), which applies before and after default. The definition of "underwriter" for 310(b) purposes has been changed to reduce the relevant period from three years to one year. Section 310(b)(9) is amended to relate the present check of holdings of the obligor's securities in other fiduciary capacities to the date of default and anniversaries thereof while the indenture securities remain in default.

A new provision has been added to the subsection to create a procedure under which the trustee's duty to resign may be stayed in certain cases. The mechanism is intended to prevent unnecessary resignation in the event of a curable technical default. The provision concerning effectiveness of trustee's resignations is relocated and modified to apply to all resignations, rather than compelled resignations, to prevent abandonment of a trusteeship in anticipation of an obligor's default.

The subsection has been changed to substitute direct statutory commands for the directives to include required provisions within the indenture. This conforms to the operation of new subsection 318(c). Statements such as "the indenture shall provide," which would suggest the necessity to include required terms in the text of qualified indentures, have been eliminated.

*Section 9.* In addition to the change to statutory commands, the amendment changes the period for preferential collections from four months to make the Trust Indenture Act consonant with the Bankruptcy Reform Act of 1978. The four-month period is preserved for actions commenced under prior law.

*Section 10.* Section 10 amends section 312 to impose duties by statutory command.

*Section 11 and 12.* The amendment eliminates the requirement for a trustee to report on its eligibility and other matters where no change in eligibility or other specified event has occurred. Present law requires the report annually. The change to statutory command is also made.

*Section 13.* In addition to the change to statutory commands, section 314 is amended to require an annual no-default certification from the obligor. Periods of grace and notice again will be disregarded for this purpose.

Section 314(d) is also amended to eliminate repetition.

*Section 14.* This makes the editorial change to section 315, imposing duties by statutory command.

*Section 15.* In addition to the editorial change, section 15 applies section 316's requirements on voting procedures to separately voting series covered by section 310(b)(1). New subsection (c) authorizes an obligor to set a record date for solicitations of votes or consents, a technical addition that will alleviate considerably administrative problems in the conduct of such solicitations. The reference to votes or consents permitted by section 316(a) is intended to exclude any inference that the record date procedure is available only when section 316(a) specifically describes the action under consideration. As a result, the record date procedure may be used for any vote, so long as the action is not forbidden by the statute.

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*Section 16.* This section makes the editorial change to section 317, consistent with section 14.

*Section 17.* Section 318(a) is amended editorially. New section 318(c) is the operative provision for self-executing inclusion of mandatory indenture terms. The new subsection will eliminate the necessity of reciting the required terms within qualified indentures. The second sentence is intended to make it clear that optional provisions permitted by sections 310 to 317 are not part of a qualified indenture unless actually included.

New section 318(d) makes the Act's benefits available to indentures qualified under existing procedures. Because of the terms of existing section 318(b), the Act will not prevent future indentures from prescribing higher standards of independence or conduct.

*Section 18.* The addition clarifies the status of prescribed indenture provisions as federal questions. Jurisdiction is concurrent in federal and state courts to preserve a plaintiff's right to select a forum.●

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By Mr. KENNEDY (for himself, Mr. PELL, Mr. MOYNIHAN, Mr. KERRY, Mr. SIMON, and Mr. BOSCHWITZ):

S. 652. A bill to revise the format of the Presidential report to Congress on voting practices in the United Nations; to the Committee on Foreign Relations.

UNITED NATIONS VOTING REPORT REVISIONS

Mr. KENNEDY. Mr. President, I send to the desk a bill on behalf of Senators PELL, MOYNIHAN, KERRY, SIMON, BOSCHWITZ, BIDEN, and myself to revise the format of the annual report to Congress on Voting Practices in the United Nations.

Congress originally intended the voting practices report to measure the extent to which other nations support U.S. policy at the United Nations. Over the years however, subsequent statutes have required the Department of State to use a flawed methodology to generate "voting coincidence" scores that focus only on U.N. rollcall votes, make no differentiation between proposals on topics important to the United States and ones of peripheral concern, ignore important U.N. decisions reached by consensus, and exclude abstentions and absences from consideration in the report.

It is not our intention to stack the deck in favor of the United Nations or to make it look better than it actually is. We simply seek to replace the present, flawed methodology with one that will enable the report to be unbiased, nonpartisan, and accurate. Our bill preserves the requirement that the President submit an annual report on voting practices at the United Nations. That requirement is entirely appropriate, what is needed is a report that provides reliable information to Congress.

Most of the provisions in this bill were first proposed during the Senate debate on this issue last July. At that time, the Senate was informed that the Department of State had already sought independent expert advice on this issue. Our bill benefits from that advice, as well as from an analysis of this legislation prepared by the State Department.

VOTING COINCIDENCE

One purpose of this bill is to eliminate the report's voting coincidence percentage scores, because they have no methodological validity. Many experts on U.N. voting, including former Permanent Representatives Jeane J. Kirkpatrick and Vernon A. Walters, and the current Representative Thomas R. Pickering have cautioned that these percentage scores are not a legitimate measure of foreign governments' support for U.S. policy in the United Nations.

Currently, the law requires the State Department to calculate "support" for U.S. policy in the United Nations by counting the number of times each nation voted the same way as the United States. While this technique measures one form of support, it excludes other important forms of support for U.S. policy, and it does not even reflect accurately whether one country supported or opposed U.S. policy more than another.

An example from last year's report which illustrates the failure of this methodology is a comparison of the scores of Japan and Australia. Japan received a score of 60 percent while Australia received only 52 percent. Anyone looking at this report would naturally assume that Japan voted the same way as the United States more often than Australia. Such an assumption would be wrong—Australia voted the same way as the United States 46 times while Japan did so 45 times. The higher percentage score for Japan reflects the fact that the methodology requires Australia and Japan be compared against a different pool of votes.

Each country's score is based on a different pool of votes. Another example of the absurdity of this is the case of Dominica. Dominica received a score of 100 percent in 1987—but that score is based on only two votes, the only two in which Dominica participated. This discrepancy is directly attributable to the flawed methodology. As Lincoln Bloomfield, professor of political science at MIT, told the State Department:

> The methodology used thus far is fatally flawed, and if applied by one of my students . . . would justify a failing grade. The only wonder is why it has been tolerated so long by those interested in a serious analysis of the situation.

CONSENSUS DECISIONS

The majority of General Assembly actions are taken by consensus—that is, without a vote. Because of the large number of such consensus decisions, the report, to the meaningful, must take account of them. The current report prevents Congress from learning about most of the General Assembly actions. As Charles Maynes, editor of Foreign Policy, whom the Department of State consulted on this issue, wrote:

> Clearly, the United States has an interest in encouraging the practice of consensus voting in the United Nations. . . . That being so, it seems counterproductive for our government to insist on putting out a voting analysis that deliberately ignores all . . . consensus [actions]. By our words and interest we should be indicating to the rest of the world how important we regard the tendency of the body to settle issues by consensus.

To avoid unnecessary difficulties over reporting consensus data in a quantitative manner, and to simplify the report, we propose that the U.S. Representative to the United Nations present a qualitative analysis of relevant actions taken by consensus.

ABSENCES AND ABSTENTIONS

Absences and abstentions are also important types of voting behavior in the United Nations. The law currently requires "voting coincidence" information to exclude absences and abstentions from the determination of the "voting coincidence" percentages. Since absences and abstentions often reflect a nation's political orientation on the issues, the report should contain information about these forms of voting behavior as well. Our proposal provides for the inclusion of these data in a sound, easy-to-understand form.

KEY ISSUES

The current law arbitrarily limits the number of key issues in the report to 10. Rather, the report should focus on all issues of special importance to the United States. This bill requires the report to include a list of all actions by the General Assembly that are of special importance to the United States and a comparison of each country with the United States on these issues. It also requires a brief description of each of these important issues, to assist Congress in understanding the U.S. position and why the issues were judged to be important.

IMPORTANCE OF ISSUES

Currently, the report, makes no distinction between votes on issues of special importance to the United States and all other votes. This leads to unfair assumptions about the degree to which other nations support U.S. policy in the United Nations.

Western Samoa is one victim of these methodological distortions. According to last year's report, Western Samoa voted the same as the United States only 23 percent of the time in 1987. Yet, even using the same flawed methodology, an entirely different picture emerges on issues of importance to the United States—Western Samoa

voted the same as the United States 69 percent of the time.

This legislation overcomes this problem by requiring two separate tables. One will provide continuity with the past by comparing overall voting practices of the United Nations. In addition to this country-by-country analysis, a second table will compare the voting of each country with the United States on issues of special importance to us.

The legislation also provides for a side-by-side comparison of voting on matters of special importance to the United States and overall voting practices. This will give Congress a clearer idea of support in the United Nations on matters of special importance to U.S. foreign policy.

SECURITY COUNCIL

The legislation requires the section of the report dealing with the Security Council to include a section in which the U.S. Representative provides a qualitative discussion of voting practices in the Council.

SUBMISSION DATE

Current law requires the President to submit the report not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation of materials on foreign assistance, whichever is earlier. This deadline is unrealistic, and it has never been met. Sometimes, the General Assembly has not even completed its session by that date. In fact, the current General Assembly did not do so until early this month. The legislation requires the report to be submitted not later than 90 days after the usual suspension of the U.N. General Assembly in December.

The bill also includes a provision requiring the report to contain information about the steps taken to keep our diplomatic missions informed about U.N. activities. This addition was proposed by Senator MOYNIHAN in light of his experience as U.S. Ambassador to India and Permanent Representative to the United Nations.

The recent session of the General Assembly has been extremely important to the United States. In light of U.N. initiatives in many regions of the world and the ongoing debate in this country about our role in the United Nations, it is imperative to have accurate information about its voting practices. The format outlined in this bill will allow us to receive a more complete, accurate, and nonpartisan analysis of U.N. actions, and I look forward to working with my colleagues to enact this measure into law at an early date, so that its provisions will be reflected in the report to be submitted next year.

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By Mr. GLENN (for himself, Mr. MCCAIN, and Mr. WARNER):

S. 653. A bill to amend title 37, United States Code, to revise and improve the aviator career incentive pay program, to extend for 3 years the aviator retention bonus program, and for other purposes; to the Committee on Armed Services.

AVIATION CAREER IMPROVEMENT ACT OF 1989

Mr. GLENN. Mr. President, I am introducing a bill today, which is cosponsored by my friend Senator JOHN MCCAIN, who is the ranking minority member on the Subcommittee on Manpower and Personnel of the Committee on Armed Services which I chair. The bill—the Aviator Career Improvement Act of 1989—addresses a very serious manpower problem that is growing in our military services. This problem is the declining rate of retention of experienced military pilots which has the near term potential of seriously impairing the combat readiness of our military aviation forces.

This is not an alarmist bill. The need is real and it is now. Last summer we talked about this and about the shortage of pilots, and the Navy told us that they were 1,100 pilots short. That was last summer. That means we had 1,100 pilot billets in the Navy not being filled. I do not think most Members of this body were aware of that shortage. That number has now grown to the latest figures we have as of yesterday to 1,500 Navy pilots short. The Air Force has a problem, but it is not quite that bad yet. It is going in that direction. They estimate they are about 250 pilots short right now. By 1994 they estimate they will be 2,500 pilots short. So this is not an alarmist bill. This is something that is happening right now and something which we absolutely have to address.

Mr. President, this problem was brought to the attention of the Subcommittee on Manpower and Personnel of the Committee on Armed Services last year. In the subcommittee hearings I chaired on manpower authorizations for fiscal year 1989, Department of Defense witnesses warned of a sharp drop in aviator retention rates—the most serious drop being in the jet pilot community. According to these witnesses, a threefold increase in demand for experienced aviators in the airlines over the past few years is largely responsible for the problem.

I guess when we went to deregulation on the airlines we had no way of really foreseeing or contemplating this problem. The requirement for pilots in the airlines is filled mostly by former military pilots. These pilots leave the military or are enticed out by the airlines at the end of their committed period of service often long after they get their wings.

In order to counteract the downward spiral of retention of experienced aviators, specifically in the Navy and the Air Force, the Department of Defense submitted a proposal as part of fiscal year 1989 defense authorization bill for an enhanced and expanded retention bonus for Navy and Air Force aviators.

The argument advanced by the Department of Defense for the expanded bonus was that the compensation offered by the airlines was so attractive compared to military compensation that the military could not compete effectively with the airlines in the tug-of-war for experienced military aviators who have completed their military service obligations, especially since the increased demand for aviators in the airlines offered so many choices. The Department of Defense believed that by supplementing military compensation with a retention bonus that the Navy and Air Force could begin to reverse the falling aviator retention trend.

At the time the Department of Defense submitted its proposal, the Navy already had authority to pay an aviator retention bonus. This authority, which was limited to the Navy, was first authorized in 1980 because of poor aviator retention in the Navy. The bonus supplemented aviation career incentive pay, a monthly payment of up to $400 per month, to aviators in all services. The bonus was targeted to critical aviation specialties where shortages existed due to substandard retention rates. Bonus payments under this authority were $4,000 per year for annual extensions of service of 3 years or less, and $6,000 per year for annual extensions of 7 years of more. Testimony from the Navy indicated that this authority was effective in reversing, to a large extent, the deteriorating retention trends in critical aviation communities.

The situation the Navy faced at the time this bonus was authorized was created by a surge in airline hiring in the late 1970's. This surge hurt the Navy the most but the Air Force also felt the heat.

The Navy of course has cruised 6 months away from home, shipboard duty, and has some of the most onerous living conditions of any of the services during peacetime operation. So they were first to feel the effect of airline hiring when people were somewhat dissatisfied already with time away from home, and so forth.

What we have now, is a repeat of the situation the Navy experienced in 1980, except this time it is more severe. Instead of a surge in airline hiring, there is a sustained projection of increased airline hiring at twice the rate of the peak of the surge in 1978, or around 7,000 new hires a year over the next 10 years. During 1988 the major airlines hired over 7,100 new pilots.

In reaction to the problem, the Congress, at the recommendation of the

Committee on Armed Services, authorized temporary authority for the Department of Defense to pay an enhanced retention bonus to aviators in critical aviation skills in the Navy and the Air Force. The bonus was structured to permit the payment of not more than $12,000 per year for extensions of service to 14 years of total service, or $6,000 per year for extensions of 2 years or less. This authority was provided as a Band-Aid to a situation that required a longer term remedy. It was granted to staunch the immediate out flow of experienced aviators from the Navy and the Air Force.

In recommending this authority, the Committees on Armed Services noted that the proposal advanced by the Department of Defense failed to address the issue of aviator retention comprehensively. The Congress acted by mandating that the Secretary of Defense provide the Committees on Armed Services with a comprehensive report on the retention of aviators in the Armed Forces. As a minimum, the report was to include the following:

First, an analysis of aviators requirements and inventories—current and projected—of the Armed Forces by grade and years of service, including a list of those aviators who are assigned to duty other than operational flying duty and a justification for such assignments.

Second, an analysis of current and projected aviator retention rates in the Armed Forces and of those current and projected retention rates actually needed to meet the requirements of the Armed Forces.

Third, such recommendations as the Secretary considered appropriate regarding: The initial active duty service commitment of aviators; the integration of the aviator career incentive pay under section 301(a) of title 37, United States Code, and retention bonus under this section into a structure that more effectively supports the retention requirements for aviators in the Armed Forces; and changes in the aviator management policies of the Armed Forces that would eliminate the disincentives cited by aviators as retention detractors.

Fourth, also required were specific proposals for such legislation as the Secretary considered necessary to retain on active duty the aviators required to meet the needs of the Armed Forces.

Now, the Secretary of Defense submitted the required study as mandated.

Let me just add here I think they did an excellent job in putting the report together. They put together a wealth of data and background material that helped a great deal. It was an excellent report. I would commend its reading to all of my colleagues here before we have to debate this on the floor or discuss it on the floor later after it has been to committee. It is an excellent report. I think it was deficient in only one major respect and that is it did not go far enough with the recommendations that should be at the end of that excellent statistical study that they submitted.

That is what we have taken up at that point. Our staff members on the committee, principally Mr. Fred Pang, who is with me here today, took that challenge, worked on it, I think has taken their data, and come up with an excellent solution to this whole problem of aviator retention, one I think will work.

In addition to submitting that required study to us as was mandated, the Secretary of Defense also implemented the temporary authority granted last year to pay the retention bonus effective January 1 of this year.

It is on the basis of this study, inputs I have received from military aviators, and analyses supplied by the Congressional Budget Office and the General Accounting Office, that I am introducing this bill—the Aviator Career Improvement Act of 1989—today.

The bill improves the compensation and management of military aviators on a comprehensive and systematic basis. These improvements, which I will summarize, are directed at increasing the retention of aviators to levels consistent with the desired retention rate of aviators in the military services. The improvements also recognize the unique nature of the duties military aviators perform and the valuable national resource they represent—a resource that has become more and more disgruntled by a perception of lack of real concern for the value of their skills, their flying proficiency, their job satisfaction, their compensation and benefits envelopes, and their assignment preferences.

Mr. President, at this point I would like to briefly summarize the key provisions of the bill we are introducing today.

AVIATION CAREER INCENTIVE PAY

The bill I have introduced would restructure and enhance aviation career incentive pay, the basic long-term compensation incentive for aviators.

The bill would increase the rate of aviation career incentive pay in the retention sensitive years—especially for aviation service over 6 years—from $400 a month to $650 a month. This increase would restore the value of this incentive to its worth relative to basic military compensation when it was first authorized in 1974. The bill would also smooth out the rates for aviators who have over 18 years of aviation service who take a monthly pay cut because of the sharply declining aviation career incentive pay scale for aviators who have over 18 years of aviation service. The adjustments I have proposed would preserve the declining scale but do it at a slope that would remove the negative feature of pay inversions.

Concurrently with these rate adjustments, the bill would require aviators to perform more years of operational flying duty in order to be entitled to continuous monthly aviation career incentive pay. Under the current entitlement structure, aviators are required to perform 6 of the first 12 years of aviation service and 11 of the first 18 years of aviation service in operational flying duties in order to be entitled to continuous monthly aviation career incentive pay. The bill would increase the operational flying duty requirements to 9 of the first 12 years of aviation service and 12 of the first 18 years of aviation service respectively. This change is consistent with aviation career plans described in the Department of Defense aviator retention study and the desire expressed by the overwhelming majority of aviators for a greater percentage of time in operational flying duties during an aviation career—a view I support.

I know their feeling on that. Pilots want to fly. They have been trained to fly. They want to go out there and fly. Too often they are put off on other duties.

The bill would also index aviation career incentive pay to military pay raises so that it would retain its relative worth—something that I think is fair—and provide authority to the Service Secretaries to decide when it would be appropriate to implement the aviation career incentive pay changes within their respective services subject to the approval of the Secretary of Defense—a measure of flexibility I believe is necessary given the unique nature of aviation service and retention among the services.

AVIATOR RETENTION BONUS

The bill would extend the existing temporary authority for the services to pay a retention bonus to aviators in critical aviation skills for 3 years, through fiscal year 1992.

The early data on the existing bonus program which was implemented on January 1, this year, indicates a take rate which should begin to reverse the negative retention trend. I believe the services will continue to need this temporary authority and can use it in an economically efficient and flexible way to restore retention to desired levels.

In order to determine the continued need of this temporary authority beyond the expiration date, the bill would require the Secretary of Defense to report to the Committees on Armed Services on the actual and expected effect of the bonus on aviator retention. I would expect that the other improvements in the bill, operating in synergy with the bonus, would

improve manning in aviation skills over the next few years to a point where the bonus can be phased down if not phased out completely.

REDUCTION IN NON-OPERATIONAL FLYING POSITIONS

The bill would require the Secretary of Defense to reduce nonoperational flying positions in the Department of Defense—in other words, where we have pilots assigned to positions that do not necessarily require a pilot.

We train pilots for a purpose, for a need, because we have pilot positions in the services that need to be filled. That is there is a combat need for pilots in this country. We siphon off too many people into other positions. There are 27,181 nonoperational flying positions recorded in the Department of Defense study on aviator retention. The following figure that I give now is a shocker to me. This number amounts to 40 percent of all aviator positions in the Department of Defense, 40 percent assigned to nonflying positions.

I believe firmly that the Department of Defense has failed to adequately justify the need for so many nonoperational flying positions. Therefore, the bill would reduce the number of nonoperational flying positions in the Department of Defense by 5 percent, but do it in a way that gives the services flexibility and a chance to address this program and justify the situation they have right now.

No. 1, in the defense authorization bill coming up for fiscal year 1990, we would not reduce these positions at all. There would be zero reductions in 1990, but there would be a 2-percent reduction taken in fiscal year 1991, and the remaining 3 percent would be taken in fiscal year 1992, unless the Secretary of Defense can provide an analytically compelling justification to support repeal of this reduction.

It is not intended that this would reduce overall end strength in the Navy or reduce officers strength overall, but we want to give some time for the services to address this problem of assigning 40 percent of the pilots to nonoperational flying billets. Some may be justified, like shipboard duty on carriers, where a refueling officer on deck is not assigned as part of a squadron, but is actually assigned to ship's company, and his knowledge of aircraft may be absolutely essential in carrying out that job.

So I would not say that we are trying to eliminate all such positions. That is just one example. Where we have 40 percent of our pilots assigned to nonflying jobs, we have to look at that very carefully; and we will give the Department time to do that before we put our mandatory reductions into play.

I believe the reduction I have proposed is necessary to bring more discipline to the classification of nonoperational flying positions. For example, it is difficult for me to understand why positions such as administrative officer, public affairs officer, personnel officer, supply officer, security police officer, budget officer, cost analyst officer, historical officer, and so forth, all listed, I might add, in the Department of Defense report, all classified as positions requiring an aviator. These ones I listed just a moment ago are not duties in addition to flying. These positions are the primary duties, and their flying, if any, is secondary. I think we have to reverse that and alter that and get a better balance on it.

MINIMUM ACTIVE DUTY SERVICE OBLIGATION FOR AVIATORS

The bill would establish minimum active duty service obligations for aviators of 9 years for fixed-wing jet pilots and 7 years for all other aviators. The reason there is a difference there, is because of their relative attractiveness to the airlines. They want experienced jet pilots before they have to dip into other pilot qualifications for their hiring needs. As to these obligations of 9 years and 7 years, the obligation would begin upon completion of undergraduate aviation training—in other words, the day after these aviators receive their wings.

This provision in the bill would standardize the different active-duty service commitment policies that exist among the services. We do not want to just target bonuses in our attempt to retain these people, small areas of specialty of one different group or another. All that means is we are setting up a floating target, a changing target for the airlines to aim at in trying to hire pilots. The longer term for fixed-wing jet pilots recognizes the higher expense involved in their training and they are prime targets. I believe these commitments would ensure that the taxpayer gets a fair return on his or her investment, an investment in which this Nation takes a raw product and turns it into a valuable one that is in high demand.

AVIATOR INSURANCE

The bill would require the Secretary of Defense to submit a proposal to the Committee on Armed Services which would provide $100,000 of accidental death insurance to aviators performing operational flying. Such insurance would be at no cost to covered aviators and could be contracted out. I think this would recognize the risks involved, even in peacetime military flying. Families of military aviators certainly deserve such consideration.

REPORT ON AVIATOR ASSIGNMENT POLICIES AND SYSTEMS

The bill would task the Congressional Budget Office to evaluate the aviator assignment policy and systems of the military services and to report to the Committees on Armed Services on the effectiveness and efficiency of the policies and systems in assigning aviators to aviator positions and in accommodating individual preferences within the operational needs of the services.

Inputs I have received from military aviators indicate substantial and serious anguish about the lack of assignment visibility and a perceived preoccupation with filling squares, with little regard to individual desires.

Mr. President, that may be a valid concern, but if it is not, the perception is there. I think something needs to be done about it. I believe military aviators have the right to expect every bit as much visibility and stability in the assignment process as any other officers assigned to the Defense Department.

I do not expect 100 percent satisfaction, because not every aviator's desires, obviously, can be accommodated. But I have a very strong feeling that the services can do better in this area. An outside look at this by the Congressional Budget Office will hopefully help to correct problems or perceptions that are detrimental to retention.

COMMISSION ON THE NATIONAL SHORTAGE OF AVIATORS

Finally, the bill would indicate that it is the sense of the Congress that the President should convene a commission composed of representatives of the airline industry, the Department of Defense, and other interested parties, to address the problem of the national shortage of aviators, to recommend solutions to the problem, and to make appropriate legislative recommendations to the Senate and the House of Representatives.

There are a lot of things that can be done in this area. Just when pilots become eligible for 20-year retirement from the military is when they are usually around 45 years of age. This leaves 15 years or so of good flying time left to them in the airlines, if the airlines wanted to cooperate in setting up some programs to hire them at that time. That means they would be flying up to the age of 60, which is a current FAA regulation and may be a figure that can be advanced a little one of these days, also. We will deal with that at another time.

Mr. President, I believe the problem of aviator retention in our military services is part of a larger problem: the burgeoning demand for aviators in the airline industry and a limited supply of aviators in this country. Indeed, the problem is an international one, because other countries, such as Canada, Great Britain, the Federal Republic of Germany, and Spain, are also experiencing difficulties in retaining their military pilots because of airline hiring.

The question that this major bill address is: What should be done about

this problem? What must we do about this problem? It seems to me that it is time for us to get an answer to this question. It is a difficult one to answer, and it will require thoughtful consideration by the best minds we can bring to bear on it.

Mr. President, that summarizes briefly the key provisions of the bill. The bottom line for me is that enactment of this bill not only keeps pilots in, but also, this bill, I believe, will help to increase the combat efficiency of our flying forces.

I believe the payoff will show up in better experience levels, in lower turnover, in better flying safety, and in higher aviator morale. All of this translates to improved combat readiness, the basic reason why we even train pilots. That is a vital element of deterrence and an insurance policy for peace.

Mr. President, in terms of cost, I expect the bill will result in savings. Although the increase in aviation career incentive pay will cost about $118 million, I expect this cost to be more than offset by savings resulting from improved retention.

Let me give just one example. We look at pilots in the military as really being fully effective once they get out to about the 800- to 1,000-hour time period of experience. So the replacement cost for an experienced F-16 fighter pilot, one who has 1,000 hours of flying in that weapons system is—hold your seat—$5½ million per pilot. This is the amount that has been invested in his training, including his pay and allowances.

Using this example, improved retention of just 21 F-16 pilots in a year would result in a break-even offset against the increase in aviation career incentive pay. Obviously, a more definitive cost analysis is required and I will be asking the Congressional Budget Office to assist accordingly.

Mr. President, there are a lot of comparisons we could make—the cost of what it takes just to get your wings, the cost of completion of training out of a replacement air group or RAG before you go to your first assigned squadron, or the cost of 1,000 hours of experience. You take any of those figures versus the amount that is necessary to give an incentive to keep pilots in and it comes out as being insignificantly cheap compared to the replacement and retraining cost of starting over again and, along with that, the reduction in combat readiness that goes along with that delay in pilots going back through the training pipe.

So, Mr. President, I want to conclude by saying that I believe the bill that we are introducing today will provide a comprehensive framework for dealing with the problem of aviator retention in the military services. We certainly do not claim it is perfect. There may be some modifications that are appropriate. And I look forward to working with the Department of Defense and other interested parties on this matter.

I, accordingly, plan to ask the military services for their comments on this bill and to convene the Subcommittee on Manpower and Personnel of the Committee on Armed Services to have a hearing on this bill shortly after we return from the Easter recess. We have tentatively set aside time for this from 9 o'clock to 12 o'clock on April 6, 1989. So we would ask the Department of Defense to get going, now that this has been submitted, on their considerations so they will be ready to comment on April 6.

Mr. President, it is my intention that the bill I am introducing today will eventually be incorporated into the Defense Authorization Act for fiscal year 1990-91. I believe the improvements it makes in military aviator compensation and management are urgently needed to not only correct the retention problem I have discussed but to treat the military aviator community with the regard and respect to which it is due. Most importantly, we want to keep the combat punch that comes from a professional force of pilots.

Mr. President, I want to thank my good friend, Senator JOHN MCCAIN, who is joining me in cosponsoring this bill. He is a very valued member of the committee and of our subcommittee. I have the very highest regard for his contributions and for his past experience also. He was a Navy pilot for many years.

I think Members of this body are aware of his experiences during the Vietnam war where he had the unfortunate experience to be a guest of the Hanoi Hilton for some 5½ or 6 years, I do not recall exactly what it was. It is much longer than I know I would have wanted to spend in similar circumstances.

So he knows the rigorous life that is required for our pilots and knows what is required to train new pilots. He has been involved with that himself as a Navy pilot for many years. He spent time at sea. He has taken those risks and knows also what it means to maintain a combat capability with squadrons out there when the going gets tough.

That is something that you cannot calculate in dollars, that willingness of people to get out there to do that flying job, and that willingness to take risks for our Nation.

Mr. President, I ask unanimous consent that the entire bill be printed in the RECORD and I ask, just prior to the printing of that bill, that there also be printed a summary of the Aviation Career Improvement Act of 1989 which goes through these same points in very brief detail and which will be a ready reference for what we are trying to do with this bill.

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

SUMMARY OF AVIATOR CAREER IMPROVEMENT ACT OF 1989

ACIP.—Restoral of value to retention sensitive zone; restructure to avoid pay inversions; and more operational flying.

Bonus.—Continue temporary authority for 3 years; and require annual reports of effectiveness

Reduce non-oprational flying positions.—Reduce by 5%; 0% in FY 90; 2% in FY91 and 3% in FY92; and reduction to take effect if DOD does not provide compelling justification for repeal.

Minimum Service Obligations.—Fixed Wing Jet Pilots: 9 years after UPT: others: 7 Years after UPT/UNT: and sets floors; Services can require more.

Aviator Insurance.—Require DOD proposal to provide $100,000 accidental death insurance for operational flying, and no cost to individual—less than $10 per aviator.

Aviator Assignment Policies/System.—CBO to evaluate and make recommendations; and, a major issue with aviators, many of whom feel they are not treated fairly.

Commission on National Shortage of Aviators.—Require President to form Commission and report to the Congress on actions it should take to work this problem

S. 653

*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 "Aviation Career Improvement Act of 1989".

SEC. 2. AVIATION CAREER INCENTIVE PAY.

(a) ENTITLEMENT REQUIREMENTS.—Section 301a(4) of title 37, United States Code, is amended by striking out the first two sentences and inserting in lieu thereof the following: "To be entitled to continuous monthly incentive pay, an officer must perform the prescribed operational flying duties (including flight training but excluding proficiency flying) for 9 of the first 12, and 12 of the first 18, years of his aviation service. However, if an officer performs the prescribed operational flying duties (including flight training but excluding proficiency flying) for at least 10 but less than 12 of the first 18 years of his aviation service, he will be entitled to continuous monthly incentive pay for the first 22 years of his officer service.".

(b) MONTHLY RATES.—(1) The table in section 301a(b)(1) of such title is amended to read as follows:

"Phase I

| "Years of aviation service (including flight training) as an officer: | Monthly rate: |
|---|---|
| 2 or less | $125 |
| Over 2 | 156 |
| Over 3 | 188 |
| Over 4 | 206 |
| Over 6 | 650 |

"Phase II

| "Years of service as an officer as computed under section 205: | Monthly rate: |
|---|---|
| Over 18 | $585 |
| Over 20 | 495 |
| Over 22 | 385 |
| Over 25 | 250". |

(2) The table in section 301a(b)(2) of such title is amended to read as follows:

| "Years of aviation service as an officer: | Monthly rate: |
|---|---|
| 2 or less | $125 |
| Over 2 | 156 |
| Over 3 | 188 |
| Over 4 | 206 |
| Over 6 | 650". |

(c) INCREASES IN INCENTIVE PAY LINKED TO INCREASES IN BASIC PAY.—Section 301a of such title is further amended by striking out subsection (e) and inserting in lieu thereof the following:

"(e)(1) Whenever the rates of basic pay of members of the uniformed services is adjusted upward pursuant to section 1009 of this title, the President shall immediately make an upward adjustment of the rates of monthly incentive pay provided for in subsection (b).

"(2) An adjustment under this subsection shall have the force and effect of law and shall (A) carry the same effective date as that applying to the compensation adjustments in basic pay of members of the uniformed services, and (B) provide the same percentage as the overall average percentage increase referred to in section 1009(b)(3) of this title.".

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall become effective October 1, 1989.

(2) The Secretary of a military department may delay implementation of such amendments, with respect to the department of that Secretary, subject to the approval of the Secretary of Defense, until such time as the Secretary of that department determines that implementation of such amendments is necessary to meet the needs of that department. If the Secretary of a military department delays the implementation of such amendments with respect to his military department, the provisions of section 301a of title 37, United States Code, as in effect on September 30, 1989, shall continue to apply, in the case of such department, to the payment of aviation career incentive pay under such section (A) until such date as the Secretary may prescribe, and (B) in the same manner as if the amendments made by this section had not been made.

SEC. 3. AVIATOR RETENTION BONUSES

(a) EXTENSION OF PROGRAM.—Section 611(a) of the National Defense Authorization Act, Fiscal Year 1989 (37 U.S.C. 301b note), is amended by striking out "September 30, 1989" and insert in lieu thereof "September 30, 1992".

(b) REPORTING REQUIREMENTS.—(1) Subsection (h) of section 611 of such Act is amended to read as follows:

"(h) REPORTS.—(1) Not later than November 1 each year, the Secretary of each military department, the Secretary of Transportation with respect to the Coast Guard, the Secretary of Commerce with respect to the National Oceanic and Atmospheric Administration, and the Secretary of Health and Human Services with respect to members of the Public Health Service, shall submit to the Secretary of Defense a report analyzing the effect that the aviator retention bonus program provided for under this section has had during the preceding fiscal year on the retention of qualified aviators in the Secretary's department, including a description of the marginal cost of paying bonuses under this section to officers who enter into an agreement referred to in clause (A) of subsection (a)(2) and a description of the marginal cost of paying bonuses under this section to officers who enter into an agreement referred to in clause (B) of such subsection.

"(2) Not later than December 1 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives copies of the reports submitted to him pursuant to paragraph (1) together with such comments and recommendations as the Secretary considers appropriate.".

(2) The first reports required under section 611(a)(h) of the National Defense Authorization Act, Fiscal Year 1989, as amended by paragraph (1), shall be submitted to the Committees on Armed Services of the Senate and the House of Representatives not later than December 1, 1989.

(c) LIMITATION ON OBLIGATIONS.—Section 611 of such Act is further amended by striking out subsections (i) and (j) and inserting in lieu thereof the following:

"(i) The total amount of payments that may be made to Navy officers and Air Force officers under this section during fiscal year 1990 may not exceed—

"(1) $30,000,000, in the case of the Navy; or

"(2) $78,000,000, in the case of the Air Force.".

SEC. 4. REDUCTION IN NONOPERATIONAL FLYING DUTY POSITIONS

(a) IN GENERAL.—The Secretary of Defense shall take such action as may be necessary to reduce, by not later than September 30, 1992, the number of nonoperational flying duty positions in the Army, Navy, Air Force, and Marine Corps by a number equal to not less than 5 percent below the total number of such positions in existence on September 30, 1989. The Secretary shall effectuate a reduction of not less than 2 percent by September 30, 1991. Subject to paragraph (2), the Secretary shall effectuate the remainder of the required reduction not later than September 30, 1992.

(b) LIMITATION ON INCREASES IN NONOPERATIONAL FLYING DUTY POSITIONS AFTER FISCAL YEAR 1991.—(1) No increase in the number of nonoperational flying duty positions referred to in subsection (a) may be made after September 30, 1991, unless the increase is specifically authorized by law.

(2) As used in this section, the term "nonoperational flying duty positions" means positions in a military department identified by the Secretary of that department as positions that require the assignment of an aviator but that do not include operational flying duty (as defined in section 301a(6) of title 37, United States Code).

SEC. 5. MINIMUM SERVICE REQUIREMENT FOR AVIATORS

(a) IN GENERAL.—Chapter 37 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 653. Minimum service requirement for certain flight crew positions

"(a) PILOTS.—The minimum active duty obligation of any member who successfully completes training in the armed forces as a pilot shall be 9 years, if the member is trained to fly fixed wing jet aircraft, and 7 years, if the member is trained to fly any other type of aircraft.

"(b) NAVIGATORS AND NAVAL FLIGHT OFFICERS.—The minimum active duty obligation of any member who successfully completes training in the armed forces as a navigator or naval flight officer shall be 7 years.

"(c) DEFINITION.—In this section, the term 'active duty obligation' means the period of active duty required to be served after completion of undergraduate pilot training in the case of training as a pilot, completion of undergraduate navigator training in the case of training as a navigator, or completion of undergraduate training as a naval flight officer in the case of training as a naval flight officer.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"653. Minimum service requirement for certain flight crew positions.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to persons who begin undergraduate pilot training, undergraduate navigator training, or undergraduate naval flight officer training, as the case may be, after September 30, 1990.

SEC. 6. AVIATOR INSURANCE

Not later than December 1, 1989, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a legislative proposal for an accidental death insurance plan for aviators serving on active duty that provides, at no cost to the insured, for the payment of death benefits in the amount of $100,000 for death resulting directly from the performance of operational flying duty (as defined in section 301a(a)(6) of title 37, United States Code).

SEC. 7. REPORT ON AVIATOR ASSIGNMENT POLICIES AND PRACTICES

The Director of the Congressional Budget Office shall conduct a comprehensive study of the aviator assignment policies and practices of the Armed Forces. The Director shall submit the results of such study to the Committees on Armed Services of the Senate and the House of Representatives not later than February 15, 1990. The Director shall include in such report an analysis of the effectiveness and efficiency of the aviator assignment policies and practices of the Armed Forces, including an analysis of the policies and practices followed in accommodating the assignment preferences of aviators within operational needs of the Armed Forces.

SEC. 8. SENSE OF CONGRESS REGARDING ESTABLISHMENT OF COMMISSION TO CONDUCT A STUDY ON THE NATIONAL SHORTAGE OF AVIATORS

(a) IN GENERAL.—In view of the critical shortage of qualified aviators in both the Armed Forces and in the commercial airline industry of the United States, it is the sense of Congress that—

(1) the President should establish a commission to study the reasons for such shortages and to consider effective and practicable means of eliminating the shortages;

(2) the President should include among persons appointed to the commission representatives from the commercial airline industry, representatives from the Department of Defense, and representatives from such other sources as the President considers appropriate;

(3) the President should appoint all members of the commission not later than February 15, 1990; and

(4) the commission should be required to submit a report on the results of its study to the President and Congress not later than March 1, 1991, together with specific recommendations for eliminating the shortage of aviators in the United States.

Mr. GLENN. Mr. President, I appreciate the work that Senator MCCAIN has done on this bill, and the staff, along with Fred Pang and other members of the committee. This bill, I hope, will go a long way toward addressing the problem that I will address only briefly today.

I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from Arizona.

Mr. McCAIN. Thank you, Mr. President. It is a great pleasure for me to join with my good friend from Ohio, a former marine aviator, former astronaut, indeed national hero, Senator JOHN GLENN.

I must respond to his comments, if I might, about getting shot down. I would think it is well to point out that in the Korean war Senator GLENN did the shooting down and in a different war I was shot down. I think there is a considerable difference in talents and skills that is patently obvious.

It is not well known to many Americans of the incredible aviation skills of JOHN GLENN outside of his astronaut capabilities, including, among many other feats, the fact that for many years he held the coast-to-coast speed record in a jet airplane. Some of the records that he established have still not been broken.

He is a man of incredible skill. Perhaps more important, I do not think there is another Member of the Congress who is more qualified to address the issue that is propunded in this legislation which is being proposed today. He not only understands how critical it is to maintain combat readiness, which is indeed the most important thrust of this bill, but he also has a keen undertanding of the requirement to maintain qualified Navy, Air Force, Army, and Marine Corps pilots. He has a keen sensitivity to their morale and clearly understands the sacrifices that they make on a day-to-day basis all over the world. He understands their willingness to risk their lives in defense of this Nation's freedom.

The bill that is introduced today is designed to address one of the most serious problems facing our Nation in the area of military manpower. That problem is the exodus of trained pilots from the military services.

During the last few years, Mr. President, pilot retention within the Air Force and the Navy has declined markedly. The normal military detractors of long hours, hazardous duty requirements, and prolonged family separation have taken their toll as they always do.

What has exacerbated the problem is the hiring practices of the commercial airlines. Mr. President, I hope that all my colleagues will take the opportunity to look at the airlines' demand, both this year and last year, for pilots. In addition, to look at the increased demand for pilots in the future as we continue to experience a dynamic growth in commercial aviation in this country.

The fact is, Mr. President, we simply do not have the basic reservoir of pilots necessary to man the military and satisfy the requirements of the commercial airlines in America today. That is a long-term problem that I and I hope my friend, Senator GLENN, and others on the Commerce Committee, with members of the Aviation Subcommittee, will try to address.

I fully understand and appreciate that we must man commercial airliners with qualified men and women who have the experience, talent, and capability to make our skies safe. We must assure that when American citizens get on an airline to go from one place to another, that the people in the cockpit are skilled and qualified.

The military has long been a source of highly skilled pilots for the airlines industry. Following World War II, Korea, and Vietnam, when our military force structure was shrinking in the immediate aftermath of war, airline hiring practices did not have a significant impact on our military preparedness.

Mr. President, the situation is quite different today. Our military force structure will likely remain static for the foreseeable future while the airline industry is experiencing very rapid expansion.

The airlines are hiring pilots at twice the rate they were just 10 years ago. In 1988 alone, more than 7,100 pilots were hired to fly for the airlines, and it is estimated that over the next 10 years, the airlines will hire more than 7,000 pilots annually.

The first efforts by the Congress to curb military aviator separations came in 1980 when the Navy was authorized a bonus program to help pilot retention. Last year, as my good friend from Ohio has explained at length, the Congress acted again at the behest of the Navy and the Air Force to provide incentives to enhance pilot retention.

I would like to interject here that it is an interesting phenomenon to me that the Marine Corps is not experiencing the exodus of pilots that the Navy and Air Force are. I think we ought to carefully scrutinize this unusual situation. The services are under the same basic pay system and operate with roughly the same degree of sacrifice. Family separation is roughly the same in the Marine Corps as it is in the Navy and the Air Force, yet the Marine Corps has experienced the same problems with pilot retention.

I, frankly, think that it has to do with their esprit and their loyality to the service. I think it is something we ought to examine very carefully.

Also, Mr. President, the Congress required the Department of Defense to submit a comprehensive report on aviator retention, as my distinguished colleague from Ohio has outlined. Unfortunately, the Department of Defense report, in our opinion, was not as comprehensive an approach to the problem as we had hoped for.

That brings us, Mr. President, to the proposal that we are introducing today. The Aviation Career Improvement Act of 1989 is structured to provide a comprehensive approach to the problem of pilot retention. Coupled with efforts by the military services to lessen the burden of career turbulence for aviators, Senator GLENN and I believe that we can substantially improve pilot retention.

Before I go any further, I would like to commend Admiral Trost and General Welch for their efforts to institute various management initiatives aimed at reducing career turbulence for aviators. The services are taking the steps that they can to retain pilots in the career force, and this bill is the first step that the Congress can take toward solving the long term problem of pilot retention.

This legislation is simple and straightforward, Mr. President, and while my good friend from Ohio has described in detail the provisions of the bill, I would like to reiterate some key points—the first being aviation career incentive pay, commonly referred to as ACIP.

AVIATION CAREER INCENTIVE PAY

Mr. President, ACIP was initially provided to aviators in recognition of the unique hazards associated with military aviation. Unfortunately, this incentive pay has not kept pace with the increased value of basic military pay since ACIP was instituted in 1974. Our proposal would raise the maximum ACIP from $400 to $605—for aviators with more than 6 years of service and less than 18 years of service. At 18 years of service ACIP will gradually decline.

One might ask, what do the taxpayers get in return for this increase in incentive pay. The answer is simple, Mr. President.

OPERATIONAL FLYING REQUIREMENTS AND SERVICE OBLIGATION

To receive ACIP on a continual basis, a pilot must occupy an operational flying billet during 9 of the first 12 years of service. Previously, a pilot was required only to fly 6 of the first 12 years of service. The requirement for operational flying at 18 years of service was only increased from 11 to 12 years because of joint duty offi-

cer requirements of the Goldwater-Nichols Department of Defense Reorganization Act of 1986.

In addition, Mr. President, this bill will require a minimum service obligation after pilot training of 9 years fixed wing jet aviators and 7 years for all others. It should be noted that the Congress has never enacted such a requirement into law. In the past, the services have been allowed to set service obligation as a matter of policy within each service. We feel, however, that incentives contained in this bill more than justify the minimum service requirements we have outlined today.

Mr. President, my good friend from Ohio has discussed in some detail the extension of the aviator retention bonus, the requirements for reductions in nonoperational flying positions occupied by aviators, the peacetime aviator insurance program, the review of aviator assignment policies, and the sense-of-the-Congress provision calling for a Presidential Commission to be established to review the national shortage of aviators. Therefore, I will not elaborate further on these points. I would, however, like to point out some concerns that I have.

One of my initial concerns, and one that was voiced by my good friend from Ohio during the drafting of this legislation, is the length of service commitment required upon completion of pilot training. While I fully support a 9-year service obligation, I am not fully satisfied that more cannot or should not be required, especially in light of the fact that any other service obligations that an aviator has incurred, such as the obligation for attendance at one of the service academies or for an ROTC scholarship, run concurrently and not consecutively. Because we felt that it may be inadvisable to expect a 12- or 14-year service obligation from a 22-year-old, we settled on 9 years. The services should note, however, that we consider this a floor and not a ceiling. We fully expect the services to review the matter and propose longer service obligations if they are warranted.

Another concern I have, Mr. President, involves the aviator bonus program. We have extended the program for 3 years, but I am very concerned that the bonuses remain targeted to shortages only. We fully intend to monitor the bonus program each year to ensure that the intent of Congress is met.

Mr. President, we are aware that this legislation may seem too expensive to many people, but they must consider the fact that it costs more than $4 million to train one aviator, and this does not take into account the value of the experience lost when a pilot with 14 or more years of service resigns his commission. We strongly believe that the savings over the long term will fully justify the costs of our bill. The shortsighted approach of some that would deny the incentives we have outlined for those who risk their lives for our country, remind me of President Coolidge's statement about military aviation years ago when he said that we should buy just one plane and let them take turns flying it.

My last concern, Mr. President, has to do with the sense of the Congress provision calling for a Presidential Commission to review the national shortage of aviators. I want to point out that this is a national problem and a serious one. But I also want to counsel the airline industry that they cannot expect a free ride much longer when it comes to drawing on our Nation's military resources to provide trained pilots for their industry. Mr. President, there's no such thing as a free lunch.

I look forward to the opportunity of working with the airlines out in helping them work a way of acquiring new pilots, since clearly the future of commercial aviation rests on acquiring and maintaining qualified, trained, capable airline pilots.

I would like to conclude my remarks by thanking my good friend and colleague, Senator JOHN GLENN, who is the chairman of the Manpower and Personnel Subcommittee of the Senate Armed Services Committee. I look forward to working very closely with him during the 101st Congress. I would like to thank Mr. Phil Upschulte and Mr. Milt Beach of Senator GLENN's staff and Mr. Fred Pang and Mr. Ken Johnson of the Senate Armed Services Committee along with Tony Cordesman and Rocky Rosacker of my staff. They have done a great job balancing a great number of competing priorities and coming up with what I believe is an outstanding framework for discussion, debate, and eventually legislation that would help address what I believe is a near crisis in military aviation today.

Mr. President, we have watched with pride as Naval aviators, Marine aviators, and Air Force aviators, have performed throughout the world in combat when called upon. I do not think it is accidential that we have won most of the air battles that we have engaged. I think it is in part, due to the quality of the aircraft we provided our pilots. More importantly I feel that it is due to the quality and training of the individuals in those cockpits.

I believe it is of utmost importance to the future security of this Nation that we retain the qualified men and women who are serving in the military today. I hope that this legislation will be rapidly approved by this Congress.

I note with some interest that a former member of the Marine Corps now is on his feet. The Senator from Idaho has had significant involvement in Marine Corps aviation. We appreciate his service to our country and I would welcome any comment he might have on this issue.

Thank you, Mr. President. I yield the floor.

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

Mr. SYMMS Mr. President, I am going to speak on another matter. But I am very pleased that the two Senators who just preceded me have addressed a great deal of their time and energy to this issue. I did have the privilege of being on the Armed Services Committee in the 100th Congress, and was exposed to the issue.

I can tell the Presiding Officer that it is a most important issue that we must address fully. I know of no two Senators in this Chamber who have had more practical and personal experience to enable them to deal with this issue and find what it will take to extend the careers of some of our younger, finer aviators.

I wish both of them well and hope I may be helpful to their efforts. They can count on my support.

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By Mr. PRYOR (for himself, Mr. DURENBERGER, Mr. BOREN, Mr. HEINZ, Mr. BAUCUS, Mr. DASCHLE, Mr. DANFORTH, Mr. MITCHELL, Mr. MOYNIHAN, Mr. HARKIN, Mr. BUMPERS, Mr. BINGAMAN, Mr. GORE, Mr. DECONCINI, Mr. CRANSTON, Mr. HEFLIN, and Mr. CONRAD):

S. 654. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of simplified health arrangements meeting the requirements of section 89, to modify the definition of part-time employee for purposes of section 89, and to simplify the application of section 89; to the Committee on Finance.

SECTION 89 SIMPLIFICATION ACT

Mr. PRYOR. Mr. President, I rise today in behalf of 12 colleagues to introduce the Section 89 Simplification Act. In this bill we attempt to provide some relief to employers from the complexity and cost of complying with the welfare nondiscrimination rules presently in effect under Internal Revenue Code section 89.

Recently, I have been hearing from many of my constituents about the arduous recordkeeping and testing requirements of section 89. Two years ago, I introduced the Small Business Retirement and Benefit Extension Act to delay the implementation of section 89 for 2 years while Congress and the Treasury Department studied the need for such complex rules. Last year I worked very closely with Chairman LLOYD BENTSEN in the Technical Corrections Act to provide some relief from the worst excesses of these rules.

Since the rules went into effect on January 1 of this year, I have been discussing with the many business groups concerned with section 89 on how to simplify and make the rules more fair.

I see this bill as the first step in reforming section 89, and I in no way consider this to be the finished product. I look forward to continuing my discussions with employers on how to solve this problem. For example, I would anticipate further review of the issues of testing of former employees and leased employees and of problems concerning the present 90/50 testing requirements.

Probably, the most significant relief provided in the Section 89 Simplification Act is the creation of simplified health arrangements. Under this alternative to section 89, an employer does not have to perform the section 89 nondiscrimination testing if its health arrangement is available to at least 90 percent of its employees and mandatory employee contributions are limited for employee-only coverage to $6.70 a week and limited for dependent coverage to $13.40 a week—both amounts are indexed and are tied to increases to the minimum wage.

I believe that this provision is significant because for the first time many employers will be able to avoid the recordkeeping and testing requirements of the present rules and instead look to the construction of the plan itself in order to determine if it complies with the law. The bottom line is that simplified health arrangements will save many employers significant time and money.

Additionally, the bill expands the rule for testing part-time employees. Under present law, employers must track all employees for testing purposes working 17½ hours or more. The bill would loosen this requirement by allowing employers to track only those employees working 30 hours or more in 1989, 27½ hours or more in 1990, and 25 hours or more in 1991 and beyond. This change should make it easier for employers to comply with the present testing requirements.

The bill would also repeal the harsh penalties for failure to meet the qualification standards of section 89. The present rule would penalize innocent low-income employees for the mistakes of the employer. The bill would target the penalty to high-paid management and limit it to the cost of health coverage.

Additionally, under this bill nonprofit organizations and local governments without highly compensated employees would be exempted from section 89 testing. This change would be particularly significant to the small towns and rural counties of many States, including Arkansas.

Finally, the bill would provide a number of changes to section 89 to help alleviate data gathering and testing costs, and would in general make it easier for employers to comply with the present rules. I believe that these changes will go a long way toward mitigating the excesses of section 89. It will not repeal it. Let me just say I know it might be popular to stand here and at this moment advocate, Mr. President, repeal of section 89. However, I think as we look down the long road we might find that that repeal would be unwise policy and could well lead to the taxing of fringe benefits for all employees.

I look forward to continuing this discussion and this dialog which I hope will begin today, with various business groups and the working groups to reform section 89.

Mr. President, I ask unanimous consent that an outline of this bill and the copy of the legislation be inserted in the RECORD at this point.

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

S. 654

*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 "Section 89 Simplification Act".

SEC. 2. ESTABLISHMENT OF SIMPLIFIED HEALTH ARRANGEMENTS.

(a) IN GENERAL.—Part II of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 90 as section 91 and by inserting after section 89 the following new section:

"SEC. 90. SIMPLIFIED HEALTH ARRANGEMENTS.

"(a) GENERAL RULE.—If a statutory employee benefit plan is a simplified health arrangement for any testing year, such plan shall not be treated as a discriminatory employee benefit plan for purposes of section 89.

"(b) SIMPLIFIED HEALTH ARRANGEMENT.—For purposes of this section, the term 'simplified health arrangement' means a health plan which, with respect to a testing year, meets—

"(1) the requirements of section 89(k) (relating to requirement that plan be in writing, etc.),

"(2) the eligibility requirements of subsection (c), and

"(3) the cost requirements of subsection (d).

"(c) ELIGIBILITY REQUIREMENTS.—A plan meets the requirements of this subsection for any testing year if—

"(1) at least 90 percent of all employees are eligible to participate in such plan or in any other plan of the employer of the same type, and

"(2) such plan and all other plans of the employer of the same type have the same employer-provided benefit.

"(d) COST REQUIREMENTS.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection for any testing year if the cost to any employee (determined on a weekly basis) for either—

"(A) employee-only coverage, or

"(B) coverage for spouse or dependents,

does not exceed the applicable premium.

"(2) APPLICABLE PREMIUM.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The applicable premium is $6.70 per week.

"(B) INFLATION ADJUSTMENT.—In the case of a testing year beginning after 1990, the dollar amount referred to in subparagraph (A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the testing year begins by substituting '1989' for '1987' in subparagraph (B) thereof.

"(3) COORDINATION OF APPLICABLE PREMIUM WITH MINIMUM WAGE.—Notwithstanding paragraph (2), the applicable premium for any testing year beginning in a calendar year shall not be less than 5 percent of the amount equal to—

"(A) the minimum wage in effect under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) as of the close of the preceding calendar year, multiplied by

"(B) 40.

"(e) DEFINITIONS.—For purposes of this section, any term used in this section which is also used in section 89 shall have the meaning given such term by section 89."

(b) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 90 and inserting the following new items:

"Sec. 90. Simplified health arrangements.

"Sec. 91. Illegal Federal irrigation subsidies."

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 1151 of the Tax Reform Act of 1986.

SEC. 2. TREATMENT OF PART-TIME EMPLOYEES.

(a) IN GENERAL.—Section 89(h)(1)(B) of the Internal Revenue Code of 1986 (relating to excluded employees) is amended by striking out "17½ hours per week" and inserting "25 hours per week".

(b) TRANSITION RULE.—In the case of any testing year beginning in 1989 or 1990, section 89(h)(1)(B) of the Internal Revenue Code of 1986 shall be applied by substituting the following for "25 hours per week":

(1) 30 hours per week in the case of testing years beginning in 1989.

(2) 27½ hours per week in the case of testing years beginning in 1990.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 1151 of the Tax Reform Act of 1986.

SEC. 3. SIMPLIFICATION AND CLARIFICATION OF SECTION 89.

(a) INCOME INCLUSION FOR CERTAIN FAILURES ONLY TO APPLY TO HIGHLY COMPENSATED EMPLOYEES.—

(1) IN GENERAL.—Paragraph (1) of section 89(k) of the Internal Revenue Code of 1986 (relating to requirement that plan be in writing, etc.) is amended by striking out "gross income of an employee" and inserting "gross income of a highly compensated employee".

(2) VALUATION OF INCLUSION.—

(A) IN GENERAL.—Section 89(k) of such Code is amended by striking out paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4).

(B) CONFORMING AMENDMENT.—Subparagraph (A) of section 89(g)(3) of such Code is amended by striking out "Except as provided in subsection (k), an" and inserting "An".

(b) PLANS WITH NO HIGHLY COMPENSATED EMPLOYEES.—

(1) REPEAL OF RULE AT LEAST ONE OFFICER TAKEN INTO ACCOUNT.—Subparagraph (B) of section 414(q)(5) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply for purposes of section 89."

(2) SECTION 89 NOT TO APPLY IF NO HIGHLY COMPENSATED EMPLOYEES.—Section 89(i) of such Code (relating to statutory employee benefit plan) is amended by adding at the end thereof the following new paragraph:

"(5) EXCEPTION FOR PLANS WITH NO HIGHLY COMPENSATED EMPLOYEES.—For purposes of this section (other than subsection (k) thereof), a plan shall not be treated as a statutory employee benefit plan for any testing year if no participants in such plan for such year are highly compensated employees."

(c) TIME FOR TESTING.—

(1) IN GENERAL.—Paragraph (6) of section 89(g) of the Internal Revenue Code of 1986 is amended by striking out subparagraph (B) and by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B), (C), (D), and (E).

(2) CONFORMING AMENDMENTS.—Subparagraph (D) of section 89(g)(6) of such Code (as redesignated by paragraph (1)) is amended by striking out "subparagraph (D)(i)" each place it appears and inserting "subparagraph (C)(i)".

(d) SPECIAL RULES FOR TESTING OF SPOUSE AND DEPENDENT CARE COVERAGE.—Paragraph (2) of section 89(g) of the Internal Revenue Code of 1986 (relating to special rules for applying benefit requirements to health plans) is amended by adding at the end thereof the following new subclause:

"(F) SPECIAL RULES FOR TESTING SPOUSAL AND DEPENDENT HEALTH COVERAGE.—If an election is made under subclause (ii) of subparagraph (A), the requirements of subsection (e) or (f) shall be treated as met with respect to coverage of spouses or dependents under any health plans if—

"(i) such requirements are met with respect to employee-only coverage,

"(ii) under the plans all employees who are not highly compensated employees and who have employee-only coverage are eligible to participate in spouse or dependent coverage on the same basis as highly compensated employees, and

"(iii) the cost to any employee who is not a highly compensated employee for coverage for spouse or dependents does not exceed the applicable premium for the testing year determined under section 90(d)(2)."

(e) DEFINITION OF COMPARABLE PLANS.—

(1) IN GENERAL.—Subclause (II) of section 89(g)(1)(E)(i) of the Internal Revenue Code of 1986 is amended by striking out "$100" and inserting "$365".

(2) CONFORMING AMENDMENT.—Section 89(g)(1)(E)(v) of such Code is amended by striking out "$100" and inserting "$365".

(f) VALUATION OF EMPLOYER-PROVIDED BENEFIT UNDER HEALTH PLANS.—Subparagraph (B) of section 89(g)(3) of the Internal Revenue Code of 1986 is amended to read as follows:

"(B) SPECIAL RULES FOR HEALTH PLANS.—The value of the coverage provided by any health plan—

"(i) except as provided in clause (ii), shall be determined in substantially the same manner as costs under a health plan are determined under section 4980B(f)(4), and

"(ii) for purposes of determining whether the requirements of subsection (d), (e), or (f) are met, shall, at the election of the employer, and except as provided in regulations prescribed by the Secretary, be determined under any other reasonable method selected by the employer."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply in the same manner as if included in the amendments made by section 1151 of the Tax Reform Act of 1986.

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PROPOSED SECTION 89 CHANGES

1. Simplified Health Arrangements.—The bill creates an alternative to section 89. Under this alternative, an employer does not have to perform the section 89 nondiscrimination testing if its health arrangement is available to at least 90 percent of its employees and mandatory employee contributions are limited for employee-only coverage to $6.70 a week and limited for employee-only coverage to $6.70 a week and limited for dependent coverage to $13.40 a week (both amounts will be indexed and will increase with changes in the minimum wage). Employers will continue to comply with the qualification requirements of section 89(k) as under present law.

2. Testing of Part-Time Employees.—The current rule allowing employers to exclude part-time employees with 17½ hours or less would be expanded in the following manner:

| Testing years beginning in: | Cutoff for part-time status |
|---|---|
| 1989 | Under 30 hours. |
| 1990 | Under 27½ hours. |
| 1991 and later | Under 25 hours. |

3. Failure to Comply With Section 89(k).—Under the present qualification rules, if a plan fails to comply, every employee who receives benefits under the plan during the year must include in income an amount equal to the full value of the benefits he or she actually receives. The bill would modify this provision, so that if a plan fails the qualification requirements, highly compensated employees would have to include in taxable income only the full value (COBRA cost) of the insurance coverage.

4. Lack of Highly Compensated Employees.—Under the present rules, if an employer has no highly compensated employees (example: local municipalities or nonprofits), the highest paid employee must be designated as the highly compensated employee under the plan. The bill would repeal this requirement (section 414(q)(5)(B)) and would establish that if there are no highly compensated employees then employers do not have to perform the section 89 nondiscrimination testing.

5. One-Time-a-Year Data Gathering.—Presently, employers can designate any day during a plan year as the testing date. However, when a highly compensated employee elects to change coverage during the plan year (e.g. employee marries and changes employee coverage to family coverage), the data as of the testing date must be adjusted to reflect the election. This additional tracking would add a great deal of needless cost to the testing process. The bill would eliminate this exception to the one-day-a-year data gathering rule (section 89(g)(6)(B)).

6. Deemed Coverage Rule.—Dependent coverage would be deemed to satisfy the benefits test and the 80 percent test to the same extent that employee-only coverage does, provided all non-highly compensated employees receiving employee-only coverage have dependent coverage available on the same basis as highly compensated employees. To be available for this rule, the dependent coverage must not cost non-highly compensated employees more than $6.70 a week.

7. Aggregation Rule.—Under present rules, for purposes of the 80 percent rule, two or more accident or health plans are treated as comparable and therefore can be aggregated for testing purposes if: (1) such plans are available to all employees within the group on the same terms, and (2) the difference in annual employee cost between the plans in the group with the smallest and largest employee cost is no more than $100 (indexed). In order to apply this safe harbor, employee contributions must be made on the same pre- or post-tax basis. The bill would increase the cost differential to $365.

8. Valuing Coverage.—Present law provides a transition rule for employers in valuing coverage under a health plan. The rule applies until the IRS publishes guidance on valuation. The present transition rule allows the employer to use any reasonable method for valuing a health plan and specifies that the cost of the health plan is a reasonable method of valuation. In valuing coverage, the rule allows the employer to use the cost of the applicable premium used for continuation coverage under a group health plan and is permitted to adjust the premium for differences related to geographic locale, the demographics of the participant population, and utilization. The bill would make the transition rule permanent.

Mr. DURENBERGER. Mr. President, I am pleased to join the distinguished Senator from Arkansas, Senator PRYOR, and several of my colleagues in introducing the Section 89 Simplification Act. I believe this legislation will go a long way toward alleviating much of the burdensome complexity that currently makes compliance with section 89 a difficult and needlessly costly task, especially for small employers. At the same time, this legislation preserves the principle nondiscrimination goals that underlie section 89.

Mr. President, when Congress adopted the Tax Reform Act of 1986, it included a set of nondiscrimination rules for health and welfare benefit plans which ultimately became the foundation for section 89. Our purpose in adopting these rules was to broaden the availability of employer-provided health coverage so as to ensure that companies which provide such plans to their executives and officers also make such plans available to a broader segment of their work force.

Supporters of the section 89 nondiscrimination rules recognize that this provision, by itself, would not overcome the problem of access to health insurance for the 37 million uninsured. We believed, and still maintain, that its adoption will expand participation in company sponsored health insurance and serve as an important step in expanding the number of people who have access to company-sponsored health insurance benefits.

In addition, section 89 brings a measure of fairness and equity to the lower paid and mid-level employees in many companies. All of us are aware of cases where companies have provided very expensive health coverage for their top executives while at the same time ignoring or minimizing the health insurance needs of their other employees. Section 89 seeks to prevent such abuses by establishing strict coverage and benefit comparability rules. We think such nondiscrimination rules are only fair especially when on considers that the deduction for employer-provided health insurance is the second largest tax expenditure provided by Congress.

Unfortunately, Mr. President, while we may all agree on the goals underlying section 89, I believe in its execution, the statute and the regulations are far too complex for most businesses to understand. And because of this complexity, I think we see not only massive non-compliance by many companies, but we will also breed increased cynicism about a tax code that seems to become ever-more complex as each year passes.

Last year I joined several of my colleagues on the Finance Committee in developing several modifications of the original section 89 rules. Although these modifications made section 89 somewhat more workable, the final legislation that emerged from the House-Senate conference failed to address all of the difficulties surrounding section 89.

Because I thought the modifications of section 89 did not go far enough, and because the IRS did not provide timely regulatory guidance to employers, late last year I joined Senator PRYOR in writing a letter to the Commissioner of the Internal Revenue Service asking that the Service delay enforcement of section 89. Although the Service has given employees until July 1, to satisfy the requirements of section 89, I think it is now incumbent on Congress to reconsider some of the most onerous provisions currently contained in this section of the law.

Mr. President, the Section 89 Simplification Act that we are introducing today should resolve many ofthe problems associated with compliance with this statute. One of the most important features of this bill is the model simplified health arrangement that will serve as an automatic safe harbor for any company offering such a plan. Under this approach, if an employer offers employee and dependent care coverage to at least 90 percent of its employees, and an employee is required to pay no more than $6.70 per week for employee coverage, or no more than $13.40 per week for dependent care coverage, the employer's health plan will automatically comply with section 89. These employee-contribution levels will be automatically indexed for inflation and tied to increases in the minimum wage.

If a company offers a plan that fits within the contours of the model simplified health arrangement, no futher section 89 testing or paperwork will be required. Mr. President, simply stated, this approach allows an employer to get out from under the mass of section 89 paper work if 90 percent of his full-time employees are asked to pay less than $1 a day for employee-only coverage, and less than $2 a day for dependent care coverage.

In addition to the model simplified health arrangement, we have made several other changes to the current rules. The definition of a part-time employee has been modified so that in 1989 employers will be able to exclude from section 89 testing employees who work fewer than 30 hours per week. In 1990, employers will be able to exclude part-timers who work fewer than 28½ hours a week, and in 1991 the part-time exclusion will apply only to people who work fewer than 25 hours a week.

This legislation also modifies the noncompliance penalties under section 89(k) so that if an employer fails to comply with the rules, all of his highly compensated employees would have to include in taxable income the full value—COBRA cost—of the health insurance provided by the company.

We have also modified the 80 percent aggregation rules to better reflect the disparities in cost between dependent care coverage and employee-only coverage. Under the current law, two or more health plans are treated as comparable and can be aggregated for testing purposes if the plans are available to all employees within the group and the difference in annual employee costs between the plans in the group with the lowest and highest employee costs is no more than $100. Under our legislation, the cost-differential would be increased to $365.

In addition, to respond to the complaints that we have heard from many officials of State and local governments, we have eliminated the current rule that requires an employer to designate its highest paid employee as a highly compensated person for purposes of section 89 testing, even if that person is not a highly compensated person as defined by section 414(q)(5)(B). The net effect of this provision is to exempt an employer from the testing provisions of section 89 if the organization does not employ a person who earns approximately $50,000 a year.

Mr. President, this legislation is not a panacea for all of the problems confronting companies that are in good faith attempting to comply with section 89. It is, however, a first step. I look forward to receiving constructive comments and suggestions from my colleagues and from the employee benefits community that will further improve this legislation.

I look forward to working with my colleagues to make this bill law before the end of this year.

Mr. HEINZ. Mr. President, I am pleased to be able to join my colleague from Arkansas in introducing this legislation to give employers an opportunity to avoid the tremendous burden of testing health plans for compliance with section 89. We need to do something quickly to allow employers to sidestep section 89, and I commend Senator PRYOR for his leadership in getting his bill introduced today.

Mr. President, the health plan testing rules in section 89 of the Internal Revenue Code are ridiculously complex and confusing. Large corporations with huge computers and well-staffed employee benefits departments are having enough trouble figuring out how to comply with the rules. Small companies can only throw up their hands, or worse yet, throw away their money on consultants. Even worse, many employers have decided to pay section 89's penalties for noncompliance rather than go through all the expense of testing their plans. It is time to give honest employers a simple alternative to section 89—and that is what we are doing today.

Section 89 is a good idea that got lost in drafting. In my judgment, Congress started out with a simple concept in 1986—to ensure that workers had access to their employer's health plans and that employers did not intentionally or unintentionally exclude low-paid workers from participating in their best or executive-only health plans. Actually, I think we could have done this with a simple requirement that the design of a qualified health plan not preclude low-paid workers from participating, and that all plans be available to all or nearly all of the workers.

Instead, the conferees on the 1986 tax act adopted lengthy rules to ensure that workers actually elected and received health benefits in a nondiscriminatory fasion. The concept of a nondiscriminatory result in the election of benefits is important, but it is also the father of all the complexity in the section 89 rules.

The complexity of the 89 rules may be more than burdensome—it may actually work against our health policy goals of expanding health insurance coverage and restraining the increasing cost of health care. I honestly think it is a little bizarre that the tax lawyers have played such a major role in rewriting health policy. We might wish for tax purposes that the world of health benefits was simple, but we have to remember that there are a lot of other policy goals we are serving with health benefits than merely paying equitable taxes.

In my judgment, Mr. President, the legislation we are introducing today allows us to return to the simpler concept we started with. The simplified health arrangement provided in this bill under section 90 would allow an employer to bypass all of section 89's complex testing rules. This new section would make it possible for an insurers to put together a health plan that was prequalified by design. As long as the employer properly notified employees about the plan and made the plan available to 90 percent of the employees, the plan would be tax qualified. The employer would know in advance that the plan would be acceptable, and would not have to divide workers into highly compensated and nonhighly compensated categories and test to ensure that the election of plans was not discriminatory.

Of course, there are many employers who operate plans that would be too complex to conform to the section 91's new simplified health arrangement and would prefer to keep this complexity. While these employers would still have to pass the section 89 tests, the bill we are introducing today would make that process simpler and clearer as well. The bill also provides a much better transition rule for the inclusion of part-time workers in section 89 testing to deal with one of the most difficult section 89 requirements for many employers.

Mr. President, this bill would give us the answer many of our constituents have asked for—a way around section 89. I think it would relieve a tremendous burden for many employers. At the same time, it does not relax our commitment to nondiscrimination in health benefits. I am pleased to join so many of my colleagues on the Finance Committee, and others in the Senate, I hope we can bring this bill before the Finance Committee quickly, and assure those employers who must begin to comply with section 89 shortly that relief is on the way.

Mr. BAUCUS. Mr. President, I am pleased to cosponsor this legislation to revise section 89. This bill should get us started on the road to rewriting a tax law that was intended to help workers but has backfired. It is hard to criticize the objectives of section 89. But I must say, it is a baby that only its mother could love. And at this point, no one wants to claim the child.

Last year, we tried to solve some of the problems with section 89 as part of the 1988 tax act. Well, we did solve some of the problems. But we also ended up with so many new bells and whistles added to the old version that now it looks like it was put together by Rube Goldberg.

Now we will see if we can streamline things a bit—at least for the small firms that cannot afford to spend a lot of time and money trying to figure out if they comply with section 89.

The point of section 89 is to encourage broader health benefits coverage for employees—at all levels of the workplace hierarchy. This legislation moves us in that direction.

One of the more important provisions in this bill is the creation of a model simplified health arrangement. This model arrangement means that most small businesses should not have to deal with the nondiscrimination tests of section 89. That is significant for the small firms that are so important to the economy of Montana.

This bill is a step in the right direction and I am sure that soon we will have a final version to take care of the problems with the current version of section 89.

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By Mr. HATCH (for himself, Mr. KENNEDY, Mr. GARN, Mr. GLENN, Mr. SIMPSON, Mr. MATSUNAGA, Mr. ARMSTRONG, Mr. WIRTH, Mr. THURMOND, Mr. HARKIN, Mr. LUGAR, and Mr. HATFIELD):

S. 655. A bill to amend the Public Health Service Act to require public conveyances to certify that the public is not involuntarily exposed to passive smoke when exposed to such conveyance, and for other purposes; to the Committee on Labor and Human Resources.

PUBLIC PROTECTION FROM PASSIVE SMOKE ACT

Mr. HATCH. Mr. President, I think it is time we in Congress caught up with the scientific evidence. Cigarette smoking is both a health and safety risk to smokers and nonsmokers who travel. Passengers on interstate public conveyances are often forced to sit for hours in confined areas, breathing air contaminated by tobacco smoke.

In 1985, Congress asked the Office of Technology Assessment to review the scientific evidence on whether cigarette smoke causes illness and disease in nonsmokers. In May 1986, OTA issued a report entitled "Passive Smoking in the Workplace: Selected Issues," which contained the following conclusions:

There is ample evidence that nonsmokers are exposed to elements of tobacco smoke when they are around people who are smoking * * * Children and people with pre-existing lung disease might be more susceptible than healthy adults to some of the effects of passive smoking.

Most importantly, the report stated:

More than a dozen studies have been published during the 1980s that address the possible association of passive smoking and lung cancer. Taken one by one, the studies cannot be considered "definitive"; however, most investigators have found that passive smoking elevates a nonsmoker's risk of lung cancer, and results in about half the studies were statistically significant. The consistency of the results argues for stronger conclusions than could be drawn from individual studies: examined together, the evidence is generally consistent with an increased risk of lung cancer, on the order of a doubling of risk, among nonsmokers regularly exposed to environmental cigarette smoke compared with nonsmokers without exposure.

Congress also asked the National Research Council to evaluate cigarette smoking on commercial aircraft. In their 1986 report entitled "The Airliner Cabin Environment, Air Quality and Safety," the council concluded:

A contaminant in aircraft cabins that can be detected by its characteristic odor and visibility is environmental tobacco smoke—the combination of exhaled mainstream smoke and the smoke generated by smoldering cigarettes. Environmental tobacco smoke is a hazardous substance, and is the most frequent source of complaint about aircraft air quality.

Because of the high concentration of environmental tobacco smoke generated in the smoking zone, it cannot be compensated for by increased ventilation in that zone. Moreover, strict separation of the airplane into smoking and nonsmoking zones does not prevent exposure of flight attendants and nonsmoking passengers to environmental tobacco smoke.

The scientific experts considered several ways of reducing environmental tobacco smoke in aircraft including structural or engineerng changes, but concluded that such changes were not economically feasible.

The National Research Council went on to recommend:

A ban on smoking on all domestic commercial flights, for four major reasons: to lessen irritation and discomfort to passengers and crew, to reduce potential health hazards to cabin crew associated with environmental tobacco smoke, to eliminate the possibility of fires caused by cigarettes, and to bring the cabin air quality into line with established standards for other closed environments.

Other specific experts have been just as definitive. In a 1981 report entitled "Indoor Pollutants," the National Research Council stated:

Public policy should clearly articulate that involuntary exposure to tobacco smoke has adverse health effects and ought to be minimized or avoided where possible.

But perhaps the strongest conclusions have been reached by the Surgeon General of the United States, C. Everett Koop. In his 1986 report entitled "The Health Consequences of Involuntary Smoking," the Surgeon General made the following statement:

The comparison of the chemical composition of smoke inhaled by active smokers with that inhaled by involuntary smokers suggests that the toxic and carcinogenic effects are quantitatively similar, a similarity that is not too surprising because both mainstream smoke and environmental tobacco smoke result from the combustion of tobacco.

The Surgeon General study made the following three major conclusions:

First. Involuntary smoking is a cause of disease, including lung cancer in healthy nonsmokers.

Second. The children of parents who smoke compared with the children of nonsmoking parents have an increased

frequency of respiratory infection, increased respiratory symptoms, and slightly smaller rates of increase in lung function as the lung matures.

Third. The simple separation of smokers and nonsmokers within the same airspace may reduce, but does not eliminate, the exposure of nonsmokers to environmental tobacco smoke.

Mr. President, similar results and opinions can be found in other reports such as a 1986 report by the National Research Council entitled "Environmental Tobacco Smoke: Measuring Exposure and Assessing Health Effects"; a 1985 Surgeon General's report, "Health Consequences of Smoking: Cancer and Chronic Lung Disease in the Workplace"; and other studies by private researchers and State and local governments.

There seems to be little disagreement among objective scientific experts on the adverse health consequences of passive smoking. Passive smoking threatens the health of everyone who is exposed, and it is especially hazardous to the very young and very old. It is not a theoretical health hazard. We are not talking about assumptions based on the death of a few laboratory specimens.

Tobacco users exposes the nonsmoker to the 4,000 chemicals contained in tobacco smoke, 43 of which are known to cause cancer. The Surgeon General has estimated that the 1,000 cigarette smokers who die prematurely every day are killing 12 to 15 nonsmokers with their tobacco smoke. Up to 5,000 nonsmokers die prematurely each year from exposure to the cigarette smoke of others.

Mr. President, during this Congress, there will be much debate about protecting our basic rights as individuals against a variety of threats and challenges. Well, passive smoking is a real threat to perhaps our most fundamental individual right: the right to live. Those individuals who are affected adversely by passive smoking should have rights too.

Let me share with you a letter I received from Anna Carroll of Alexandria, VA. She has been diagnosed as having nonhereditary pulmonary emphysema. Not only has she never smoked, no one in her family has smoked, including her husband. Medical experts told her that her emphysema was directly related to the fact that she was surrounded by chain smokers at work for more than 25 years.

As tragic as her story is, that wasn't the reason she contacted me. Her reason was to request legislation to protect nonsmokers while traveling. She stated that when she attempts to use public transportation—trains, buses, or airplanes—she has severe reactions due to exposure to tobacco smoke. The flight attendants would have to keep a close watch on her and provide her with supplemental oxygen because of the tobacco smoke. She also gets chest pains and must struggle to breathe when exposed to cigarette smoke.

When I introduced legislation on January 6, 1987, to ban smoking on airplanes and other public conveyances, I put Ms. Carroll's letter in the CONGRESSIONAL RECORD, and an interesting thing happened. I received letters from others like her. I won't read all of them, but I would like to read a few lines from a representative few.

Ms. Loretta M. Skewes from Michigan stated:

> On Flight 004 the smoking was very heavy, and although I complained to the attendant, nothing was done and I suffered a breathing problem which resulted in a full blown asthma attack. I had not suffered an attack for years but now the allergic cycle has been restarted.

Gerald and Sharon Campbell of Woodside, NY, said in their letter:

> Since smoke sensitive people also find it necessary to travel on public conveyances, and they find it necessary to breathe during these trips, to permit smoking is to deny others the opportunity to travel. Senate Bill 51 will give us the "right" to travel without paying the penalty of an asthma attack, the infliction of carcinogenic and radioactive materials on our innocent lungs and the possibility of long-term illness and shortened lifespans.

Mrs. Wanda F. Tozer of Cincinnati, OH, wrote:

> My respiratory system is highly sensitive to smoke. Yet there are times when I must fly to get somewhere on time. I find myself dreading each time I must fly because I nearly panic knowing that I will barely be able to breathe.

I could go on and on with these letters. I have received many letters from Utah and all over the country in support of this legislation. I have even received letters from Boy Scouts who are members of troop 55 in Amalga, UT. I have had flight attendants stop me on airplanes and tell me about the health problems they have developed as a result of chronic exposure to tobacco smoke during flights. I could go on and on, but I want to read one more paragraph from Anna Carroll's letter. She said:

> Letters to the Secretary of Transportation, the FAA, airlines, etc., have done little to any good. There are no laws on the books, so nobody takes responsibility for protection of the innocent nonsmoker.

Mr. President, people choose to smoke, but there is no choice about breathing. We should not ban individuals from airplanes or other public conveyances simply because they cannot safely breathe the air which has been polluted by other passengers' cigarette smoke. Our much-heralded freedom of movement should not be subject to the risks posed by passive smoking.

There is another factor we should consider, Mr. President. Smoking on airlines also poses a safety risk to all passengers. A study by the Federal Aviation Administration found that 6 percent of in-flight aircraft fires were caused by careless smoking.

Perhaps Michael Brown of Arlington, TX, put it most succinctly when he wrote in an editorial:

> Consider this; we put an average of 150 people inside of an enclosed metal cylinder filled with highly flammable oxygen and tons of explosive jet fuel, pressurize the cabin, take the aircraft six miles above the earth and then allow smokers to pull out an open flame and light up.

Mrs. Georgia Schafer, a flight attendant from Golden, CO, wrote about another safety problem. She stated:

> I experienced on a flight the cabin pressure going crazy. This caused people's ears to block, causing pain as well as headaches. The flight engineer could not control the cabin pressure. When the mechanics came to repair the problem, they found that the valves were covered with nicotine and the valves had stuck shut.

There have also been studies which show that tobacco smoke affects our pilots. Tobacco smoke, coupled with the increase in cabin altitude of an airplane, decreases the amount of oxygen in the bloodstream. This decrease in oxygen can affect a pilot's night vision and judgment. Mr. President, we are fortunate that cigarette smoking has not yet resulted in a fatal airline crash in this country, but how long will our luck last?

The opponents of banning smoking on airlines have raised two principal arguments. First, they contend that a ban will increase the risk of in-flight fires because it will encourage smokers to sneak back to the restrooms and light up. Mr. President, to my knowledge this has not been a problem since we established the 2-hour airline smoking ban.

The Federal Aviation Administration [FAA] has already taken steps to address this concern. I ask unanimous consent that section 121.308 of the Federal Aviation Regulations on Lavatory Fire Protection be placed in the RECORD along with parts (e) and (f) of section 25.854.

These regulations require every lavatory in a commercial airplane to be equipped with a smoke detector and every trash receptacle to be equipped with a fire extinguisher. If a smoke alarm sounds as soon as a cigarette is lit, notifying flight attendants, it is unlikely that smokers will continue to try to smoke in airplane lavatories.

The second argument frequently raised against the proposed ban is the need to protect the rights of smokers. Smokers do have rights but, as with every right, there are limits. Smokers have the right to endanger their own health, but that right ends when they

start endangering the health and safety of others.

The evidence is clear that lighting up a cigarette on a public conveyance does just that, it endangers the health and safety of others. Our laws are replete with examples of the regulation of individual conduct which poses a health or safety risk to others. Banning smoking from public conveyances would be consistent with previous action we have taken to protect the health and safety of all Americans.

Today, we began the process of correcting this failure. We have the chance to protect the Anna Carrolls of this country and give them the right to travel that the rest of us enjoy. We have the chance to protect our children, our parents, and ourselves from the dangers of tobacco smoke.

The public supports this move. A Gallup Poll which I have cited before found that 85 percent of nonsmokers, 75 percent of former smokers, and 63 percent of smokers felt that smokers should not smoke around nonsmokers. The Society for Respiratory Care surveyed 2,306 travelers in the Salt Lake City Airport. Sixty-six percent said they wanted smoking banned compared to only 26 percent who did not.

Today, Mr. President, Senator KENNEDY and a number of our colleagues are joining me in introducing the Public Protection From Passive Smoke Act. This legislation requires every domestic interstate public conveyance to certify to the Surgeon General of the Public Health Service that they will not voluntarily expose the public to passive smoke. This certificate must be displayed to the public, and anyone who violates the certificate may be fined up to $1,000.

Titles II and III of this legislation will also codify our existing public education efforts on cigarette and smokeless tobacco products.

The effect of this legislation, Mr. President, is to give the Nation's top health official, the Surgeon General, the authority to protect the public from the health risks of passive smoke on interstate public conveyances.

The scientists of this country have spoken; the American public has spoken; and the flight attendants have spoken. Now it is time for the Senate to support them. It is time for us to protect the health and safety of passengers on public conveyances by eliminating tobacco smoke from those conveyances.

The American Cancer Society, the American Lung Association, the American Heart Association, a number of other health associations, and even some of our air carriers support this legislation. I hope my colleagues will join us in supporting this legislation so that we can once and for all give Anna Carroll and others like her the right they deserve, the right to travel.

SECTION 121.308 LAVATORY FIRE PROTECTION

(a) After October 29, 1986, no person may operate a passenger-carrying transport category airplane unless each lavatory in the airplane is equipped with a smoke detector system or equivalent that provides a warning light in the cockpit or provides a warning light or audio warning in the passenger cabin which would be readily detected by a flight attendant, taking into consideration the positioning of the flight attendants throughout the passenger compartment during various phases of flight.

(b) After April 29, 1987, no person may operate a passenger-carrying transport category airplane unless each lavatory in the airplane is equipped with a built-in fire extinguisher for each disposal receptacle for toilets, paper, or waste located within the lavatory. The built-in fire exinguisher must be designed to discharge automatically into each disposal receptacle upon occurrence of a fire in the receptacle.

SECTION 25.854

(e) Each disposal receptacle for towels, paper, or waste must be fully enclosed and constructed of at least fire resistant materials, and must contain fires likely to occur in it under normal use. The ability of the disposal receptacle to contain those fires under all probable conditions of wear, misalignment, and ventilation expected in service must be demonstrated by test. A placard containing the legible words "No Cigarette Disposal" must be located on or near each disposal receptacle door.

(f) Lavatories must have "No Smoking" or "No Smoking in Lavatory" placards located conspicuously on each side of the entry door, and self-contained removable ashtrays located conspicuously on or near the entry side of each lavatory door, except that one ashtray may serve more than one lavatory door if the ashtray can be seen readily from the cabin side of each lavatory door served. The placards must have red letters at least one-half inch high on a white background of at least one inch high. (A "No Smoking" symbol may be included on the placard.)

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By Mr. GRASSLEY (for himself, Mr. DANFORTH, Mr. DURENBERGER, Mr. BINGAMAN, Mr. D'AMATO, Mr. COCHRAN, Mr. WILSON, Mr. SYMMS, and Mr. HELMS):

S. 656. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for interest on educational loans; to the Committee on Finance.

RESTORING THE TAX DEDUCTION ON EDUCATIONAL LOANS

● Mr. GRASSLEY. Mr. President, today, I rise to reintroduce legislation that will reinstate the deduction for interest on student loans. Senators DANFORTH, DURENBERGER, BINGAMAN, D'AMATO, COCHRAN, WILSON, SYMMS, and HELMS are joining me in reintroducing this legislation.

As you know, under the Tax Reform Act of 1986, the consumer interest deduction will be phased out after the 1990 tax year. Unfortunately, educational expenses were lumped together with consumer interest and the deduction for student loan interest will also be terminated.

Mr. President, by taking this action, Congress has, in effect, imposed an additional tax on individuals who are attempting to better themselves or their families through education.

Congress justified repealing the interest deduction on the grounds that it was a significant disincentive to saving. However, unlike loans for most other personal items, student loans have become a necessity for many students and their families who are unable to afford the rising costs of an education.

In addition, consumer interest, up to a limit, remains deductible if the loan is secured by a taxpayer's residence. Even if this home equity loan is used for educational expenses, the interest is deductible. Consequently, current law discriminates against lower income taxpayers who are not fortunate enough to own a home and able to borrow on the home's equity.

The present law regarding interest deductions for education is neither fair nor productive, and it is time to make an adjustment. We all agree that education is a national investment which will be a determining factor in the future of America. A well-educated work force is vitally important if we are to compete effectively in the international marketplace. Restoring the interest deduction for student loans is an expression of the value we place on education and its role in maintaining the position of the United States as the leader of the free world.

Therefore, I urge my colleagues to join me and the cosponsors of this legislation in supporting the education and future of America by adjusting the Tax Code to allow a fair deduction to all Americans for reasonable educational expenses.

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

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

S. 656

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) paragraph (2) of section 163(h) of the Internal Revenue Code of 1986 (defining personal interest) is amended by striking out "and" at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) any interest on a qualified educational loan, and".

(b) QUALIFIED EDUCATIONAL LOAN.—Section 163(h) of such Code is amended by adding at the end thereof the following new paragraph:

"(6) QUALIFIED EDUCATIONAL LOAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified educational loan' means any indebtedness incurred to pay qualified educational expenses which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred.

"(B) COORDINATION WITH HOME EQUITY INDEBTEDNESS LIMITS.—Any qualified education loan which is also home equity indebtedness

shall not be taken into account for purposes of applying the limitation of paragraph (3)(C)(ii).

"(C) QUALIFIED EDUCATIONAL EXPENSES.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified educational expenses' means qualified tuition and related expenses of the taxpayer, his spouse, or a dependent for attendance at an educational institution described in section 170(b)(1)(A)(ii).

"(ii) QUALIFIED TUITION AND RELATED EXPENSES.—The term 'qualified tuition and related expenses' has the meaning given such term by section 117(b), except that such term shall include any reasonable living expenses while away from home.

"(iii) DEPENDENT.—For purposes of this subparagraph, the term 'dependent' has the meaning given such term by section 152."

(c) The amendments made by this section shall apply to taxable years beginning after December 31, 1988.●

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By Mr. MITCHELL (for himself, Mr. CHAFEE, Mr. LAUTENBERG, Mr. DURENBERGER, Mr. BAUCUS, Mr. GRAHAM, Mr. MOYNIHAN, Mr. COHEN, Mr. PRESSLER, Mr. WIRTH, Mr. GORE, Mr. CONRAD, Mr. SARBANES, Mr. ADAMS, Mr. REID, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. HUMPHREY, and Mr. BRADLEY):

S. 657. A bill to authorize a national program to reduce the threat to human health posed by contaminants in the air indoors; to the Committee on Environment and Public Works.

INDOOR AIR QUALITY ACT

Mr. MITCHELL. Mr. President, today I am introducing legislation to reduce the health threats posed by exposure to contaminants in the air indoors.

I am pleased that Senators CHAFEE, LAUTENBERG, DURENBERGER, BAUCUS, GRAHAM, MOYNIHAN, COHEN, PRESSLER, WIRTH, GORE, CONRAD, SARBANES, ADAMS, REID, LIEBERMAN, MIKULSKI, HUMPHREY, and BRADLEY are joining me in introducing this important legislation.

Americans spend up to 90 percent of the day indoors and have a significant exposure to contaminants in the air in workplaces, schools, homes, and other buildings. Indoor air contaminants such as radon, asbestos, volatile organic chemicals, combustion byproducts, and respirable particles pose serious threats to human health.

The Environmental Protection Agency [EPA] has reported that exposure to contaminants in indoor air is among the most significant environmental causes of cancer. A single indoor air contaminant, radon gas, is estimated to cause between 5,000 and 20,000 lung cancer deaths each year. Indoor air contaminants are also known to cause respiratory illness, skin and eye irritation, and other illnesses.

The health effects caused by these contaminants result in increased medical costs and increased sick leave. The Consumer Federation of America has testified that the total cost to society of indoor air pollution is in the tens of billions of dollars.

The EPA's own research program offers convincing documentation of the health threats posed by indoor air contaminants. In June 1987, the EPA published a major, four volume, multiyear study of total exposure to air pollutants. The report states:

> The major finding of this study is the observation that personal and indoor exposures to these toxic and carcinogenic chemicals are nearly always greater—often much greater—than outdoor concentrations. We are led to the conclusion that indoor air in the home and at work far outweighs outdoor air as a route of exposure to these chemicals." (p. 7, Summary and Analysis Volume)

In hearings on this issue during the last Congress in the Environment and Public Works Committee and the House Science and Technology Committee, witnesses confirmed the general conclusions of the EPA study and agreed that exposure to contaminants in the air in workplaces, schools, homes, and other buildings poses a significant health threat.

Since these hearings, EPA has published a major study of indoor air quality in public buildings. This study, released in September 1988, concluded that—

> VOC's (volatile organic chemicals) are ubiquitous indoors . . . About 500 different chemicals were identified in just four buildings . . . Almost every pollutant was at higher levels indoors than out . . . New buildings had levels of some chemicals that were 100 times higher than outdoor levels. . . .

Just last week, a coalition of public interest groups and insurance companies issued a major consumer health and safety agenda. Indoor air contamination is identified as one of seven major public health problems needing attention. The report specifically recommends enactment of legislation very similar to the bill we are introducing today.

Several general conclusions can be drawn from these studies and the testimony of witnesses at hearings during the last Congress. First, the health threats posed by indoor air contaminants are well documented. Second, there is not an adequate effort by Federal agencies and States to conduct research on indoor air contaminants or to develop comprehensive response plans addressing these contaminants. And, finally, it is time to consider legislation to provide a comprehensive framework for addressing this problem.

I first introduced legislation authorizing a national program to reduce the threat to human health posed by contaminants in indoor air in August 1987. The Indoor Air Quality Act of 1987—S. 1629—was reported by the Senate Environment Committee in July of last year.

The bill we are introducing today is virtually identical to the legislation reported by the Environment Committee. This legislation is intended as a reasonable response to the health threats posed by indoor air contamination.

A key objective of the bill is to expand and strengthen research of indoor air contaminants. The bill establishes a comprehensive research program for indoor air quality, describes basic research authorities, and creates a grant program to encourage development of indoor air pollution control technology.

Another objective of the bill is to assure the develop of "health advisories" on contaminants in the indoor air indicating the health risks at a range of concentrations, including a "no adverse effect level".

This information will help the Federal Government focus efforts on the most serious contaminants and will help avoid duplication of effort by States in conducting research and assessments of contaminants. I want to stress that the bill does not provide for setting enforceable standards for indoor air contaminants.

A key section of the bill provides for a "national response plan" which will focus and direct authorities for control of various sources of indoor air contamination which exist in current statutes. The response plan is intended to provide a general description of the indoor air pollution problem nationally, identify contaminants of concern, and identify specific response actions to reduce exposures to these contaminants.

The bill provides no new authority to regulate indoor air contaminants beyond the authorities which already exist in current statutes and regulations. Instead, the bill directs that Federal agencies use the "response plan" to make effective use of the authority in existing statutes and to develop needed education and informational programs.

Another key objective of the bill is to demonstrate development of very basic indoor air quality management strategies and assessments at the State level. States have the option of applying for grant assistance to develop management strategies and assessments. States may also apply for grant assistance to respond to individual indoor air contaminants, such as radon or asbestos, in specific areas of a State or in specific types of buildings.

States have proven to be essential partners in implementing many of our environmental programs.

The bill also addresses the problem of coordination of indoor air quality activities among Federal agencies. The nature of indoor air pollution problems requires that a wide range of Federal agencies participate in assess-

ment and control efforts. The bill establishes a Council on Indoor Air Quality to oversee and coordinate the indoor air activities of various Federal agencies.

In response to comments from witnesses at hearings on the bill, we added a section addressing the problem of "sick buildings". The section expands the authority of the National Institute of Occupational Safety and Health [NIOSH] to conduct assessments of buildings with indoor air quality problems.

Building assessments are to identify suspected contaminants in indoor air, identify sources of contaminations, review health effects, and identify appropriate response measures. The bill authorizes expenditures of $5 million per year for this important effort.

Finally, the bill is designed as a general management framework. It does not preempt the development of additional legislation addressing specific contaminants, such as asbestos, and does not preempt State laws or initiatives.

Mr. President, I ask that the bill and a section-by-section analysis 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. 657

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

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. TITLE.—(a) This Act, together with the following table of contents, may be cited as the "Indoor Air Quality Act of 1989".

(b) TABLE OF CONTENTS.—



FINDINGS

SEC. 2. The Congress finds that—

(1) Americans spend up to 90 per centum of a day indoors and, as a result, have a significant potential for exposure to contaminants in the air indoors;

(2) exposure to indoor air contamination occurs in workplaces, schools, public buildings, residences, and transportation vehicles;

(3) recent scientific studies indicate that pollutants in the indoor air include radon, asbestos, volatile organic chemicals (including, formaldehyde and benzene), combustion byproducts (including, carbon monoxide and nitrogen oxides), metals and gases (including, lead, chlorine, and ozone), respirable particles, environmental tobacco smoke, biological contaminants, microorganisms, and other contaminants;

(4) a number of contaminants found in both ambient air and indoor air may occur at higher concentrations in indoor air than in outdoor air;

(5) indoor air pollutants pose serious threats to public health (including cancer, respiratory illness, multiple chemical sensitivities, skin and eye irritation, and related effects);

(6) the National Academy of Sciences estimates that up to 15 per centum of the United States population may have heightened sensitivity to chemicals and related substances found in the air indoors;

(7) radon is among the most harmful indoor air pollutants and is estimated to cause between five thousand and twenty thousand lung cancer deaths each year;

(8) other selected indoor air pollutants are estimated to cause between three thousand five hundred and six thousand five hundred additional cancer cases per year;

(9) indoor air contamination is estimated to cause significant increases in medical costs and declines in work productivity;

(10) as many as 20 per centum of office workers may be exposed to environmental conditions manifested as "sick building syndrome";

(11) sources of indoor air pollution include conventional ambient air pollution sources, building materials, consumer and commercial products, combustion appliances, indoor application of pesticides and other sources;

(12) there is not an adequate effort by Federal agencies to conduct research on the seriousness and extent of indoor air contamination, to identify the health effects of indoor air contamination, and to develop control technologies, education programs, and other methods of reducing human exposure to such contamination;

(13) there is not an adequate effort by Federal agencies to develop response plans to reduce human exposure to indoor air contaminants and there is a need for improved coordination of the activities of these agencies;

(14) there is not an adequate effort by Federal agencies to develop methods, techniques, and protocols for assessment of indoor air contamination in non-residential, non-industrial buildings and to provide guidance on measures to respond to contamination; and

(15) State governments can make significant contributions to the effective reduction of human exposure to indoor air contaminants and the Federal Government should assist States in development of programs to reduce exposures to these contaminants.

PURPOSE

SEC. 3. The purposes of this Act are to—

(1) establish at the Environmental Protection Agency and at other agencies of the United States a comprehensive and coordinated program of research and development concerning the seriousness and extent of indoor air contamination, the human health effects of indoor air contaminants, and the technological and other methods of reducing human exposure to such contaminants;

(2) establish a process whereby the existing authorities of Federal statutes will be directed and focused to assure the full and effective application of these authorities to reduce human exposure to indoor air contaminants where appropriate;

(3) provide support to State governments to demonstrate and develop air quality management strategies, assessments, and response programs; and

(4) to authorize activities to assure the general coordination of indoor air quality-related activity, to provide for reports on indoor air quality to Congress, to provide for assessments of indoor air contamination in specific buildings by the National Institute for Occupational Safety and Health, to assure that data and information on indoor air quality issues is available to interested parties, to provide training, education, information, and technical assistance to the public and private sector, and for other purposes.

DEFINITIONS

SEC. 4. For the purposes of this Act, the term—

(1) "Agency" means the United States Environmental Protection Agency;

(2) "indoor" refers to the enclosed portions of buildings including non-industrial workplaces, public buildings, Federal buildings, schools, commercial buildings, residences, and the occupied portions of vehicles;

(3) "indoor air contaminant" means any solid, liquid, semisolid, dissolved solid, biological organism, aerosol, or gaseous material, including combinations or mixtures of substances in indoor air which may reasonably be anticipated to have an adverse effect on human health;

(4) "Federal agency" or "agency of the United States" means any department, agency or other instrumentality of the Federal Government, including any independent agency or establishment of the Federal Government or government corporation;

(5) "Federal building" means any building which is owned or leased by the Federal Government and managed by the General Services Administration;

(6) "Administrator" means to the Administrator of the Environmental Protection Agency;

(7) "Director" means the Director of the National Institute of Occupational Safety and Health;

(8) "local education agency" means any educational agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381); and

(9) "local air pollution control agency" means any city, county, or other local government authority charged with the responsibility for implementing programs or enforcing ordinances or laws relating to the prevention and control of air pollution including indoor air pollution.

INDOOR AIR QUALITY RESEARCH

SEC. 5. (a) AUTHORITY.—(1) The Administrator shall, in cooperation with appropriate Federal agencies, establish a national research, development, and demonstration program to assure the quality of air indoors and as part of such program shall promote the coordination and acceleration of research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, sources, effects, extent, prevention, detection, and correction of contamination of indoor air.

(2) In carrying out the provisions of this section, the Administrator is authorized to—

(A) collect and make available to the public through publications and other appropriate means, the results of research, development and demonstration activities conducted pursuant to this section;

(B) conduct research, development and demonstration activities and cooperate with other Federal agencies, with State and local government entities, interstate and regional agencies, other public agencies and authorities, nonprofit institutions and organizations and other persons in the preparation and conduct of such research, development and demonstration activities;

(C) make grants to the States or to local government entities, to other public agencies and authorities, to nonprofit institutions and organizations, and to other persons;

(D) enter into contracts or cooperative agreements with public agencies and authorities, nonprofit institutions and organizations, and other persons;

(E) conduct studies, including epidemiological studies, of the effects of indoor air contaminants or potential contaminants on mortality and morbidity and clinical and laboratory studies on the immunologic, biochemical, physiological, and toxicological effects including the carcinogenic, teratogenic, mutagenic, cardiovascular, and neurotoxic effects of indoor air contaminants or potential contaminants;

(F) develop and disseminate informational documents on indoor air contaminants describing the nature and characteristics of such contaminants in various concentrations;

(G) develop effective and practical processes, methods, and techniques for the prevention, detection, and correction of indoor air contamination and work with the private sector to encourage the development of innovative techniques to improve indoor air quality;

(H) construct such facilities and staff and equip them as may be necessary to carry out the provisions of this section;

(I) call conferences concerning the potential or actual contamination of indoor air giving opportunity for interested persons to be heard and present papers at such conferences;

(J) utilize, on a reimbursable basis, facilities and personnel of existing Federal scientific laboratories and research centers; and

(K) acquire secret processes, technical data, inventions, patent applications, patents, licenses, and an interest in lands, plants, equipment and facilities and other property rights, by purchase, license, lease, or donation.

(b) PROGRAM REQUIREMENTS.—The Administrator shall conduct or assist research, investigations, studies, surveys, or demonstrations with respect to, but not limited to, the following—

(1) the effects on human health of contaminants or combinations of contaminants at various levels whether natural or anthropogenic, that are found or are likely to be found in indoor air;

(2) the exposure of persons to contaminants that are found in indoor air (including exposure to such substances from sources other than indoor air contamination including drinking water, diet, or other exposures);

(3) the identification of populations at increased risk of illness from exposure to indoor air contaminants and assessment of the extent and characteristics of such exposure;

(4) the exposure of persons to contaminants in different building classes or types, and in vehicles, and assessment of the association of particular contaminants and particular building classes or types and vehicles;

(5) identification of building classes or types and design features or characteristics which increase the likelihood of exposure to indoor air contaminants;

(6) assessment of the exposure of workers in non-industrial settings to indoor air contaminants, including assessment of resulting health effects, declines in productivity, such time use, increased use of employer paid health insurance, and workers compensation claims, and the costs of such declines in productivity, sick time use, and benefits claims;

(7) identification of the sources of indoor air contaminants including association of contaminants with outdoor sources, building or vehicle design, classes or types of products, building management practices, equipment operation practices, building materials, and related factors;

(8) assessment of relationships between contaminant concentration levels in ambient air and the contaminant concentration levels in the indoor air;

(9) development of methods and techniques for characterizing and modeling indoor air movement and flow within buildings or vehicles, including the transport and dispersion of contaminants in the indoor air;

(10) assessment of the fate, including degradation and transformation, of particular contaminants in indoor air;

(11) development of methods and techniques to characterize the association of contaminants, the levels of contaminants, and the potential for contamination of new construction with climate, building location, seasonal change, soil and geologic formations, and related factors;

(12) assessment of indoor air quality in facilities of local education agencies and development of measures and techniques for control of indoor air contamination in such buildings;

(13) development of methods, techniques and instruments for sampling indoor air to determine the presence and level of contaminants including sample collection and the storage of samples before analysis and development of methods to improve the efficiency and reduce the cost of analysis;

(14) development of air quality sampling methods and instruments which are inexpensive and easy to use and may be used by the general public;

(15) development of control technologies or other measures to prevent the entrance of contaminants into buildings or vehicles (for example, air intake protection, sealing, and related measures) and to reduce the concentrations of contaminants indoors (for example, control of emissions from internal sources of contamination, improved air exchange and ventilation, and related measures);

(16) development of materials and products which may be used as alternatives to materials or products which are now in use and which contribute to indoor air contamination;

(17) development of building or vehicle management practices and related activities which will contribute to the reduction of indoor air contaminants;

(18) development of equipment and processes for removal of contaminants from the indoor air; and

(19) research, to be carried out in conjunction with the Secretary of Housing and Urban Development, for the purpose of developing—

(A) methods for assessing the potential for radon contamination of new construction, including (but not limited to) consideration of the moisture content of soil, porosity of soil, and radon content of soil; and

(B) design measures to avoid indoor air pollution.

(c) TECHNOLOGY DEMONSTRATION PROGRAM.—(1) The Administrator may enter into cooperative agreements or contracts, or provide financial assistance in the form of grants, to public agencies and authorities, nonprofit institutions and organizations, employee advocate organizations, local educational institutions, or other persons, to demonstrate practices, methods, technologies, or processes which may be effective in controlling sources or potential sources of indoor air contamination, preventing the occurrence of indoor air contamination, and reducing exposures to indoor air contamination.

(2) The Administrator may assist demonstration activities under paragraph (1) of this subsection only if—

(A) such demonstration activity will serve to demonstrate a new or significantly improved practice, method, technology or process or the feasibility and cost effectiveness of an existing, but unproven, practice, method, technology, or process and will not duplicate other Federal, State, local, or commercial efforts to demonstrate such practice, method, technology, or process;

(B) such demonstration activity meets the requirements of this section and serves the purposes of this Act;

(C) the demonstration of such practice, technology, or process will comply with all other laws and regulations for the protection of human health, welfare, and the environment; and

(D) in the case of a contract or cooperative agreement, such practice, method, technology, or process would not be adequately demonstrated by State, local, or private persons or in the case of an application for financial assistance by a grant, such practice, method, technology, or process is not likely to receive adequate financial assistance from other sources.

(3) The demonstration program established by this subsection shall include solicitations for demonstration projects, selection of suitable demonstration projects from among those proposed, supervision of such demonstration projects, evaluation of the results of demonstration projects, and dissemination of information on the effectiveness and feasibility of the practices, methods, technologies and processes which are proven to be effective.

(4) Within one hundred and eighty days after the date of enactment of this Act, and no less often than every twelve months thereafter, the Administrator shall publish a solicitation for proposals to demonstrate, prototype or at full-scale, practices, methods, technologies, and processes which are (or may be) effective in controlling sources or potential sources of indoor air contaminants. The solicitation notice shall prescribe the information to be included in the proposal, including technical and economic information derived from the applicant's own research and development efforts, and other information sufficient to permit the Administrator to assess the potential effectiveness and feasibility of the practice, method, technology, or process proposed to be demonstrated.

(5) Any person and any public or private nonprofit entity may submit an application to the Administrator in response to the solicitations required by paragraph (4) of this section. The application shall contain a proposed demonstration plan setting forth how

and when the project is to be carried out and such other information as the Administrator may require.

(6) In selecting practices, methods, technologies or processes to be demonstrated, the Administrator shall fully review the applications submitted and shall evaluate each project according to the following criteria—

(A) the potential for the proposed practice, method, technology, or process to effectively control sources or potential sources of contaminants which present risks to human health;

(B) the consistency of the proposal with the recommendations provided pursuant to paragraph (8) of section 7(d);

(C) the capability of the person or persons proposing the project to successfully complete the demonstration as described in the application;

(D) the likelihood that the demonstrated practice, method, technique, or process could be applied in other locations and circumstances to control sources or potential sources of contaminants, including considerations of cost, effectiveness, and technological feasibility;

(E) the extent of financial support from other persons to accomplish the demonstration as described in the application; and

(F) the capability of the person or persons proposing the project to disseminate the results of the demonstration or otherwise make the benefits of the practice, method, or technology widely available to the public in a timely manner.

(7) The Administrator shall select or refuse to select a project for demonstration under this subsection in an expeditious manner. In the case of a refusal to select a project, the Administrator shall notify the applicant of the reasons for the refusal.

(8) Each demonstration project under this section shall be performed by the applicant, or by a person satisfactory to the applicant, under the supervision of the Administrator. The Administrator shall enter into a written agreement with each applicant granting the Administrator the responsibility and authority for testing procedures, quality control, monitoring, and other measurements necessary to determine and evaluate the results of the demonstration project.

(9) The Administrator shall enter into arrangements, wherever practicable and desirable, to provide for monitoring testing procedures, quality control, and such other measurements necessary to evaluate the results of demonstration projects or facilities intended to control sources or potential sources of contaminants.

(10) Each demonstration project under this section shall be completed within such time as is established in the demonstration plan. The Administrator may extend any deadline established under this subsection by mutual agreement with the applicant concerned.

(11) Total Federal funds for any demonstration project under this section shall not exceed 75 per centum of the total cost of such project. In cases where the Administrator determines that research under this section is of a basic nature which would not otherwise be undertaken, or the applicant is a local educational agency, the Administrator may approve grants under this section with a matching requirement other than that specified in this subsection, including full Federal funding.

(12) The Administrator shall, from time to time, publish general reports describing the findings of demonstration projects conducted pursuant to this section. Such reports shall be provided to the Indoor Air Quality Information Clearinghouse provided for in section 12 of this Act.

(d) TECHNOLOGY AND MANAGEMENT PRACTICE ASSESSMENT BULLETINS.—(1) The Administrator shall publish bulletins providing an assessment of technologies and management practices for the control and measurement of contaminants in the air indoors.

(2) Bulletins published pursuant to this subsection shall, at a minimum—

(A) describe the control or measurement technology or practice;

(B) describe the effectiveness of the technology or practice in control measurement of indoor air contaminants;

(C) assess the feasibility of application of the technology or practice in buildings of different types, sizes, ages, and designs; and

(D) assess the cost of application of the technology or practice in buildings of different types, sizes, ages, and designs, including capital and operational costs.

(3) The Administrator shall establish and utilize a standard format for presentation of the technology and management practice assessment bulletins. The format shall be designed to facilitate assessment of technologies or practices by interested parties, including homeowners and building owners and managers.

(4) The Administrator shall provide that bulletins published pursuant to this subsection shall be published on a schedule consistent with the publication of health advisories pursuant to subsection 6(b) of this Act to the extent practicable.

(5) In development of bulletins pursuant to this subsection, the Administrator shall provide for public review and shall consider public comment prior to publication of bulletins.

(6) Bulletins published pursuant to this subsection shall be provided to the Indoor Air Quality Information Clearinghouse provided for in section 12 of this Act and, to the extent practicable, shall be made available to architecture, design, and engineering firms and building owners and managers and to organizations representing such parties.

(e) CHILD CARE FACILITIES.—(1) The Administrator shall develop protocols for the measurement of radon gas in child care facilities within six months after the date of enactment of this Act.

(2) The Administrator shall make available to the appropriate agency of each State, to organizations representing child care facilities, and to the public, information concerning appropriate techniques to measure radon levels in child care facilities, areas and physical characteristics of buildings housing child care facilities with high radon risks and mitigation measures for reducing radon levels.

(3) The Administrator is authorized to make available to the appropriate agencies of the State, as designated by the Governor of such State, canisters or other suitable devices for use by such agencies in conducting tests for radon within child care facilities in the State. The Administrator is authorized to make available to such agencies the use of laboratories of the Environmental Protection Agency, or to recommended laboratories, to evaluate any such canisters or devices for the presence of radon levels.

(4) The Administrator is authorized to undertake diagnostic and remedial efforts to reduce the levels of radon in nonresidential child care facilities. Such diagnostic and remedial efforts shall be carried out with a view to developing technology and expertise for the purpose of making such technology and expertise available to any child care facility and the several States.

(5) The Administrator shall submit a report to the Congress on his actions to implement this subsection within twelve months after the date of enactment of this Act and annually thereafter.

(f) EXPOSURE ASSESSMENT.—(1) The Administrator shall conduct a study of the appropriateness, feasibility, and implications of considering human exposure to a pollutant in indoor air in development of ambient air quality standards under section 109 and national emissions standards for hazardous air pollutants under section 112 of the Clean Air Act (42 U.S.C. 7409, 7412).

(2) The Administrator shall establish an advisory group, made up of representatives of the scientific community, industrial and commercial entities and consumer and environmental groups to provide guidance and direction in the development of the study.

(3) The Administrator shall report to the Congress the results of the study not later than three years after the date of enactment of this Act including any recommendations for actions to implement the findings of the study.

(g) SCHOOL ASSESSMENTS.—(1) The Administrator shall conduct a national assessment of the seriousness and extent of indoor air contamination in buildings owned by local educational agencies.

(2) The Administrator shall establish an advisory group made up of representatives of school administrators, teachers, parents and service employees and other interested parties to provide guidance and direction in the development of the national assessment.

(3) The Administrator shall provide a report to Congress of the results of the national assessment not later than two years after the date of enactment of this Act. The report required by this paragraph shall provide such recommendations for activities or programs to reduce and avoid indoor air contamination in buildings owned by local educational agencies as the Administrator determines to be appropriate.

(h) CLARIFICATION OF AUTHORITY.—Title IV of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 7401 note) is repealed.

INDOOR AIR CONTAMINANT HEALTH ADVISORIES

SEC. 6. (a) LIST OF CONTAMINANTS.—(1) Within two hundred and forty-days after the date of enactment of this Act, the Administrator shall prepare and publish in the Federal Register a list of the contaminants which are known to occur (or which are expected to occur) in indoor air. The list may include combinations or mixtures of contaminants and may refer to such combinations or mixtures by a common name.

(2) The Administrator shall from time to time and as necessary to carry out the provisions of this Act, but not less often than biennially, review and revise such list adding other contaminants pursuant to the requirements of this Act.

(3) The list provided for in paragraph (1) of this subsection shall include, at a minimum—

(A) any air pollutant listed pursuant to section 108(a)(1) of the Clean Air Act (42 U.S.C. 7408(a)(D);

(B) any hazardous air pollutant listed pursuant to section 112(b)(1)(A) of the Clean Air Act (42 U.S.C. 7412(b)(1)(A)); and

(C) any other contaminants which are known to occur (or which are expected to occur) in indoor air.

(4) In development of the list provided for in paragraph (1) of this subsection or in revision of such list pursuant to paragraph (2), the Administrator shall provide for public review and shall consider public comment prior to issuance of a final list.

(5) The listing of contaminants under this subsection is not an agency rulemaking. In considering objections raised in any judicial or related action, the Administrator's decision to list a particular contaminant shall be upheld unless the objecting party can demonstrate that the decision was arbitrary or capricious or otherwise not in accordance with the law. The list of contaminants prepared in accordance with this subsection shall not be construed to indicate that those contaminants not listed are safe for human exposure or without adverse health effect.

(6) Upon application of the Governor of a State showing that a contaminant or potential contaminant in the indoor air which is not listed pursuant to paragraph (1) of this subsection may reasonably be anticipated to have an adverse effect on human health as a result of its presence in the indoor air, the Administrator shall, within ninety days, revise the list established by paragraph (1) of this subsection to include such contaminant or publish in the Federal Register the reasons for not making such a revision.

(b) CONTAMINANT HEALTH ADVISORIES.—(1) The Administrator shall, in consultation with the advisory panel, provided for in subsection (c) of this section, and after providing for public review and comment, pursuant to paragraph (7), publish advisory materials addressing the adverse human health effects of individual contaminants listed pursuant to subsection (a) of this section. Such advisory materials shall, at a minimum, describe—

(A) the physical, chemical, biological, and radiological properties of the contaminant;

(B) the adverse human health effects of the contaminant in various indoor environments and in various concentrations;

(C) an analysis of the risk posed by the contaminant to human health at various concentrations including risk to subpopulations which may be especially sensitive to exposure to the contaminant;

(D) the concentration of the contaminant at which there is no known or anticipated human health effect, with an adequate margin of safety;

(E) the extent to which the contaminant, or a mixture of contaminants, is associated with a particular substance or material and emissions rates which are expected to result in varying levels of contaminant concentration in indoor air; and

(F) any indoor air contaminant standards or related action levels which are in effect under any authority of a Federal statute or regulation, the authority of State statutes or regulations, the authority of any local government, or the authority of another country, including standards or action levels suggested by appropriate international organizations.

(2) Health advisories published pursuant to this section shall in no way limit or restrict the application of requirements or standards established under any other Federal statute.

(3) The Administrator may publish health advisories for contaminants for which a standard has been established pursuant to section 109 or 112 of the Clean Air Act (42 U.S.C. 7409, 7412).

(4) The Administrator shall establish and utilize a standard format of presentation of indoor air contaminant health advisories. The format shall be designed to facilitate public understanding of the range of risks of exposure to indoor air contaminants and shall include a summary of the research and information concerning the contaminant which is understandable to public health professionals and to those who lack training in toxicology.

(5) The Administrator shall publish health advisories for individual indoor air contaminants listed pursuant to subsection (a) of this section as expeditiously as possible. At a minimum, the Administrator shall publish not less than six advisories within eighteen months of the date of enactment of this Act and shall publish an additional six advisories within thirty-six months of the date of enactment of this Act.

(6) Health advisories shall be based on the most current available scientific and related findings or information and shall be reviewed, revised, and republished to reflect new scientific and related findings or information on a periodic basis but not less frequently than every five years.

(7) In development and revision of health advisories pursuant to this subsection, the Administrator shall provide for public review and comment, including provision of notice in the Federal Register of the intent to publish a health advisory not less than ninety days prior to publication.

(c) ADVISORY PANEL.—The Indoor Air Panel of the EPA Science Advisory Board shall advise the Administrator with respect to the implementation of this section including, but not limited to, the listing of contaminants, the contaminants for which advisories should be published, the order in which advisories should be published, the content, quality, and format of advisory documents, and the revision of such documents. The Administrator shall provide that a representative of the Agency for Toxic Substances and Disease Registry, and the National Institute for Environmental Health Sciences shall participate in the work of the Board as ex officio members.

NATIONAL INDOOR AIR QUALITY RESPONSE PLAN

SEC. 7. (a) AUTHORITY.—(1) The Administrator shall, in consultation with appropriate Federal agencies, develop and publish a national indoor air quality response plan.

(2) The response plan shall provide for implementation of a range of response actions which will result in the reduction of human exposure to indoor air contaminations listed pursuant to section 6(a) of this Act and attainment, to the fullest extent practicable, of indoor air contaminant concentration levels at which there is no known or anticipated human health effect, with an adequate margin of safety.

(b) EXISTING AUTHORITY.—The Administrator shall include in the plans provided for in subsection (a) of this section a description of specific response actions to be implemented based on existing statutory authorities provided in—

(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

(2) the Toxic Substances Control Act (15 U.S.C. 201 et seq.);

(3) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

(4) the Safe Drinking Water Act (42 U.S.C. 300 et seq.);

(5) the authorities of the Consumer Product Safety Commission;

(6) the authorities of the Occupational Safety and Health Administration; and

(7) other regulatory and related authorities provided under any other Federal statute.

(c) SUPPORTING ACTIONS.—The Administrator shall include in the plans provided for in subsection (a) of this section a description of specific supporting actions including, but not limited to—

(1) programs to disseminate technical information to public health, design, and construction professionals concerning the risks of exposure to indoor air contaminants and methods and programs for reducing exposures to such contaminants;

(2) development of guidance documents addressing individual contaminants, groups of contaminants, sources of contaminants, or types of buildings or structures and providing information on measures to reduce exposure to contaminants including—

(A) the estimated cost of such measures;

(B) the technologic feasibility of such measures; and

(C) the effectiveness and efficiency of such measures.

(3) education programs for the general public concerning the health threats posed by indoor air contaminants and appropriate individual response actions;

(4) technical assistance to States and local air pollution control organizations and related groups concerning the risks of exposure to indoor air contaminants and methods and programs for reducing exposures to such contaminants; and

(5) development of model building codes, including ventilation rates, for various types of buildings designed to reduce levels of indoor air contaminants.

(d) CONTENTS OF PLAN.—In describing specific actions to be taken under subsections (b) and (c) of this section, the Administrator shall—

(1) identify the contaminant or contaminants to be addressed by a particular action;

(2) identify the statutory basis for the action;

(3) identify the schedule and process for implementation of the action;

(4) identify contaminants, or circumstances of contamination, for which immediate action to protect public health is necessary and appropriate and describe the actions needed and the schedule for action;

(5) identify the Federal agency which will implement the action;

(6) identify the financial resources needed to implement the specific action and the source of these resources;

(7) identify contaminants, or circumstances of contamination, where existing regulatory or statutory authority is not adequate to address an identified contaminant or circumstance of contamination and recommend legislation to provide needed authority; and

(8) identify contaminants, or circumstances of contamination, where continued reduction of contamination requires development of technology or technologic mechanisms, and identify the Federal agency responsible for such development, the schedule for such development effort, and an estimate of the cost of the development effort.

(e) SCHEDULE.—The response plan provided for in subsection (a) shall be submitted to Congress within twenty-four months of enactment of this Act and biennially thereafter.

(f) REVIEW.—(1) The Administrator shall provide for public review and comment on the response plan provided for in this section, including provision of notice in the Federal Register for public review and comment not less than three months prior to submission to the Congress. The Adminis-

trator shall include in the response plan a summary of public comments.

(2) The Administrator shall provide for the review and comment on the response plan by the Council on Indoor Air Quality provided for under section 11 of this Act. The Administrator shall include in the response plan a letter and any supporting materials providing the comments of the Council on Indoor Air Quality.

FEDERAL BUILDING RESPONSE PLAN AND DEMONSTRATION PROGRAM

SEC. 8. (a) AUTHORITY.—The Administrator and the Administrator of the General Services Administration shall develop and implement a program to respond to and reduce indoor air contamination in Federal buildings and to demonstrate methods of reducing indoor air contamination in new Federal buildings.

(b) FEDERAL BUILDING RESPONSE PLAN.—(1) The Administrator of the General Services Administration, in consultation with the Administrator, shall prepare a response plan addressing indoor air quality in Federal buildings and shall provide for the implementation of such plan. The plan shall, to the fullest extent practicable, be developed in conjunction with the response plan pursuant to section 7 of this Act.

(2) The response plan shall provide for implementation of a range of response actions which will result in the reduction of human exposure to indoor air contaminants listed pursuant to section 6(a) of this Act and attainment, to the fullest extent practicable, of indoor air contaminant concentration levels at which there is no known or anticipated human health effect, with an adequate margin of safety.

(3) Federal building response plans provided for in paragraph (1) of this subsection shall include—

(A) a list of all Federal buildings;

(B) a description and schedule of general response actions including general management practices, product purchase guidelines, air quality problem identification practices and methods, personnel training programs, and other actions to be implemented to reduce exposures to indoor air contaminants in those buildings listed in paragraph (A);

(C) a list of individual Federal buildings listed in paragraph (A) for which there is sufficient evidence of indoor air contamination or related employee health effects to warrant assessment of the building pursuant to section 13 of this Act and a schedule for development and submittal of building assessment proposals pursuant to subsection 13(d) of this Act;

(D) a description and schedule of specific response actions to be implemented in each specific building identified in paragraph (C) and assessed pursuant to section 13 of this Act;

(E) an identification of the Federal agency responsible for funding and implementation of each response action identified in paragraphs (B) and (D); and

(F) an identification of the estimated costs of each response action identified in paragraphs (B) and (D) and the source of these resources.

(4) The response plan provided for in this subsection shall address each Federal building identified in paragraph 3(A), except that specific buildings may be exempted from coverage under this subsection. Such buildings may be exempted on the grounds of—

(A) national security;

(B) anticipated demolition or termination of Federal ownership within three years; and

(C) specialized use of a building which precludes necessary actions to obtain applicable standards or concentration levels.

(5) The Administrator of the General Services Administration shall provide, by regulation, a method and format for filing of comments and complaints concerning indoor air quality in Federal buildings by workers in such buildings and by the public. The Administrator of the General Services Administration shall provide a listing of each such filing and an analysis of such filings in the plan required pursuant to this section.

(6) The plan provided for in subsection (b) shall be submitted to Congress within twenty-four months of enactment of this Act and biennially thereafter.

(7) The Administrator of the General Services Administration shall provide for public review and comment on the response plan provided for in this section, including provision of notice in the Federal Register not less than three months prior to submission to the Congress. The response plan shall include a summary of public comments. The Council on Indoor Air Quality, provided for under section 11 of this Act, shall review and comment on the plan and such comments and any supporting materials shall be included in the plan.

(c) INDOOR AIR QUALITY RESERVE.—(1) The Administrator of the General Services Administration shall reserve 0.5 per centum of any funds appropriated for construction of new Federal buildings for design and construction of measures to reduce indoor air contaminant concentrations within such buildings.

(2) Measures which may be funded with the reserve provided for in this subsection may include, but are not limited to—

(A) development and implementation of general design principles intended to avoid or prevent contamination of indoor air;

(B) design and construction of improved ventilation techniques or equipment;

(C) development and implementation of product purchasing guidelines;

(D) design and construction of contaminant detection and response systems;

(E) development of building management guidelines and practices; and

(F) training in building and systems operations for building management and maintenance personnel.

(3) Upon completion of construction of each Federal building covered by this section, the Administrator of the General Services Administration shall file with the Administrator, with the Clearinghouse established under section 12 of this Act, and with the Council established under section 11 of this Act, a report describing the uses made of the reserve provided for in this subsection. Such report shall be in sufficient detail to provide design and construction professionals with models and general plans of various indoor air contaminant reduction measures adequate to assess the appropriateness of such measures for application in other buildings.

(4) The Administrator of the General Services Administration, with the concurrence of the Administrator, may exempt a planned Federal building from the requirements of this section if he finds that such exemption is required on the grounds of national security or that the intended use of the building is not compatible with the authority of this section.

(d) NEW EPA BUILDING.—Any new building constructed for use by the Environmental Protection Agency as headquarters shall be designed, constructed, maintained, and operated as a model to demonstrate principles and practices for protection of indoor air quality.

STATE AND LOCAL INDOOR AIR QUALITY PROGRAMS

SEC. 9. (a) MANAGEMENT AND ASSESSMENT STRATEGY DEMONSTRATION.—(1) The Governor of a State may apply to the Administrator for a grant to support demonstration of the development and implementation of a management strategy and assessment with respect to indoor air quality within such State.

(2) State indoor air quality management strategies shall—

(A) identify a lead agency and provide an institutional framework for protection of indoor air quality;

(B) identify and describe existing programs, controls or related activities concerning indoor air quality within State agencies including regulations, educational programs, assessment programs, or other activities;

(C) identify and describe existing programs, controls, or related activities concerning indoor air quality of local and other sub-State agencies and assure coordination among local, State, and Federal agencies involved in indoor air quality activities in the State; and

(D) assure coordination of indoor air quality programs with ambient air quality programs and related activities.

(3) State indoor air quality assessment programs shall—

(A) identify indoor air contaminants of concern and, to the extent practicable, assess the seriousness and the extent of indoor air contamination by contaminants listed in section 6(a) of this Act;

(B) identify the classes or types of buildings or other indoor environments in which indoor air contaminants pose the most serious threat to human health;

(C) if applicable, identify geographic areas in the State where there is a reasonable likelihood of indoor air contamination as a result of the presence of contaminants in the ambient air or the existence of sources of a contaminant;

(D) identify methods and procedures for indoor air contaminant assessment and monitoring;

(E) provide for periodic assessments of indoor air quality and identification of indoor air quality changes and trends; and

(F) establish methods to provide information concerning indoor air contamination to the public and to educate the public and interested groups, including building owners and design and engineering professionals, about indoor air contamination.

(4) As part of a management strategy and assessment pursuant to this subsection, the applicant may develop contaminant action levels, guidance, or standards and may draw on health advisories developed pursuant to section 6 of this Act.

(5) States which are selected to demonstrate the development of management and assessment strategies shall provide a management strategy and assessment pursuant to subsections (2) and (3) to the Administrator within thirty-six months of selection and shall certify to the Administrator that the strategy and assessment meet the requirements of this Act.

(6) States shall provide for public review and comment on the management strategy and assessment prior to submission of such strategy and assessment to the Administrator.

(b) RESPONSE PROGRAMS.—(1) A Governor of a State or the executive officer of a local air pollution control agency may apply to the Administrator for grant assistance to develop a response program designed to reduce human exposure to an indoor air contaminant or contaminants in the State, or in a specific class or type of building in that State, or in a specific geographic area of that State.

(2) A response program shall—

(A) address a contaminant or contaminants listed pursuant to section 6(a) of this Act;

(B) identify existing data and information concerning the contaminant or contaminants to be addressed, the class or type of building to be addressed, and the specific geographic area to be addressed;

(C) describe and schedule the specific actions to be taken to reduce human exposure to the identified contaminant or contaminants;

(D) identify the State or local agency or public organization which will implement the response actions;

(E) identify the Federal, State, and local financial resources to be used to implement the response program; and

(F) provide for the assessment of the effectiveness of the response program.

(3) As part of a response program pursuant to this subsection, an applicant may develop contaminant action levels, guidance, or standards based on health advisories developed pursuant to section 6 of this Act.

(c) GRANT MANAGEMENT.—(1) Grants under subsection (a)(1) of this subsection shall not be less than $75,000 for each fiscal year.

(2) In selecting States for demonstration and implementation of management strategies and assessments under subsection (a)(1) the Administrator shall consider—

(A) the previous experience of the State in addressing indoor air quality issues;

(B) the seriousness of the indoor air quality issues identified by the State; and

(C) the potential for demonstration of innovative management or assessment measures which may be of use to other States.

(3) In selecting States for demonstration of management strategies and assessments under subsection (a)(1), the Administrator shall focus resources to assure that sufficient funds are available to selected States to provide for the development of comprehensive and thorough management strategies and assessments in each selected State and to adequately demonstrate implementation of such strategies and assessments.

(4) Grants under subsection (b)(1) of this section shall not exceed $250,000 per fiscal year and shall be available to the State for a period of not to exceed three years.

(5) In selecting response programs developed under subsection (b) for grant assistance, the Administrator shall consider—

(A) the potential for the response program to bring about reductions in indoor air contaminant levels;

(B) the contaminants to be addressed, giving priority to contaminants for which health advisories have been developed pursuant to section 6 of this Act;

(C) the type of building to be addressed, giving priority to building types in which substantial human exposures to indoor air contaminants occur;

(D) the potential for development of innovative response measures or methods which may be of use to other States or local air pollution control agencies; and

(E) the State indoor air quality management strategy and assessment, giving priority to States with complete indoor air management strategies and assessments.

(6) The Federal share of grants under subsections (a) and (b) of this section shall not exceed 75 per centum of the costs incurred in demonstration and implementation of such activities and shall be made on the condition that the non-Federal share is provided from non-Federal funds.

(7) Funds granted pursuant to subsections (a) and (b) in a fiscal year shall remain available for obligation for the next fiscal year in which obligated and for the next following fiscal year.

(8) No grant shall be made under this section in any fiscal year to a State or local air pollution control agency which in the preceding year received a grant under this section unless the Administrator determines that such agency satisfactorily implemented such grant activities in such preceding fiscal year.

(9) States and air pollution control agencies shall provide such information in applicants for grant assistance and pertaining to grant funded activities as the Administrator requires.

OFFICE OF INDOOR AIR QUALITY

SEC. 10. (a) ESTABLISHMENT.—The Administrator shall establish an Office of Indoor Air Quality within the Office of Air and Radiation at the Environmental Protection Agency.

(b) RESPONSIBILITIES.—The Office of Indoor Air Quality shall—

(1) list indoor air contaminants and develop health advisories pursuant to section 6 of this Act;

(2) develop national indoor air quality response plans as provided for in section 7 of this Act;

(3) manage Federal grant assistance provided to air pollution control agencies under section 9 of this Act;

(4) assure the coordination of Federal statutes and programs administered by the Agency relating to indoor air quality and reduce duplication or inconsistencies among these programs;

(5) work with other Federal agencies to assure the effective coordination of programs related to indoor air quality; and

(6) work with public interest groups and the private sector in development of information related to indoor air quality including the health threats of human exposure to indoor air contaminants, the development of technologies and methods to control such contaminants, and the development of programs to reduce contaminant concentrations.

(c) ORGANIZATION.—The Office of Indoor Air Quality shall—

(A) be directed by a director who shall be a member of the Senior Executive Service;

(B) include a staff of not less than ten permanent, full-time employees; and

(C) be supported by not less than one permanent, full-time employee in each Agency regional office.

COUNCIL ON INDOOR AIR QUALITY

SEC. 11. (a) AUTHORITY.—There is established a Council on Indoor Air Quality.

(b) RESPONSIBILITIES.—THE COUNCIL ON INDOOR AIR QUALITY SHALL—

(1) provide for the full and effective coordination of Federal agency activities relating to indoor air quality;

(2) provide a forum for resolution of conflicts or inconsistencies in policies or programs related to indoor air quality;

(3) review and comment on the national indoor air response program developed pursuant to section 7 of this Act and the Federal Building Response Plan developed pursuant to section 8(b); and

(4) prepare a report to Congress pursuant to subsection (d) of this subsection.

(c) ORGANIZATION.—(1) The Council on Indoor Air Quality shall include senior representatives of Federal agencies involved in indoor air quality programs including—

(A) the Environmental Protection Agency;

(B) the Department of Health and Human Services;

(C) the Department of Labor;

(D) the Department of Housing and Urban Development;

(E) the Department of Energy;

(F) the Department of Transportation;

(G) the Consumer Product Safety Commission; and

(H) the General Services Administration.

(2) The Environmental Protection Agency shall chair the Council.

(3) The Council shall be served by a staff to include an Executive Director and not less than three full-time equivalent employees.

(d) REPORT TO CONGRESS.—(1) The Council shall submit to the Congress, within eighteen months of enactment of this Act, and biennially thereafter, a report which shall—

(A) describe and assess the seriousness, extent, and characteristics of indoor air contamination throughout the country;

(B) summarize the major research issues concerning the protection of indoor air quality, describe the research accomplishments of Federal agencies over the previous two years, and provide an agenda of indoor air quality research for individual Federal agencies over a three-year period;

(C) provide a general description of the activities to be conducted by Federal agencies to address indoor air quality problems over the following three-year period; and

(D) make recommendations for any actions needed to assure the quality of indoor air, including recommendations relating to institutional structures, funding, and legislation.

(2) The Council shall provide for public review and comment on the report required by this subsection.

INDOOR AIR QUALITY INFORMATION CLEARINGHOUSE

SEC. 12. (1) The Administrator is authorized and directed to establish a national indoor air quality clearinghouse to be used to disseminate indoor air quality information to other Federal agencies, State, and local governments, and private organizations and individuals.

(2) The clearinghouse shall be a repository for reliable indoor air quality related information to be collected from and made available to government agencies and private organizations and individuals. At a minimum, the clearinghouse established by this section shall make available reports, programs, and materials developed pursuant to the requirements of this Act.

(3) The clearinghouse shall operate a toll-free "hotline" on indoor air quality which shall be available to provide to the public general information about indoor air quality and general guidance concerning response to indoor air quality contamination problems.

(4) The Administrator may provide for the design, development, and implementation of the clearinghouse through a contractual agreement with a nonprofit organization.

BUILDING ASSESSMENT DEMONSTRATION

SEC. 13. (a) AUTHORITY.—(1) The Director of the National Institute for Occupational Safety and Health shall, in consultation with the Administrator, implement a Building Assessment Demonstration Program to support development of methods, techniques, and protocols for assessment of indoor air contamination in non-residential, non-industrial buildings and to provide assistance and guidance to building owners and occupants on measures to reduce indoor air contamination.

(2) In implementation of this section, the Director shall have the authority to conduct on-site assessments of individual buildings, including Federal, State, and municipal buildings.

(3) Nothing in this section shall in any way limit or constrain existing authorities pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651).

(b) ASSESSMENT ELEMENTS.—Assessments of individual buildings conducted pursuant to this section shall, at a minimum, provide—

(A) an identification of suspected contaminants in the air in the building and the level of such contaminants;

(B) an assessment of the probable sources of contaminants in the air in the building;

(C) a review of the nature and extent of health concerns and symptoms identified by building occupants;

(D) an assessment of the probable association of indoor air contaminants with the health and related concerns of building occupants including assessment of occupational and environmental factors which may relate to the health concerns;

(E) identification of appropriate measures to control contaminants in the air in the building, to reduce the concentration levels of contaminants, and to reduce exposure to contaminants; and

(F) evaluation of the effectiveness of response measures in control and reduction of contaminants and contaminant levels, the change in occupant health concerns and symptoms, the approximate costs of such measures, and any additional response measures which may reduce occupant's health concerns.

(c) ASSESSMENT REPORTS.—(1) The Director shall prepare—

(A) a preliminary report of each building assessment which shall document findings concerning assessment elements (A) through (E) of subsection (b); and

(B) a final report which shall provide an overall summary of the building assessment including information on the effectiveness and cost of response measures, and the potential for application of response measures to other buildings.

(2) Preliminary assessment reports shall be prepared not later than one hundred and eighty days after the selection of a building for assessment. Final assessment reports shall be prepared not later than one hundred and eighty days after completion of the preliminary report.

(3) Preliminary and final reports shall be made available to building owners, occupants, and the authorized representatives of occupants.

(d) BUILDING ASSESSMENT PROPOSAL.—(1) The Director shall consider individual buildings for assessment under this section in response to a proposal identifying the building and the building owner and providing preliminary, background information about the nature of the indoor air contamination, previous responses to air contamination problems, and the characteristics, occupancy, and uses of the building.

(2) Building assessment proposals may be submitted by a building owner or occupants or the authorized representatives of building occupants, including the authorized representatives of employees working in a building.

(e) BUILDING ASSESSMENT SELECTION.—(1) In selection of buildings to be assessed under this section, the Director shall consider—

(A) the seriousness and extent of apparent indoor air contamination and human health effects of such contamination;

(B) the proposal for a building assessment submitted pursuant to subsection (d) of this section;

(C) the views and comments of the building owners;

(D) the potential for the building assessment to expand knowledge of building assessment methods including identification of contaminants, assessment of sources, and development of response measures; and

(E) the listing of a building pursuant to paragraph (C) of section 8(b)(3).

(2) The Director shall provide a preliminary response and review of building assessment proposals to applicants and the applicable building owner within sixty days of receipt of a proposal and, to the extent practicable, shall provide a final decision concerning selection of a proposal within one hundred and twenty days of submittal.

(f) BUILDING ASSESSMENT SUPPORT.—(1) The Director may enter into agreements with private individuals, firms, State and local governments, or academic institutions for services and related assistance in conduct of assessments under the authority of this section.

(2) The Director may enter into agreements with other Federal agencies for the assignment of Federal employees to a specific building assessment project for periods of up to one hundred and eighty days.

(g) SUMMARY REPORT.—(1) The Director shall provide, on an annual basis, a report on the implementation of this section to the Administrator of the Environmental Protection Agency and to the Council on Indoor Air Quality established pursuant to section 11 of this Act.

(2) The Director shall, from time to time and in consultation with the Administrator, publish general reports containing materials, information, and general conclusions concerning assessments conducted pursuant to this section. Such reports may address concerns related to remediation of indoor air contamination problems, assessment of health related concerns, and prevention of such problems through improved design, materials and product specifications, and management practices.

(3) Reports prepared pursuant to this subsection and subsection (c) of this section shall be provided to the Indoor Air Quality Information Clearinghouse provided for in section 12 of this Act and, to the extent practicable, such reports shall be made available to architectural, design and engineering firms and to organizations representing such firms.

STATE AND FEDERAL AUTHORITY

SEC. 14. Nothing in this Act shall be construed, interpreted, or applied to preempt, displace, or supplant any other State or Federal law, whether statutory or common or any local ordinance.

AUTHORIZATIONS

SEC. 15. (a)(1) For the purpose of carrying out sections 5 and 6 of this Act there is authorized to be appropriated $20,000,000 for each of the fiscal years ending September 30, 1990, 1991, 1992, 1993, and 1994. Of such sums appropriated, one quarter shall be reserved for implementation of section 6 of this Act and one quarter shall be reserved for implementation of section 5(c) of this Act.

(2) For the purpose of carrying out sections 7, 8, 10, and 12 there is authorized to be appropriated $10,000,000 for each of the fiscal years ending September 30, 1990, 1991, 1992, 1993, and 1994. Of such sums appropriated, one-fifth shall be reserved for implementation of section 12 and one-fifth shall be reserved for implementation of section 8.

(3) For the purpose of carrying out section 9 of this Act, there is authorized to be appropriated $12,000,000 for each of the fiscal years ending September 30, 1990, 1991, 1992, 1993, and 1994. Of such sums appropriated, one-third shall be reserved for the purpose of carrying out section 9(b) of this Act.

(4) For the purpose of carrying out section 11 of the Act there is authorized to be appropriated $1,500,000 for each fiscal year ending September 30, 1990, 1991, 1992, 1993, and 1994.

(5) For the purpose of carrying out section 13 of this Act there is authorized to be appropriated $5,000,000 per year for each fiscal year ending September 30, 1990, 1991, 1992, 1993, and 1994.

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INDOOR AIR QUALITY ACT OF 1989

SECTION-BY-SECTION ANALYSIS

The Indoor Air Quality Act of 1989 authorizes a comprehensive, national program to reduce the threats to human health posed by exposure to contaminants in the air indoors. The Act includes the following provisions—

Sec. 1: Title—The title of the bill and table of contents are identified.

Sec. 2: Findings—Contaminants in the air indoors pose a serious threat to human health. Federal and State governments have not responded adequately to this problem.

Sec. 3: Purposes—The purpose of the legislation is to establish a coordinated research program on indoor air contamination, to institute a process for directing and focusing the authorities of existing Federal statutes to reduce indoor air contamination, and to demonstrate and develop State and local responses to indoor air contamination problems.

Sec. 4: Definitions—Key terms are defined.

Sec. 5: Indoor Air Quality Research—The legislation:

Provides the EPA with general authority to conduct research on indoor air contamination and identifies specific research topics to be addressed;

Establishes a program to demonstrate various technologies which may contribute to the reduction of indoor air contamination and provides grant assistance to governments and others for such demonstrations;

Calls for the development of technical and management practice bulletins providing assessments of technologies for control and measurement of indoor air contaminants.

Sec. 6: Indoor Air Contaminant Health Advisories—The bill provides that the EPA will develop a list of indoor air contaminants and health advisory documents for each of those contaminants. Health advisory documents are to include descriptions of the characteristics of each contaminant and health threats posed at various concentra-

tions, including a no adverse health effect level.

Sec. 7: National Indoor Air Quality Response Plans—The EPA is to develop a national response plan identifying actions to be taken to reduce contaminants in indoor air. The response plan is to be submitted to Congress within 24 months of enactment and biennially thereafter.

Sec. 8: Federal Building Response Plan/Demonstration Program—A Federal Building Response Plan is to address air quality in Federal buildings. The plan is to identify general management practices for improving indoor air. Buildings with identified indoor air quality problems will be considered for assessment under section 13 of this Act. The plan is to be submitted to Congress 24 months after enactment of the Act and biennially thereafter.

Sec. 9: State and Local Indoor Air Quality Programs—The bill provides grants to States for demonstrating management and assessment strategies. State management strategies are to identify a lead agency for protection of indoor air quality, describe existing programs at the State and substate levels, and assure coordination with programs addressing ambient air quality. State assessment programs are to identify contaminants of concern by geographic areas experiencing problems and provide for periodic assessments of indoor air conditions and trends.

States or other air pollution control agencies also may develop response programs to address a particular indoor air contaminant, class of buildings, or buildings in a specific geographic area.

Sec. 10: Office of Indoor Air Quality—An Office of Indoor Air Quality is established within the EPA to manage indoor air activities and to work with other Federal agencies.

Sec 11: Council on Indoor Air Quality—The bill establishes an interagency Council on Indoor Air Quality to coordinate indoor air activities of Federal agencies.

Sec. 12: National Indoor Air Quality Information Clearinghouse—The EPA is to establish a national clearinghouse of information related to indoor air quality.

Sec. 13: Building Assessment Demonstration—The Director of the National Institute of Occupational Safety and Health [NIOSH] is to carry out a program to demonstrate methods of assessment and mitigation of indoor air contamination in "sick buildings". This provision establishes a process for the assessments and is based on an existing NIOSH effort.

Sec. 14: State and Federal Authority—Nothing in this title shall preempt any State or Federal law or local ordinance.

Sec. 15: Authorizations.—The bill authorizes total funding of $48.5 million for each fiscal year from 1990 to 1994 including $20 million for research and health advisories, $10 million for EPA operations, $12 million for State management and response grants, $1.5 million for the National Indoor Air Quality Council, and $5 million for the building assessment program.

Mr. CHAFEE. Mr. President, today I join with Senators MITCHELL, DURENBERGER, LAUTENBERG, and others in introducing legislation to address the serious health threats posed by contaminations in the air indoors.

Over the last decade we have made considerable progress in abating some of the most harmful pollutants of our outdoor environment. Emission from cars are no longer as injurious to the air quality, and leaded gasoline, known to cause health effects in children, is being phased out. Once unsightly rivers are now returning to a state where they are fishable and swimmable.

Yet for all this progress, we have not turned our attention to the environment where Americans spend an average of 90 percent of their time: indoors. Much is known about the effects of some indoor contaminants, such as radon, asbestos, and tobacco smoke. However, there are several other contaminants prevalent in the indoor environment about which very little is known. These include formaldehyde, volatile organic chemicals, combustion byproducts, and respirable particles.

In a significant development, the Environmental Protection Agency now concludes that the risk to human health from indoor air contaminants may be at least as great as those from the outdoor environment. In a soon-to-be-released report, EPA notes that:

> Sufficient evidence exists to conclude that indoor air pollution represents a major portion of the public's exposure to air pollution and may pose serious acute and chronic health risks. This evidence warrants an expanded effort to characterize and mitigate this exposure.

This statement represents a major step forward in the agencies thinking about what needs to be done to address indoor air pollution.

At a hearing last year on the health effects of indoor air pollution before the environmental protection subcommittee of the committee on environment and public works, it became painfully clear that there is not an adequate effort by Federal agencies or States to conduct research on indoor air contaminants. The legislation we are introducing today will direct the various agencies responsible for indoor air quality to coordinate their response plans to address these contaminants. The bill will place the Environmental Protection Agency squarely in the lead in developing the Federal response to indoor air contamination.

I would like to make it clear that this legislation does not place the Federal Government in the living rooms of Americans. The bill does not provide authority to regulate indoor air contaminants, but rather takes an informational approach. The bill instructs EPA to develop health advisories which would indicate the health risks at various concentration levels, and inform homeowners of ways to reduce and minimize the risk from various contaminants.

The primary purpose of the bill, however, is to establish a coordinated research program on indoor air contamination. In addition, the bill will instruct EPA to assist States in developing strategies for the management and assessment of indoor air quality.

Mr. President, this legislation is long overdue. Americans need to know how to insure that the quality of the air inside their home is healthy. This bill takes a giant step toward addressing the health threat posed by contaminants of the air indoors. I urge my colleagues to join with us in supporting this.

Mr. LAUTENBERG. Mr. President, today I am joining Senator MITCHELL, Senator CHAFEE, Senator DURENBERGER, and others in introducing the Indoor Air Quality Act of 1989. This legislation would require EPA to comprehensively address the threat of human health posed by indoor air contamination.

Indoor air pollutants such as radon, asbestos, volatile organic compounds, environmental tobacco smoke, carbon monoxide, biological contaminants, and pesticides, pose a serious threat to the health of our citizens. EPA Administrator Bill Reilly, prior to his being nominated, has said that:

> The national debate has not really begun about how to respond to the discovery that indoor air pollution often far exceeds minimum health standards for air outdoors.

Reilly went on to say that indoor air pollution is a serious problem not being addressed by current programs.

EPA also shares the concern about the risks posed by indoor air pollutants. In 1987, EPA identified indoor radon and other indoor air pollutants as areas of relatively high risk but low EPA efforts.

In a more recent EPA study of indoor air quality in 10 large buildings focusing on a class of pollutants known as volatile organic compounds [VOC's], EPA concluded that VOC's are ubiquitous indoors, almost every compound is found at higher levels indoors than out, and in some new buildings some VOC's were measured at levels 100 times higher than outdoor levels. Similarly, the World Health Organization has determined that up to 30 percent of new or remodeled commercial buildings may have high rates of health or comfort complaints related to indoor air pollutants.

This is of particular concern because people spend approximately 90 percent of their time indoors, making the risk to health from indoor air pollutants potentially greater than air pollution outdoors. And the people most exposed to indoor air pollution, the young, the elderly, and the chronically ill, are often the most susceptible to its adverse effects.

The effects of indoor air pollutants are serious. Radon is estimated to cause up to 20,000 cancer deaths a year. The Surgeon General has determined that environmental tobacco smoke is a cause of disease, including lung cancer, in nonsmokers. Other

long-term effects to exposure of harmful levels of indoor air pollutants include respiratory illnesses, central nervous system disorders, and reproductive problems. Acute reactions to certain pollutants include headaches, throat, skin and eye irritation, fatigue, shortness of breath, and nausea.

In addition, an estimated 15 percent of the U.S. population have an increased allergic sensitivity to common chemicals. Many of these people have a predisposition to become allergic to certain chemicals after a sensitizing exposure. Hypersensitivity can occur upon reexposure. Among the more common symptoms are those involving the nervous system including tension and fatigue and the respiratory system.

EPA has been slow to react to the threat poised by indoor air pollutants. That's why the majority leader and I introduced the legislation, which was enacted as title IV of the Superfund Amendments and Reauthorization Act of 1986, requiring EPA to establish a radon and indoor air pollution research program.

The Indoor Air Quality Act of 1989 builds on our prior legislation. It would require EPA to:

Expand and strengthen indoor air research,

Develop health advisories on indoor air contaminants,

Prepare a response plan for indoor air contaminants using existing regulatory authorities, and

Make grants to States to develop and implement indoor air pollution strategies.

The bill also expands the authority of the National Institute of Occupational Safety and Health to conduct assessments of sick buildings.

As chairman of the Senate Subcommittee on Superfund, Ocean and Water Protection which has jurisdiction over this legislation, I am committed to moving this bill. I urge my colleagues to support the bill.

Mr. GORE. Mr. President, Americans are becoming increasingly concerned about what they are learning of the world environment around them. The greenhouse effect, too little stratospheric ozone, too much ground level ozone, no place to dump our garbage, garbage washing up on our shores are becoming mainstream issues on main streets around the country.

The connection between the frozen wilderness of Antarctica, the vast diminishing rainforests of the Amazon, and the quality of all of our lives is slowly coming into focus as we witness the environmental upheaval being brought on by a growing list of trends whose curves point sharply upward.

These threats can seem so far away, though, in the controlled indoor environments in which we spend so much of our time. We rightly expect our homes to be among the safest places on Earth. We spend nearly 90 percent of our day indoors. We even exercise indoors. But how safe is it?

Take the case of Betty Page in Aspen, CO. On a night in 1984, she awoke suddenly with violent stomach pains, that were, at the time, unexplainable. After tests and visits to the doctor that sometimes seemed as though they would never end, she realized on her own that the sickness began about the same time her exterminator began using a new ant insecticide. The insecticide, intended to kill the ants invading her home, were threatening her as well.

The Environmental Protection Agency estimates that the average home contains some 45 chemical-spraying aerosal cans and more than 350 organic chemicals in the air. We find them in the form of spray paints, insecticides, furniture polish, hair sprays—pieces of our everyday lives that hold unseen but oftentimes dangerous consequences.

The safety of our homes is not all that is threatened by what is now being called indoor pollution. The concept of the sick building is becoming a more common part of our working lives.

As we worked for energy efficiency during the 1970's, we developed office buildings that put a priority on insulation and saving the air that was already inside. It was certainly much cheaper and more efficient than having to cool or heat air coming from the outside.

What we did not see, however, was that by trapping air inside, we were also trapping indoor contaminants from carpet fibers and copying machines, radon, asbestos fibers, bacteria, hazardous dust, and carbon dioxide, allowing them to escape only into our own lungs. The World Health Organization now estimates that up to 30 percent of new and remodeled office buildings are believed to cause some type of health problem. EPA tells us that some 3,500 cancer deaths a year can be blamed on exposure to indoor air pollutants.

Ironically, EPA is itself a victim of the growing problem of sick buildings. EPA employees at the new Waterside Mall building have begun experiencing burning sensations in their throats, and ears, and eyes. The cause? The building is so poorly ventilated that it is becoming a bubble of chemical contaminants released from new furnishings and the everyday activities of a modern workplace. This agency, set up to identify and protect us from environmental hazards, is instead an example of indoor environmental pollution.

The EPA revealed last year that radon—a gas caused by decaying uranium and the second-leading cause of lung cancer after smoking—has become a national problem, focusing public awareness on the problem of indoor pollution and sick buildings more than ever before. But much is left to do.

We are constantly reminded of the danger we face from the exhaust fumes from cars or the acid seeping out of toxic waste containers if only because we can see them. We have been educated about them, and we demand that Federal and State agencies regulate them. Indoor pollution, however, is often invisible and odorless. We have not asked for health standards for the indoor and nonindustrial workplace because the threat is so new. The result, however, is that little is known about the effects of different indoor substances and chemicals on our lives.

We have a lot of work to do in learning just how sick our buildings and homes are. Evidence indicates that there is not an adequate effort by Federal and State agencies to even analyze polluting substances or to develop an appropriate response to the problem.

That is why, today, Mr. President, I join Senators MITCHELL, CHAFEE, DURENBERGER, and LAUTENBERG in introducing the Indoor Air Quality Act of 1989, which will address those problems. The Indoor Air Quality Act of 1989 is an important first step in identifying the everyday substances that hold the most danger to the public health and in developing a strategy to address the problem of indoor pollution.

This new bill puts a major priority on research and filling our knowledge gap on the issue of indoor pollution. We know there is a problem—the numbers of people who have become the victims of their own homes and places of work are increasing daily. But it is difficult, if not impossible, to correct a problem when you do not have a clear idea of what is the cause of that problem. This bill will emphasize a research program to determine exactly what chemical contaminants are most common in our daily lives.

The Indoor Air Quality Act of 1989 also calls for a system of health advisories on indoor air contaminants which will detail their possible health risks. The bill does not call for any new regulatory agency or ask the EPA to set standards on indoor pollution at this time, but it does seek to educate people on what indoor pollutants are most hazardous and common to their environment.

One of the things most lacking in our effort to understand and control our indoor environment is the absence of any institutional base for indoor air study. This bill seeks to remedy that problem by expanding the authority of the National Institute of Occupational Safety and Health to enable it

to examine sick buildings. The Institute will be given the job of determining just what a sick building is and what measures are needed to cure them. The bill will also create an indoor air office at the EPA, as well as an interagency Council on Indoor Air Quality. These measures are the necessary first steps toward developing a strategy to deal directly with the indoor air pollution problem.

Finally, the Indoor Air Quality Act of 1989 takes into account the necessary role of the States in adequately addressing the problem of indoor pollution. The bill allows individual States to seek grants to aid them in developing their own indoor pollution programs, as well as to deal with any specific contamination problems they might have.

The problem of indoor air pollution is one that goes far beyond just the question of worker health. It is a problem that is bound to have lasting effects on worker productivity, not to mention future labor negotiations.

The Indoor Air Quality Act of 1989 is a good first step toward a comprehensive approach to solving our growing indoor pollution problem. I urge my colleagues to join in supporting it.

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By Mr. PELL (for himself, Mrs. KASSEBAUM, Mr. KENNEDY, and Mr. HATCH) (by request):

S. 658. A bill to amend the Carl D. Perkins Vocational Education Act of 1984 to authorize appropriations for fiscal year 1990 and succeeding fiscal years, and for other purposes; to the Committee on Labor and Human Resources.

CARL D. PERKINS VOCATIONAL-TECHNICAL EDUCATION ACT AMENDMENTS

● Mr. PELL. Mr. President, today I am introducing, by request, the Carl D. Perkins Vocational-Technical Education Act Amendments of 1989 on behalf of the American Vocational Association [AVA]. I am very pleased to be joined in its introduction by Senators KASSEBAUM, KENNEDY, and HATCH.

Mr. President, since 1926, the American Vocational Association has served as the Nation's only professional organization with a full-time commitment to helping vocational educators and institutions provide effective programs preparing students for work in areas as diverse as agriculture, business, health, trade and industry. AVA currently represents 46,000 vocational teachers, administrators, researchers, and guidance counselors who are involved in planning and conducting vocational programs at the secondary, postsecondary, and adult levels.

For the past 2 years, AVA has undertaken an extensive process to develop model legislation for the reauthorization of the Carl D. Perkins Vocational Education Act of 1984. I am very pleased to introduce their proposed legislation. I am hopeful that my colleagues will give it careful review and consideration in preparation for our work on reauthorization.

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

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

S. 658

*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 "Carl D. Perkins Vocational-Technical Education Act Amendments of 1989".

SEC. 2. STATEMENT OF PURPOSE.

Section 2 of the Carl D. Perkins Vocational Education Act (hereafter in this Act referred to as the "Act") (20 U.S.C. 2301) is amended—

(1) in paragraph (1)—

(A) by striking "assist" and inserting "provide on-going assistance to"; and

(B) by inserting "and personnel" after "programs";

(2) in paragraph (2)—

(A) by inserting "representatives of racial or ethnic minorities, women," after "especially individuals who are";

(B) by inserting ", especially women," after "single parents"; and

(C) by inserting ", especially juveniles," before "who are incarcerated in correctional institutions.";

(3) in paragraph (3), by inserting "in striving to meet national economic priorities," after "education in the States,";

(4) in paragraph (4), by inserting "secondary and postsecondary" after "improve the academic foundations of";

(5) in paragraph (5), by inserting "which are employment related and job specific" after "vocational education services";

(6) in paragraph (7)—

(A) by striking "to" the first place it appears; and

(B) by inserting "and to prevent school dropouts and promote their reentry" before the semicolon at the end;

(7) by striking "and" at the end of paragraph (8);

(8) in paragraph (9), by striking the period and inserting "; and"; and

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

"(10) assure that disadvantaged parents who are dependent upon assistance provided under the Aid to Families with Dependent Children program are assured access to quality vocational education programs, including secondary, postsecondary, and skills training programs, in order to improve their employability and promote their independence.".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 3 of the Act (20 U.S.C. 2302) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 3. (a) There are authorized to be appropriated to carry out the provisions of titles I (other than section 117) and II $1,070,000,000 for the fiscal year 1990 and such sums as may be necessary for each succeeding fiscal year.

"(b)(1) There are authorized to be appropriated to carry out part A of title III, relating to State assistance for vocational education support programs by community-based organizations, $19,200,000 for the fiscal year 1990 and such sums as may be necessary for each succeeding fiscal year.

"(2) There are authorized to be appropriated to carry out part B of title III, relating to consumer and homemaking education, $50,000,000 for the fiscal year 1990 and such sums as may be necessary for each succeeding fiscal year.

"(3)(A)(i) There are authorized to be appropriated to carry out subpart 1 of part C of title III, relating to the basic program for adult training, retraining, and employment development, $44,800,000 for the fiscal year 1990, and such sums as may be necessary for each succeeding fiscal year.

"(ii) There are authorized to be appropriated to carry out subpart 2 of part C of title III, relating to the special program for adult training, retraining, and employment development, $30,000,000 for the fiscal year 1990, and such sums as may be necessary for each succeeding fiscal year.

"(B) Of the amount appropriated in each fiscal year pursuant to subparagraph (A)(i) 50 percent shall be available for the purpose described in section 201(b)(4), except that the amount made available by this subparagraph shall not exceed $38,400,000 in any fiscal year.

"(C) There are authorized to be appropriated an additional $15,000,000 for the fiscal year 1990 and such sums as may be necessary for each succeeding fiscal year to carry out part C of title III for workers described in section 322(c).

"(4) There are authorized to be appropriated to carry out part D of title III, relating to career guidance and counseling, $30,000,000 for the fiscal year 1990 and such sums as may be necessary for each succeeding fiscal year.

"(5)(A) There are authorized to be appropriated to carry out part E of title III, relating to industry-education partnerships for training in high-technology occupations, $50,000,000 for the fiscal year 1990 and such sums as may be necessary for each succeeding fiscal year.

"(B) There are authorized to be appropriated an additional $15,000,000 for the fiscal year 1990 and such sums as may be necessary for each succeeding fiscal year to carry out part E of title III for workers described in section 343(d).

"(6) There are authorized to be appropriated to carry out part F of title III, relating to tech-prep education programs, $200,000,000 for the fiscal year 1990 and such sums as may be necessary for each succeeding fiscal year.

"(c) There are authorized to be appropriated to carry out section 117, relating to State councils on vocational education, $10,200,000 for the fiscal year 1990 and such sums as may be necessary for each succeeding fiscal year.

"(d) There are authorized to be appropriated to carry out part A of title IV, relating to research and professional development, $25,000,000 for the fiscal year 1990 and such sums as may be necessary for each succeeding fiscal year.

"(e) There are authorized to be appropriated to carry out part B of title IV, relating to cooperative demonstration programs, $20,000,000 for the fiscal year 1990 and such sums as may be necessary for each succeeding fiscal year.

"(f) There are authorized to be appropriated to carry out part C of title IV, relating to vocational education and occupational information data systems, $20,000,000 for the fiscal year 1990 and such sums as may be necessary for each succeeding fiscal year.

"(g) There are authorized to be appropriated to carry out part D of title IV, relating to the National Council on Vocational Education, $650,000 for the fiscal year 1990 and such sums as may be necessary for each succeeding fiscal year.

"(h) There are authorized to be appropriated to carry out part E of title IV, relating to bilingual and limited English proficiency vocational training programs, $40,000,000 for the fiscal year 1990 and such sums as may be necessary for each succeeding fiscal year.".

## TITLE I—AMENDMENTS TO TITLE I

### SEC. 100. AMENDMENT TO TITLE HEADING.

The heading for title I of the Act is amended to read as follows:

"TITLE I—VOCATIONAL AND ADULT EDUCATION".

## PART A—OFFICE OF VOCATIONAL AND ADULT EDUCATION

### SEC. 101. OFFICE OF VOCATIONAL AND ADULT EDUCATION.

Title I of the Act is amended—

(1) by redesignating parts A and B as parts B and C;

(2) by redesignating sections 101 through 103 and sections 111 through 115 as sections 111 through 113 and sections 116 through 120, respectively; and

(3) by inserting after the title heading the following new part:

"PART A—OFFICE OF VOCATIONAL AND ADULT EDUCATION

"ESTABLISHMENT OF OFFICE

"SEC. 101. (a) There is hereby established an Office of Vocational and Adult Education within the Department of Education under the general authority of the Secretary.

"(b)(1) The Office shall be headed by the Assistant Secretary for Vocational and Adult Education, who shall be appointed by the President with the advice and consent of the Senate, from among individuals having a comprehensive background in vocational-technical and adult education as demonstrated by preparation, work experience, and recognized professional achievement.

"(2) The Assistant Secretary shall report directly to the Secretary. The Secretary shall not approve or require any delegation of the functions of the Assistant Secretary to any office not directly responsible to the Assistant Secretary nor to any of its grantees or contractors.

"(3) The Secretary shall carry out the duties of the Secretary under this Act through the Office.

"PURPOSE

"SEC. 102. It shall be the purpose of the Office of Vocational and Adult Education to—

"(1) provide national leadership in the improvement and expansion of vocational education, as defined in this Act, so that significant contributions may be made by the enterprise toward the goal of preparing the national work force to function effectively in a competitive and highly technological economy;

"(2) encourage the strengthening of State vocational education agencies and the greater involvement of the private sector, both profit and nonprofit; and

"(3) administer all aspects of this Act in such a balanced manner as to assure the States and other participating entities of maximum decisionmaking flexibility consistent with its requirements and to assure the Congress of basic compliance with these requirements.

"FUNCTIONS OF THE ASSISTANT SECRETARY

"SEC. 103. (a) In carrying out the functions of this Act, it shall be the duty and function of the Assistant Secretary to—

"(1) serve as the effective and visible advocate for vocational and adult education within the Department of Education and with other departments, agencies, and instrumentalities of the Federal Government by maintaining active review and commenting responsibilities over all Federal policies affecting vocational and adult education and training;

"(2) deliver services to the vocational education enterprise by—

"(A) providing expert technical assistance in instructional program content and in management procedures that may be necessary to achieve the purposes of this Act, including industrial arts/technology education, vocational agricultural education, business education, career guidance and vocational counseling, health occupations education, home economics education, marketing education, technical education, trade and industrial education, administration, apprenticeship training, adult vocational training, cooperative work experience education, sex equity coordination, as well as vocational education and training for individuals who are handicapped, disadvantaged, limited English proficient, adults in need of training or retraining, single parents, homemakers and single pregnant women, participants in programs to eliminate sex bias and stereotyping, criminal and delinquent offenders, and professional development;

"(B) convening regional meetings which shall provide input to the Assistant Secretary on the content of proposed regulations and which shall include representatives of Federal, State, and local administrators, representatives of business, industry, and labor, parents, teachers, students, and members of State and local boards of education involved with implementation of local educational programs under title II of this Act;

"(C) prescribing regulations consistent with this Act to award, administer, modify, evaluate, reject, or deny all grants and applications and plans for funds made available under this Act; and

"(D) administering discretionary grants and contracts for applied research development, demonstration, and dissemination;

"(3) provide for the measurement and certification of compliance with all requirements of this Act, by States and other direct recipients of funds under this Act, through such actions as—

"(A) reviewing and approving plans and reports;

"(B) performing comprehensive programmatic audits in the States and at the worksites of other entities receiving direct funding under this Act;

"(C) preparing analyses of strengths and weaknesses of State programs, services, and activities under this Act, together with nonbinding recommendations for improvement of such programs, services, and activities;

"(D) resolving financial audits; and

"(E) acquiring needed data pertinent to these matters that are unavailable from other sources;

"(4) act in concert with efforts of other agencies, organizations, firms, and individuals whose objectives generally meet the purposes of this Act, including other Federal departments having workforce training responsibilities;

"(5) perform comprehensive evaluation of programs, services, and activities funded under this Act, on a nationwide basis, and prepare such reports as are required by this Act or requested by the Congress, or that prove useful to other agencies, organizations, and individuals.

"(b) In executing the duties and functions of the Office under this Act and carrying out the programs and activities provided for by this Act, the Assistant Secretary shall take all possible steps to encourage and permit voluntary groups active in vocational and adult education, especially vocational student organizations active at the secondary or postsecondary levels, to participate and be involved individually or through representative groups in such programs or activities, to the maximum extent feasible, through the performance of advisory or consultative functions, and in other appropriate ways.

"STAFFING AND PERSONNEL

"SEC. 104. (a) The Office shall acquire, maintain, and provide appropriate resources for, a staff that is sufficient in number and qualifications to perform, fully and optimally, all of the foregoing functions under this Act. All vocational education staff shall have—

"(1) relevant experience in vocational education and in needed areas of specialization;

"(2) familiarity with vocational education operations at the State and local level; and

"(3) understanding of vocational student organizations.

"(b) At a minimum, under the direction of the Assistant Secretary, the staff appointed under subsection (a) shall plan, undertake, and complete the following required activities—

"(1) perform all State plan, progress report, and strength-and-weakness reviews in close cooperation with the grantees, and consistent with any time periods specified by this Act;

"(2) clear all pending audits in a prompt and efficient manner;

"(3) conduct comprehensive programmatic audits in each of the participating States and territories at least once during each planning cycle, including the preparation of detailed guidelines and manuals as may be appropriate;

"(4) provide States and local education agencies with technical assistance in the design and administration of vocational instructional programs and support services and conduct a minimum of 4 major, State-level technical assistance efforts in instructional programs content, annually, in each of the major occupational fields specified in this Act, and an additional 4, annually, in appropriate management procedures;

"(5) conduct on-site audit exception prevention programs in each of the participating States and territories, at least once during each planning cycle and sufficiently in advance of scheduled audits, including the preparation of detailed guidelines and manuals, as may be appropriate;

"(6) conduct at least 2 on-site reviews, per year, of funding for each project funded with discretionary moneys under this Act, other than any national center program, and, at least 4 reviews for any such national center program; and

"(7) conduct at least 1 national and 4 regional conferences on leadership and personnel development and cooperative demonstration results aimed at program improvement.

"(c) The Assistant Secretary is authorized to appoint, for terms not to exceed 3 years, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and may compensate without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, such supplementary technical or professional employees of the Office as the Assistant Secretary deems necessary to assist its permanent vocational staff in accomplishing its functions under this Act. The number of such supplementary employees shall, at no time, exceed ⅕ of the number of full-time, permanent technical or professional employees of the Office, but shall be considered as regular staff members of the Office, while so employed.

"ADMINISTRATIVE ACCOUNTABILITY

"SEC. 105. As part of the annual report by the Secretary to the Congress on the status of vocational education, submitted on the last day of each fiscal year, the Secretary shall—

"(1) report on how the staff of the Office was specifically utilized to accomplish its required tasks under this Act during the preceding fiscal year; and

"(2) state in detail how that staff is being and will be utilized during the fiscal year in which such annual report is submitted.".

## PART B—VOCATIONAL EDUCATION ASSISTANCE TO THE STATES

SEC. 110. AMENDMENTS TO HEADINGS.

(a) PART HEADING.—The heading for part B of title I of the Act (as redesignated by section 101 of this Act) is amended to read as follows:

"PART B—VOCATIONAL EDUCATION ASSISTANCE TO THE STATES".

(b) SUBPART HEADING.—

(1) SUBPART 1.—Part B of title I of the Act (as redesignated by section 101 of this Act) is further amended by inserting after the part heading the following new heading:

"Subpart 1—Allotment and Allocations".

(2) SUBPART 2.—Part C of title I of the Act (as redesignated by section 101 of this Act) is redesignated as subpart 2 and the heading of such subpart is amended to read as follows:

"Subpart 2—State Organizational and Planning Responsibilities".

### Subpart 1—Allotment and Allocations

SEC. 111. ALLOTMENT.

Section 111 of the Act (as redesignated by section 101 of this Act) is amended—

(1) by inserting "Assistant" before "Secretary" each place it appears; and

(2) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) From the sums appropriated pursuant to section 3(a), the Assistant Secretary shall reserve 1½ percent for the purpose of carrying out section 113, of which—

"(A) 1¼ percent shall be for the purposes of section 113(b); and

"(B) ¼ percent shall be for the purposes of section 113(c).."; and

(B) in paragraph (3)(B)(ii), by striking "150" and inserting "120".

SEC. 112. WITHIN STATE ALLOCATION.

Section 112 of the Act (as redesignated by section 101 of this Act) is amended—

(1) in subsection (a)(1), by striking "111(b)" and inserting "116(b)";

(2) in subsection (a)(2), by striking "113(b)(4)" and inserting "118(b)(4)"; and

(3) by adding at the end the following new subsection:

"(c) From the remainder of its allotment of funds appropriated under section 3(a) for each fiscal year—

"(1) at least 25 percent shall be available for activities in postsecondary education, including education for adults in out-of-school settings; and

"(2) at least 25 percent shall be available for activities in secondary education.".

SEC. 113. INDIAN AND HAWAIIAN NATIVES PROGRAMS.

Section 113 of the Act (as redesignated by section 101 of this Act) is amended—

(1) in subsection (a)(2)—

(A) by striking "101(a)(1)(B)" and inserting "111(a)(1)(B)"; and

(B) by inserting "Assistant" before "Secretary";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "101(a)(1)(B)(i)" and inserting "111(a)(1)(B)(i)";

(ii) by inserting "Assistant" before "Secretary" the first and third time it appears; and

(iii) by striking "101(a)(1)(B)" and inserting "111(a)(1)(B)"; and

(B) in paragraph (2), by inserting "Assistant" before "Secretary" the first and third time it appears; and

(3) in subsection (c)—

(A) by striking "101(a)(1)(B)(ii)" and inserting "111(a)(1)(B)(ii)"; and

(B) by inserting "Assistant" before "Secretary".

### Subpart 2—State Organizational and Planning Responsibilities

SEC. 116. STATE ADMINISTRATION.

Section 116 of the Act (as redesignated by section 101 of this Act) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "113(b)(9)" and inserting "118(b)(9)";

(ii) in subparagraph (B)—

(I) by inserting "Assistant" before "Secretary";

(II) by striking "113" and inserting "118"; and

(III) by striking "114" and inserting "119";

(iii) in subparagraph (C), by striking "112" and inserting "117";

(iv) by striking "and" at the end of subparagraph (D);

(v) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(vi) by adding at the end the following new subparagraph:

"(F) the provision of technical assistance and guidance to local eligible recipients by individuals who by virtue of training and experience are qualified as program specialists, with such assistance and guidance being available in areas such as industrial arts/technology education, vocational agricultural education, business education, career guidance and vocational counseling, health occupations education, home economics education, marketing education, technical education, trade and industrial education, administration, apprenticeship training, professional development, adult vocational training, cooperative work experience education, sex-equity coordination, and vocational education and training for individuals who are handicapped, disadvantaged, limited English proficient, adults in need of training or retraining, single parents, homemakers, and single pregnant women, participants in programs to eliminate sex bias and stereotyping, and criminal and delinquent offenders."; and

(B) in paragraph (2), by inserting "Assistant" before "Secretary"; and

(2) in subsection (b)(1)—

(A) by inserting "full-time" before "individual";

(B) by inserting "to serve as the State's sex equity coordinator and sufficient staff (as determined by the State director of vocational education)" before "within the appropriate agency";

(C) by striking "full time" after "to work";

(D) by inserting after "this Act" the following: "under the supervision of the State director of vocational education (who shall be appointed from among individuals qualified by relevant experience),";

(E) by amending subparagraph (A) to read as follows:

"(A) administering the sex equity program described in section 201(g) and, at the discretion of the State director of vocational education, administering the program of vocational education for single parents, homemakers, and single pregnant women described in section 201(f)"; and

(F) in subparagraph (C), by striking "(including career guidance and counseling)" and inserting "(including career guidance, vocational counseling, and programs for persons with limited English proficiency)".

SEC. 117. STATE COUNCIL OF VOCATIONAL EDUCATION.

Section 117 of the Act (as redesignated by section 101 of this Act) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by inserting "vocational" before "counseling"; and

(B) in the last sentence, by inserting before the period at the end the following: ", and to student members of vocational student organizations";

(2) in subsection (b)—

(A) by inserting "Assistant" before "Secretary"; and

(B) by striking "113(a)(1)" and inserting "118(a)(1)".

(3) in subsection (c), by inserting "Assistant" before "Secretary";

(4) in subsection (d)(9)(B), by inserting "Assistant" before "Secretary" the first place it appears; and

(5) in subsection (f)—

(A) by inserting "Assistant" before "Secretary" each place it appears; and

(B) in paragraph (1)(A)—

(i) by striking "101(a)(2)" and inserting "111(a)(2)";

(ii) by striking "$120,000" and inserting "$155,000"; and

(iii) by striking "$225,000" and inserting "$300,000".

SEC. 118. STATE PLANS.

Section 118 of the Act (as redesignated by section 101 of this Act) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting "Assistant" before "Secretary";

(ii) in subparagraph (B), by striking "paragraph (1)" and all that follows through "Job Training Partnership Act" and inserting the following: "section 104(a) of the Job Training Partnership Act shall be coterminous with the planning program periods required by paragraph (1)"; and

(B) in paragraph (2)(A), by striking "112" and inserting "122";

(C) in paragraph (3)(B), by inserting after "skill requirements" the following: "and examine the availability of vocational student organization activities with the State";

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by inserting "including the planned distribution of such funds by eligible recipient," after "vocational education"; and

(ii) by striking "113(a)(3)" and inserting "118(a)(3)";

(B) in paragraph (4), by striking "100" and inserting "at least 95";

(C) in paragraph (9)(A)—

(i) by striking "and" at the end of clause (ii);

(ii) by inserting "and" at the end of clause (iii); and

(iii) by adding at the end the following new clause:

"(iv) the level of placement to be achieved by secondary and postsecondary vocational education graduates, which will reflect the employment needs of vocational education students;";

(D) in paragraph (10)—

(i) by inserting "programs conducted under other Acts, with special emphasis on" before "programs conducted";

(ii) by inserting "as well as programs conducted under" before "the Adult Education Act,";

(iii) by striking "Act, and" and inserting "Act,"; and

(iv) by inserting "the Family Support Act of 1988," after "the Rehabilitation Act of 1973,"; and

(E) by amending paragraph (15) to read as follows:

"(15)(A) provide assurances that the State will provide leadership, supervision, and resources for comprehensive career guidance, vocational counseling, and placement programs; and

"(B) provide assurances, as a component of the assurances under subparagraph (A), that for each fiscal year, expenditures for career guidance and vocational counseling from allotments for title II and part D of title II will not be less than the expenditures for such guidance and counseling in the State for the fiscal year 1988."; and

(3) in subsection (c), by inserting "Assistant" before "Secretary" each place it appears.

SEC. 119. APPROVAL.

Section 119 of the Act (as redesignated by section 101 of this Act) is amended—

(1) by inserting "Assistant" before "Secretary" each place it appears; and

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting "from individuals who by virtue of training and experience are qualified as program specialists" after "assistance and guidance"; and

(ii) by striking "113(a)(3)" and inserting "118(a)(3)"; and

(B) in paragraph (2)(A), by striking "113" and inserting "118".

SEC. 120. LOCAL APPLICATION.

Section 120 of the Act (as redesignated by section 101 of this Act) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; and"; and

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

"(3) describe efforts, including the creation of local vocational instructional program advisory committees, to encourage articulation programs among various educational institutions in the local area which, where appropriate, promote curriculum continuum between secondary and postsecondary vocational programs, including the development of technical preparatory/associate degree programs for occupational education programs begun in the junior year of high school and completed in a community, technical, or junior college.".

## TITLE II—BASIC GRANTS FOR VOCATIONAL EDUCATION

### PART A—VOCATIONAL EDUCATION OPPORTUNITIES

SEC. 201. USES OF FUNDS.

Section 201 of the Act (20 U.S.C. 2331) is amended—

(1) in subsection (a), by striking "101" and inserting "111";

(2) in subsection (b)(6), by inserting "and delinquent" after "criminal";

(3) in subsection (h)(1)—

(A) by inserting "which develops and reinforces core academic competencies" after "education students";

(B) by striking "related" and inserting "relates"; and

(C) by adding at the end the following new sentence: "States and local education agencies are encouraged to grant academic credit for those vocational education courses into which core academic competencies have been successfully integrated.".

SEC. 202. DISTRIBUTION OF ASSISTANCE.

Section 202 of the Act (20 U.S.C. 2332) is amended—

(1) by inserting "(a)" after "SEC. 202.";

(2) in paragraph (1)—

(A) by inserting "an amount equal to" before "10 percent"; and

(B) by inserting before the semicolon at the end the following: ", except that up to 5 percent of such amount shall be available for statewide program activities specifically designed to assist handicapped individuals, including, but not limited to, model demonstration programs, teacher education and skill upgrading, technical assistance for local program development, applied research and development, and curriculum adaptation/revision;";

(3) in paragraph (2)—

(A) by inserting "an amount equal to" before "22 percent"; and

(B) by inserting before the semicolon at the end the following: ", except that up to 5 percent of such amount shall be available for statewide program activities specifically designed to assist disadvantaged individuals, including, but not limited to, model demonstration programs, teacher education and skill upgrading, technical assistance for local program development, applied research and development, and curriculum adaptation/revision;";

(4) in paragraph (3)—

(A) by inserting "an amount equal to" before "12 percent"; and

(B) by inserting before the semicolon at the end the following: ", especially those who are displaced or unemployed;";

(5) in paragraph (4)—

(A) by inserting "an amount equal to" before "8.5 percent";

(B) by inserting a comma after "parents";

(C) by striking "and"; and

(D) by inserting ", and single pregnant women" after "homemakers";

(6) in paragraph (5), by inserting "an amount equal to" before "3.5 percent";

(7) in paragraph (6)—

(A) by inserting "an amount equal to" before "1 percent"; and

(B) by inserting "and delinquent" after "criminal"; and

(8) by adding at the end the following new subsection:

"(b) A State, after documenting the need to do so in its State plan and receiving the written approval of the Assistant Secretary, may transfer up to 20 percent of the funds allotted to any category of special population allotments described in this section to another category of such population allotments.".

SEC. 203. CRITERIA FOR SERVICES AND ACTIVITIES FOR THE HANDICAPPED AND DISADVANTAGED.

Section 204 of the Act (20 U.S.C. 2334) is amended—

(1) in paragraph (a)(2)—

(A) by inserting "work-site programs such as" before "cooperative education"; and

(B) by inserting "vocational work-study" after "and apprenticeship programs"; and

(2) in subsection (c)—

(A) in paragraph (3)—

(i) by inserting "career" before "guidance"; and

(ii) by inserting "vocational" before "counseling"; and

(B) in paragraph (4)—

(i) by inserting "vocational" before "counseling"; and

(ii) by inserting ", apprenticeship programs," before "and career opportunities".

### PART B—VOCATIONAL EDUCATION PROGRAM IMPROVEMENT, INNOVATION, AND EXPANSION

SEC. 251. USES OF FUNDS.

Section 251 of the Act (20 U.S.C. 2341) is amended—

(1) in subsection (a)—

(A) by striking "101" and inserting "111";

(B) in paragraph (1), by inserting "cooperative education," after "title III";

(C) in paragraph (4)—

(i) by striking "or to promote" and inserting ", to promote"; and

(ii) by inserting before the semicolon at the end the following: ", and to promote and stimulate greater cooperation and coordination between business, industry, labor, and education with regard to technical education and technical training";

(D) in paragraph (7)—

(i) by striking "counseling and"; and

(ii) by inserting "and vocational counseling" after "guidance";

(E) in paragraph (8), by inserting before the semicolon at the end the following: "and the development of articulation programs which encourage greater curriculum collaboration between secondary and postsecondary vocational and technical education programs";

(F) in paragraph (10), by inserting "and upgrading" after "acquisition";

(G) in paragraph (13), by inserting before the semicolon at the end the following: ", including activities designed to promote supervision, coordination, training, leadership, human relations, and entrepreneurship, as well as programs which provide a testing base for the knowledge and skills learned in vocational education";

(H) by amending paragraph (15) to read as follows:

"(15) programs of modern industrial and agricultural arts" and inserting the following: "programs of industrial arts/technology education, vocational agriculture education, business education, career guidance and vocational counseling, health occupations education, home economics education, marketing education, technical education, and trade and industrial education;";

(I) in paragraph (16)—

(i) by striking "111(b)" and inserting "116(b)"; and

(ii) by striking "102(b)" and inserting "112(b)";

(J) in paragraph (17), by inserting "Assistant" before "Secretary";

(K) in paragraph (21), by inserting "and upgrading" after "acquisition";

(L) in paragraph (22), by inserting ", through the use of staff with occupational expertise in vocational education," after "equivalent preparation";

(M) in paragraph (23), by inserting ", upgrading," after "acquisition";

(N) in paragraph (25), by striking "and";

(O) in paragraph (26), by striking the period at the end and inserting "; and"; and

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

"(27) research designed to study, evaluate, and assess new and innovative approaches, as well as programs and activities currently in operation."; and

(2) by amending subsection (b) to read as follows:

"(b) From the portion of the allotment of each State under section 111 available for this part from amounts appropriated pursuant to section 3(a) for each fiscal year, each State shall use grants—

"(1) for the provision of inservice and preservice training designed to increase the competence of vocational education teachers, counselors, and administrators, including special emphasis on the integration of handicapped and disadvantaged students in regular courses of vocational education;

"(2) for the provision of inservice training to help State and local leaders develop, administer, and supervise State plans and programs;

"(3) for the provision of training to potential vocational/technical education leaders; and

"(4) for the provision of training and teacher education designed to upgrade and further develop vocational education professionals, including industrial update workshops for vocational and technical instructors.".

## TITLE III—SPECIAL PROGRAMS

## PART A—STATE ASSISTANCE FOR VOCATIONAL EDUCATION SUPPORT PROGRAMS BY COMMUNITY-BASED ORGANIZATIONS

### SEC. 301. APPLICATIONS.

Section 301 of the Act is amended in paragraph (4) by inserting ", industry, and labor" after "business".

### SEC. 302. USES OF FUNDS.

Section 302 of the Act (20 U.S.C. 2352) is amended—

(1) in subsection (a), by striking "101" and inserting "111"; and

(2) in subsection (b)—

(A) in paragraph (3) by inserting ", industry, or labor" after "business";

(B) in paragraph (4)—

(i) by inserting "foster care youth making the transition to independent living," after "inner-city youth,"; and

(ii) by striking "non-English speaking youth" and inserting "youth with limited English proficiency";

(C) by striking the word "and" at the end of paragraph (6);

(D) in paragraph (7)—

(i) by inserting "career" before "guidance";

(ii) by inserting "vocational" before "counseling"; and

(iii) by striking the period at the end and inserting "; and"; and

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

"(8) model programs suitable for replication utilizing vocational education approaches to prevent youth from dropping out of school or to promote their reentry.".

## PART B—CONSUMER AND HOMEMAKER EDUCATION

### SEC. 311. CONSUMER AND HOMEMAKER EDUCATION GRANTS.

Section 311 of the Act (20 U.S.C. 2361) is amended—

(1) by striking "101" and inserting "111";

(2) by inserting "Assistant" before "Secretary"; and

(3) by inserting "individual and family health," before "consumer education,".

### SEC. 312. USE OF FUNDS FROM CONSUMER AND HOMEMAKER EDUCATION GRANTS.

Section 312 of the Act (20 U.S.C. 2362) is amended—

(1) in subsection (a), by striking "114" and inserting "119"; and

(2) in subsection (b)(1)—

(A) by striking "managing home and work responsibilities" and inserting "balancing work and family";

(B) by inserting "(including family violence and child abuse)" after "family crises";

(C) by inserting "(especially among teenage parents)" after "parenting skills";

(D) by inserting "preventing teen pregnancy," before "assisting aged";

(E) by inserting "assisting at-risk populations (including the homeless)," after "handicapped individuals,";

(F) by inserting "individual, child, and family" before "nutrition"; and

(G) by inserting "and wellness" after "nutrition".

### SEC. 313. INFORMATION DISSEMINATION AND LEADERSHIP.

The second sentence of section 313(a) of the Act (20 U.S.C. 2363) is amended by striking "State leadership" and all that follows through "preparation" and inserting "State leadership and full-time State administrators qualified by experience and educational preparation".

## PART C—ADULT TRAINING, RETRAINING, AND EMPLOYMENT DEVELOPMENT

### Subpart 1—Basic Program

### SEC. 321. FINDINGS AND PURPOSE.

Section 321 of the Act is amended in subsection (b) by inserting "the unemployed," after "workers fifty-five and older,".

### SEC. 322. AUTHORIZATION OF GRANTS AND USES OF FUNDS.

(a) GRANTS TO STATES.—Section 322 of the Act (20 U.S.C. 2372) is amended—

(1) in subsection (a)—

(A) by striking "101" and inserting "111"; and

(B) by inserting "Assistant" before "Secretary";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (C)(i), by inserting "cooperative education and" before "apprenticeship";

(ii) in subparagraph (G), by inserting "career guidance and vocational" before "counseling";

(iii) by inserting ", including the development of occupational education programs begun in the junior year of high school and completed in a community, technical, or junior college" before the semicolon at the end of subparagraph (H);

(iv) by striking "and" at the end of subparagraph (I);

(v) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(vi) by adding at the end the following new subparagraph:

"(K) industry training.";

(B) in paragraph (2)—

(i) by inserting "Assistant" before "Secretary"; and

(ii) in subparagraph (A), by striking "112" and inserting "117"; and

(3) by adding at the end the following new subsection:

"(c)(1) Funds made available pursuant to section 3(b)(3)(1) of this Act may be used, in accordance with this subpart, to provide vocational training and retraining to individuals in order to assist their entry into, or advancement in, high technology occupations or to meet the technological needs of other industries or businesses.

"(2) Special consideration shall be given to individuals described in paragraph (1) who have attained 55 years of age.".

### Subpart 2—Special Programs

### SEC. 326. AUTHORIZATION OF GRANTS AND USES OF FUNDS.

Section 327 of the Act (20 U.S.C. 2377) is amended—

(1) in subsection (a)—

(A) by inserting "Assistant" before "Secretary"; and

(B) by striking "101" and inserting "111";

(2) in subsection (b), by striking "111" and inserting "116"; and

(3) in subsection (d)—

(A) by inserting "Assistant" before "Secretary"; and

(B) in paragraph (1), by striking "112" and inserting "116".

## PART D—COMPREHENSIVE CAREER GUIDANCE AND VOCATIONAL COUNSELING PROGRAMS

### SEC. 331. COMPREHENSIVE CAREER GUIDANCE AND VOCATIONAL COUNSELING PROGRAMS.

The heading for part D of the Act is amended to read as follows:

"COMPREHENSIVE CAREER GUIDANCE AND VOCATIONAL COUNSELING PROGRAMS".

### SEC. 332. GRANTS FOR CAREER GUIDANCE AND VOCATIONAL COUNSELING.

(a) AMENDMENT OF SECTION HEADING.—The heading for section 331 of the Act (20 U.S.C. 2381) is amended to read as follows:

"GRANTS FOR CAREER GUIDANCE AND VOCATIONAL COUNSELING".

(b) GENERAL AUTHORITY.—Section 331 of the Act (20 U.S.C. 2381) is amended by striking "101" and inserting "111".

### SEC. 333. USE OF FUNDS FROM CAREER GUIDANCE AND VOCATIONAL COUNSELING GRANTS.

(a) AMENDMENT OF SECTION HEADING.—The heading for section 332 of the Act is amended to read as follows:

"USE OF FUNDS FROM CAREER GUIDANCE AND VOCATIONAL COUNSELING GRANTS".

(b) GENERAL AUTHORITY.—Section 332 of the Act (20 U.S.C. 2382) is amended—

(1) in the first sentence of subsection (a), by inserting "vocational" before "counseling";

(2) in subsection (b)—

(A) in the first sentence, by inserting "vocational" before "counseling";

(B) in paragraph (2)—

(i) by inserting "vocational" before "counseling"; and

(ii) by inserting "career information delivery system development," after "acquisition,"; and

(C) in paragraph (3), by inserting "vocational" before "counselors"; and

(3) by adding at the end the following new subsection:

"(d) Not less than 20 percent of the sums made available to a State under this part shall be used for research and demonstration projects to establish and implement or demonstrate student/client outcome standards delivered through comprehensive career guidance and vocational counseling programs. Eligible recipients funded by the State for this purpose shall, in collaboration with the State and other State designated eligible recipients, review, set, or make known the student/client outcome standards against which the adequacy and effectiveness of future career guidance and vocational counseling programs supported under this Act will be measured.".

SEC. 334. INFORMATION DISSEMINATION AND LEADERSHIP.

Section 333(a) of the Act (20 U.S.C. 2383(a)) is amended—

(A) by inserting "career" before "guidance"; and

(B) by inserting "vocational" before "counseling".

## PART E—BUSINESS-INDUSTRY-EDUCATION PARTNERSHIP FOR TRAINING IN HIGH TECHNOLOGY OCCUPATIONS

SEC. 341. BUSINESS-INDUSTRY-EDUCATION PARTNERSHIP FOR TRAINING IN HIGH TECHNOLOGY OCCUPATIONS.

The heading for part E of the Act is amended to read as follows:

"PART E—BUSINESS-INDUSTRY-EDUCATION PARTNERSHIP FOR TRAINING IN HIGH TECHNOLOGY OCCUPATIONS".

SEC. 342. FINDINGS AND PURPOSE.

Section 341 of the Act (20 U.S.C. 2391) is amended—

(1) in subsection (a)(2), by inserting ", including small business," after "private business"; and

(2) in subsection (b)(2), by inserting "persons with limited English proficiency," after "handicapped,".

SEC. 343. AUTHORIZATION OF GRANTS.

Section 342 of the Act (20 U.S.C. 2392) is amended—

(1) in subsection (a)—

(A) by striking "101" and inserting "111";

(B) by inserting "Assistant" before "Secretary"; and

(C) by inserting "business-" before "industry-education";

(2) in subsection (b)—

(A) by inserting "Assistant" before "Secretary";

(B) in paragraph (1), by inserting "and cooperative education," before "apprentices)";

(C) by striking "and" at the end of paragraph (4);

(D) in paragraph (5)—

(i) by striking "112" and inserting "117"; and

(ii) by striking the period at the end and inserting "; and"; and

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

"(6) business and industry will be actively involved in the planning, designing, operating, and monitoring of the vocational education and training programs so that their needs will be met."; and

(3) in subsection (c), by inserting "services," before "facilities,".

SEC. 344. USE OF FUNDS.

Section 343(a) of the Act (20 U.S.C. 2393(a)) is amended—

(1) in paragraph (2), by inserting "career" before "guidance";

(2) in paragraph (3)—

(A) by inserting "career" before "guidance"; and

(B) by inserting ", including the development of occupational programs begun in the junior year of high school and completed in a community, technical, or junior college" before the semicolon at the end;

(3) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) activities which encourage collaboration between small business enterprises and vocational education to develop appropriate high-technology skills relevant to the needs of small business and to develop placement opportunities for trained students;".

## PART F—TECH-PREP EDUCATION PROGRAMS

SEC. 351. TECH-PREP EDUCATION PROGRAMS.

Title III of the Act (20 U.S.C. 2351 et seq.) is amended by adding at the end the following new part:

"PART F—TECH-PREP EDUCATION PROGRAMS

"SHORT TITLE

"SEC. 351. This part may be cited as the 'Tech-Prep Education Act'.

"FINDINGS AND PURPOSES

"SEC. 352. (a) The Congress finds that—

"(1) rapid technological advances and global economic competition demand increased levels of skilled vocational-technical education preparation and readiness on the part of youths entering the workforce;

"(2) effective strategies reaching beyond the boundaries of traditional schooling are necessary to provide early and sustained intervention by parents, teachers, and educational institutions in the lives of students;

"(3) a combination of nontraditional school-to-work vocational-technical education programs, using state-of-the-art equipment and appropriate technologies, will reduce the dropout rate for high school students in the United States and will produce youths who are mature, responsible, and motivated to build good lives for themselves;

"(4) the establishment of systematic vocational-technical education articulation agreements between secondary schools, postsecondary vocational technical schools, and community colleges is necessary for providing youth with skills in the liberal and practical arts and in basic academics and with the intense vocational-technical preparation necessary for finding a position in the changing workplace;

"(5) by the year 2000, an estimated 15,000,000 manufacturing jobs will require more advanced technical skills, and an equal number of service jobs will become obsolete;

"(6) more than 50 percent of the jobs that are currently developing will require skills greater than those currently provided by existing educational programs;

"(7) dropout rates in urban schools are currently 50 percent or higher and more than 50 percent of all Hispanic youth drop out of school;

"(8) each year, as a result of 1,000,000 youths dropping out of high school with inadequate preparation to enter the workforce, the United States loses $240,000,000,000 in earnings and taxes; and

"(9) employers in the United States pay an estimated $210,000,000,000 annually for formal and informal training, remediation, and in lost productivity as a result of untrained and unprepared youth joining, or attempting to join, the workforce of the United States.

"(b) It is therefore, the purpose of this part—

"(1) to provide State administered planning and demonstration grants to consortia of local educational agencies, postsecondary vocational technical schools, and community colleges, for the development and operation of 4-year programs designed to provide a tech-prep education program leading to an associate degree or 2-year postsecondary certificate for youths; and

"(2) to provide, in a systematic manner, strong, comprehensive links between secondary schools, postsecondary vocational technical schools, and community colleges.

"GENERAL AUTHORITY

"SEC. 353. (a) From the portion of the allotment of each State under section 111, the Assistant Secretary shall make grants to the States, in accordance with State plans, to pay the Federal share of the cost of activities carried out under this part to consortia of—

"(1) local educational agencies or area vocational schools serving secondary school students; and

"(2) community colleges and postsecondary vocational technical schools.

"(b) The Federal share of the cost of any activity carried out with assistance under this part may not exceed—

"(1) for the first year that a grant is received, 100 percent of such cost with respect to development purposes;

"(2) for the second year that a grant is received, 80 percent of such cost with respect to implementation and operation;

"(3) for the third year that a grant is received, 70 percent of such cost with respect to implementation and operation;

"(4) for the fourth year that a grant is received, 60 percent of such cost with respect to operation; and

"(5) for the fifth year that a grant is received, 50 percent of such cost with respect to operation.

"USES OF FUNDS FROM TECH-PREP EDUCATION GRANTS

"SEC. 354. (a) In accordance with State plans, each grant recipient shall use amounts provided under the grant to develop and operate a 4-year tech-prep education program.

"(b) Any such program shall—

"(1) be carried out under an articulation agreement between participants in the consortium;

"(2) consist of the 2 years of secondary school preceding graduation and 2 years of postsecondary education, with a common core of required proficiency in mathematics, science, communications, and technologies designed to lead to an associate degree or 2-year postsecondary certificate in a specific career field;

"(3) include the development of tech-prep education program curriculum appropriate to the needs of the consortium participants; and

"(4) include in-service training for teachers that—

"(A) is designed to train teachers to implement effectively tech-prep education curriculum;

"(B) provides for joint training for teachers from all participants in the consortium; and

"(C) may provide such training in weekend, evening, and summer sessions, institutes, or workshops.

"(c) Any such program may also—

"(1) provide for training programs for counselors designed to enable counselors more effectively to recruit students for tech-prep education programs, ensure their

successful completion of such programs and their placement in appropriate employment; and

"(2) provide for the acquisition of tech-prep education program equipment.

"APPLICATION

"SEC. 355. (a) Each consortium that desires to receive a grant under this section shall submit an application to the State at such time and in such manner as the State shall prescribe.

"(b) Each application submitted under this subsection shall contain a 5-year plan for the development, implementation, and operation of activities under this part.

"(c) Each State shall approve applications based on their potential to create an effective tech-prep education program as provided for in section 354.

"(d) Each State shall give special consideration to applications which—

"(1) provide for effective employment placement activities or transfer of students to baccalaureate degree programs;

"(2) demonstrate commitment to continue the program after the termination of assistance under this part;

"(3) are developed in consultation with business, industry, and labor unions; and

"(4) address effectively the issues of dropout prevention and reentry, the needs of minority youth, the needs of youth with limited English proficiency, and the needs of handicapped and disadvantaged youth.

"(e) In making grants, each State shall ensure an equitable distribution of assistance among a cross section of urban and rural consortium participants.

"REPORTS

"SEC. 356. In accordance with State plans, each grant recipient, with respect to assistance received under this part, shall submit to the State such reports as may be required by the State and the Assistant Secretary to ensure that such grant recipient is complying with the requirements of this part.

"DEFINITIONS

"SEC. 357. For the purposes of this part:

"(1) The term 'articulation agreement' means a commitment to a program designed to provide students with a nonduplicative sequence of progressive achievement leading to competencies in a tech-prep education program.

"(2) The term 'community college' has the meaning provided in section 1201(a) of the Higher Education Act of 1965 for an institution which provides not less than a 2-year program which is acceptable for full credit toward a bachelor's degree.

"(3) The term 'area vocational school' has the meaning provided in section 521(3).

"(4) The term 'postsecondary vocational technical school' means a technical institute or vocational school used exclusively or principally for the provision of vocational education to individuals who have completed or left high school and who are available for study in preparation for entering the labor market.

"(5) The term 'local education agency' has the meaning provided in section 521(19).

"(6) The term 'tech-prep education program' means a combined secondary and postsecondary program which—

"(A) leads to an associate degree or 2-year postsecondary certificate;

"(B) provides advanced technical preparation in such fields as agriculture, business, health, industrial or mechanical trades or applied science;

"(C) provides competence in mathematics, science, and communications (including competence gained through applied academics); and

"(D) leads to placement in employment or further education.".

## TITLE IV—NATIONAL PROGRAMS

## PART A—RESEARCH AND PROFESSIONAL DEVELOPMENT

SEC. 401. RESEARCH AND PROFESSIONAL DEVELOPMENT.

(a) AMENDMENT OF PART HEADING.—The heading for part A of title IV of the Act (20 U.S.C. 2401 et seq.) is amended to read as follows:

"PART A—RESEARCH AND PROFESSIONAL DEVELOPMENT".

(b) RESEARCH.—Part A of title IV of the Act (20 U.S.C. 2401 et seq.) is amended by inserting after the part heading the following new heading:

"Subpart 1—Research".

### Subpart 1—Research

SEC. 402. RESEARCH OBJECTIVES.

Section 401(1) of the Act (20 U.S.C. 2401) is amended by inserting "training or" before "retraining".

SEC. 403. RESEARCH ACTIVITIES.

Section 402 of the Act (20 U.S.C. 2402) is amended—

(1) in subsection (a)—

(A) by inserting "Assistant" before "Secretary" each place it appears;

(B) in the first sentence, by inserting "which may include long-range research," after "research";

(C) in the second sentence—

(i) by striking "the National Institute of Education or";

(ii) by striking "other"; and

(iii) by inserting "or may be conducted through field initiated research" after "appropriate";

(D) in paragraph (1), by inserting "who are in need of training or retraining," after "adults"; and

(E) in paragraph (2), by inserting ", including cooperative education" after "education";

(2) in subsection (b), by inserting "Assistant" before "Secretary";

(3) in subsection (c), by inserting "Assistant" before "Secretary"; and

(4) in subsection (d)—

(A) in paragraph (1), by inserting "Assistant" before "Secretary"; and

(B) by amending paragraph (2) to read as follows:

"(2) The Secretary shall include in the annual report of the Secretary—

"(A) research criteria employed for national level research, including documentation of State input in the development of such criteria;

"(B) a summary of activities funded under this section; and

"(C) a summary of their contributions to the improvement and expansion of vocational education.".

SEC. 404. NATIONAL ASSESSMENT OF VOCATIONAL EDUCATION PROGRAMS ASSISTED UNDER THIS ACT.

Section 403 of the Act (20 U.S.C. 2403) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by inserting "Assistant" before "Secretary";

(ii) by striking "by the" and inserting "under the auspices of the";

(iii) by striking "National Institute of Education" each place it appears and inserting "Office of Educational Research and Improvement";

(B) in paragraph (5), by inserting after "students" the following: ", comparing, where practicable, the impact of nonvocational secondary education and liberal arts postsecondary education programs on such opportunities";

(C) in paragraph (7), by striking "113" and inserting "118";

(2) in subsection (b)—

(A) by inserting "Assistant" before "Secretary"; and

(B) by striking "113" and inserting "118";

(3) in subsection (c)—

(A) by striking "National Institute of Education" and inserting "Office of Educational Research and Improvement"; and

(B) by inserting "Assistant" before "Secretary"; and

(4) in subsection (d)—

(A) by striking "20 percent" and inserting "$1,000,000"; and

(B) by inserting "section 3(d)" after "under".

SEC. 405. NATIONAL CENTER FOR RESEARCH IN VOCATIONAL EDUCATION.

Section 404 of the Act (20 U.S.C. 2404) is amended—

(1) in subsection (a)(2), by inserting "Assistant" before "Secretary" each place it appears;

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by inserting "who are in need of training or retraining," after "nontraditional fields"; and

(II) by inserting ", including juveniles," before "who are incarcerated"; and

(ii) in subparagraph (B), by inserting ", including cooperative education" after "education";

(B) in paragraph (2), by inserting "and personnel" after "leadership"; and

(C) in paragraph (6), by inserting "Assistant" before "Secretary";

(3) in subsection (c)—

(A) by inserting "Assistant" before "Secretary" each place it appears;

(B) in paragraph (2), by inserting "vocational" before "education"; and

(C) in paragraph (9)—

(i) by inserting "career" before "guidance"; and

(ii) by inserting "vocational" before "counseling"; and

(4) by adding at the end the following new subsection:

"(d) Of the amounts available pursuant to section 3(d) for any fiscal year for this part, there shall be available for each fiscal year not less than $7,700,000 to carry out the purposes of this section relating to the National Center for Research in Vocational Education.".

### Subpart 2—Professional Development

SEC. 406. PROFESSIONAL DEVELOPMENT.

Part A of title IV of the Act (20 U.S.C. 2401 et seq.) is further amended by adding at the end the following new subpart:

"Subpart 2—Professional Development

"VOCATIONAL EDUCATION PERSONNEL DEVELOPMENT ASSISTANCE

"SEC. 406. (a) From funds available under this section, the Assistant Secretary shall provide—

"(1) opportunities for experienced vocational educators, community-based organization staff, and administrators of programs funded by the Job Training Partnership Act that operate in vocational settings to participate in advanced study of vocational education;

"(2) opportunities for—

"(A) certified teachers, who have been trained to teach in other fields, to become vocational educators, if those teachers have skills and experience in fields which facilitate their training as vocational educators, especially skills and experience teaching individuals with limited English proficiency;

"(B) persons in industry who have skills and experience in vocational fields for which they can be trained to be vocational educators;

"(C) vocational educators to update or maintain technological currency in their fields; and

"(3) opportunities for gifted and talented vocational education secondary and postsecondary students to intern with Federal or State agencies, nationally recognized vocational education associations and student organizations, the National Center for Research in Vocational Education, or leadership research institutes established by section 407 of this Act.

"(b)(1) In order to meet the needs of all States for qualified vocational education leaders (such as administrators, supervisors, teacher educators, researchers, career guidance and vocational counseling personnel, vocational student organization leadership personnel, and teachers in vocational education programs), the Assistant Secretary, following recipient designation by respective State directors of vocational education, shall make available leadership development awards in accordance with the provisions of this subsection only after determination by the respective State director of vocational education that, for the purposes of subsection (a)(1), persons selected for awards—

"(A) have had not less than 3 years of experience in vocational education or in industrial training or, in the case of researchers, experience in social science research which is applicable in vocational education;

"(B) are currently employed or are reasonably assured of employment in vocational education and have successfully completed, as a minimum, a baccalaureate degree program;

"(C) are recommended by their employer, or others, as having leadership potential in the field of vocational education and have been accepted for admission as a graduate student in a program of higher education approved by the Assistant Secretary; and

"(D) have made a commitment to return to the field of vocational education upon completion of education provided through the leadership development award.

"(2) The Assistant Secretary shall, for a period of not to exceed 3 years, pay to persons selected for leadership development awards such stipends (including allowances for tuition, nonrefundable fees, and other expenses for such persons and their dependents) as the Assistant Secretary may determine to be consistent with prevailing practices.

"(3) The Assistant Secretary shall, in addition to the stipends paid to persons under subsection (b)(2), pay to the institution of higher education at which such persons are pursuing a course of study such amount as the Assistant Secretary may determine, not to exceed $9,000 per person per academic year or its equivalent and $3,000 per person per summer session or its equivalent, except that any amount charged such person for tuition and nonrefundable fees and deposits shall be deducted from the amount payable to the institution of higher education under this subsection. Any funds from grants received under this paragraph which remain after deducting normal tuition fees, and deposits attributable to such students, shall be used by the institution receiving such funds for the purpose of improving the program of vocational education offered by that institution, including leadership development pursuant to section 407.

"(4) The Assistant Secretary shall approve the application of the vocational education program of an institution of higher education for the purposes of this section only upon finding that—

"(A) the institution offers a comprehensive program in vocational education with adequate supporting services and disciplines such as education administration, career guidance and vocational counseling, research, and curriculum development;

"(B) such program is designed to substantially advance the objective of improving vocational education through providing opportunities for graduate training of vocation teachers, supervisors, and administrators, and of university level vocational education teacher educators and researchers; and

"(C) such programs are conducted by a school of graduate study in the institution of higher education.

"(5) The Assistant Secretary shall approve the application of the vocational education program of any institution of higher education, for the purposes of this subsection, designated as a leadership research institute, pursuant to section 407.

"(6) The Assistant Secretary, in carrying out this subsection, shall apportion leadership development awards equitably among the States, taking into account such factors as the State's vocational education enrollments, the need for additional vocational education personnel.

"(7) Persons receiving leadership development awards under the provisions of this subsection shall continue to receive the payments provided in subsection (b)(2), not to exceed 3 years, only during such periods as such persons are maintaining satisfactory proficiency in, and devoting essentially, full time to study in the field of vocational education in an approved institution of higher education, or to research in a leadership development research institute designated pursuant to section 407, and are not engaging in gainful employment other than part-time employment by such institution or institute in teaching, research, or similar activities.

"(c)(1) In order to meet the need to provide adequate numbers of teachers and related classroom instructors in vocational education who are technologically current in their fields, to take full advantage of the education which has been provided to already certified teachers who are unable to find employment in their fields of training and of individuals employed in industry who have skills and experiences in vocational fields, and to encourage more instructors from minority groups, as well as teachers with skills and experience with persons with limited English proficiency, the Assistant Secretary, following recipient designation by respective State directors of vocational education, shall make available fellowships, in accordance with the provisions of this subsection, to such individuals upon determination that, for the purpose of subsection (a)(2), individuals selected for such fellowships are—

"(A) currently employed in vocational education and need to update or maintain the currency of their technological skills;

"(B) presently certified, or had been certified within the last 10 years, by a State as teachers in secondary schools, area vocational technical schools/institutes, or in community and junior colleges and have past or current skills and experiences in vocational fields for which they can be trained to be vocational educators, especially skills and experience teaching those with limited English proficiency; or

"(C) employed in agriculture, business, or industry (who need not be baccalaureate degree holders) who have skills and experiences in vocational fields for which there is a need for vocational educators, and that individuals receiving such awards have been accepted by an institution of higher education in a program to assist those persons in gaining the skills to become a vocational educator.

"(2) The Assistant Secretary shall, for a period not to exceed 2 years, pay to persons selected by the State director of vocational education for personnel development fellowships under this subsection, stipends (including such allowances for tuition, nonrefundable fees, and subsistence and other expenses for such persons and their dependents) as the Assistant Secretary may determine to be consistent with prevailing practices.

"(3) The Assistant Secretary shall approve personnel development fellowships at institutions of higher education only upon finding that—

"(A) the institution offers a comprehensive program in vocational education with adequate supporting services and disciplines such as education administration, career guidance and vocational counseling, research and curriculum development; and

"(B) such program is available to persons receiving these fellowships so that they can receive the same quality of education and training being offered in the institution for undergraduate students who are preparing to become vocational education teachers.

"(4) The Assistant Secretary, in carrying out this subsection shall apportion the fellowships equitably among the States, taking into account such factors as the State's vocational education enrollments, the need for additional vocational education personnel, especially minorities and those with skills and experience in teaching persons with limited English proficiency.

"(5) Persons receiving personnel development fellowships under the provisions of this subsection shall continue to receive payments provided in paragraph (2) only during such periods as such persons are maintaining satisfactory proficiency, and devoting full time to study in the field of vocational education in an institution of higher education and are not engaging in gainful employment other than part-time employment by such institution.

"(6)(A) In carrying out this subsection, the Assistance Secretary shall, before the beginning of each fiscal year, based on information from the National Occupation Information Coordinating Committee, State Occupational Information Coordinating Committees, the National Vocational Education Data System established by section 421, and other appropriate sources, publish a listing—

"(i) of the areas of teaching in vocational education which are presently in need of additional personnel;

"(ii) of the areas of teaching which will likely have need of additional personnel in the future; and

"(iii) of areas of teaching in which technological upgrading may be especially critical.

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"(B) In selecting recipients for fellowships under this subsection, respective State directors of vocational education shall grant these fellowships, to the maximum extent feasible to persons seeking to become teachers or upgrade their skills in the areas identified.

"(d)(1) In order to meet the need of attracting gifted and talented vocational education students into further study and professional development in the field of vocational education, the Assistant Secretary shall make available stipends for internships for gifted and talented vocational education secondary and postsecondary students to intern in Federal and State agencies, nationally recognized vocational education associations, the National Center for Research in Vocational Education or leadership development research institutes established by section 407, for a period not to exceed 9 months, only upon determination that—

"(A) persons selected are recommended as gifted and talented by a vocational educator at the secondary or postsecondary school the student attends; and

"(B) the persons selected will be provided professional supervision by an individual qualified and experienced in the field of vocational education at the agency or institution at which the internship is offered.

"(2) The Assistant Secretary shall approve internships for a period not to exceed 9 months to persons selected for the internships under this subsection to cover subsistence and other expenses for such persons as the Assistant Secretary may determine to be consistent with prevailing practices.

"(e) Of the amounts available pursuant to section 3(d) for any fiscal year for this part, there shall be available in each fiscal year not less than $5,000,000 to carry out the provisions of this section.

"LEADERSHIP DEVELOPMENT RESEARCH INSTITUTES

"SEC. 407. (a) From funds available under this section, the Assistant Secretary is authorized to establish and support, through grants or contracts to public colleges and universities, no more than 10 leadership development research institutes to improve the ability of vocational education to better respond to the needs of the labor market and special populations, to further develop professional leadership within the field of vocational education, and to enhance teacher education in the field of vocational education.

"(b) The Assistant Secretary shall award grants or contracts for such leadership development research institutes from among eligible applicants through a competitive process. Such institutes shall be supported for a 5-year period, upon determination each year by the Assistant Secretary that such institute has complied with such performance requirements as the Assistant Secretary shall establish, and be eligible for renewal at the end of 5 years at the discretion of the Assistant Secretary.

"(c) The Secretary shall establish through regulations the process for the selection of the leadership development research institutes and shall set forth priorities of critical national significance upon which eligible applicants may choose to conduct applied research and leadership development activities designed to improve the quality of vocational education. Such areas of significance may include—

"(1) providing quality vocational education and training to handicapped individuals;

"(2) improving the recruitment, preparation, and retention of vocational education teachers;

"(3) delivering vocational education and training to adults who are in need of training or retraining, especially unemployed, dislocated, and older workers, and financially stressed farmers, agricultural workers, and rural families;

"(4) providing vocational education and training to individuals who are single parents, homemakers, or single pregnant women, including education and training related to parenting skills and balancing the roles of work and family;

"(5) developing the role of vocational education in the prevention of 'at risk' students from dropping out of school;

"(6) providing vocational education and training to disadvantaged individuals, including—

"(A) parents eligible for Aid to Families with Dependent Children who are involved in welfare/work related activities;

"(B) youth in foster care and other homeless youth making the transition to independent living; and

"(C) inner-city youth and adults in need of education, training, or retraining;

"(7) improving the role of secondary and postsecondary vocational education in the economic development of communities and the advancement of entrepreneurship education;

"(8) developing curriculum materials and instructional methods relating to new and emerging technologies and the assessment of the nature of change in the workplace, including its effect on individual jobs;

"(9) developing innovative methods to better select and prepare leadership personnel at State or local levels;

"(10) developing the constructive involvement of business and industry in public, secondary, and postsecondary vocational education programs, including cooperative education and advisory councils;

"(11) integrating and reinforcing basic academic skills in vocational settings;

"(12) developing and evaluating programs to enhance learning in the workplace, especially programs designed to reduce adult illiteracy;

"(13) evaluating and improving equity and access to vocational education for all students;

"(14) providing quality vocational education and career development to gifted and talented individuals; and

"(15) providing teacher education and training pursuant to the implementation of tech-prep education and articulation programs.

"(d) Any leadership development research institute selected and established under this section by the Assistant Secretary shall—

"(1) provide leadership and personnel development through advanced study, in-service education, and research activities for State and local leaders in vocational education;

"(2) provide advanced study and research activities appropriate for the recipients of professional leadership development awards provided pursuant to section 405(b)(1);

"(3) offer comprehensive programs of vocational education leading to baccalaureate, masters, and doctoral degrees;

"(4) demonstrate faculty capability in research and professional development activities directly related to vocational education and the specific priority area of national significance upon which it has chosen to focus;

"(5) demonstrate an established record of successful collaboration with Federal agencies, State and local vocational education agencies, postsecondary institutions, business, industry, and labor;

"(6) provide adequate support services such as computer facilities, libraries, and fiscal management;

"(7) provide a substantial contribution (in cash or in kind, including facilities, overhead, personnel, equipment, and services) toward its establishment as a leadership development institute;

"(8) provide assurance that designation as a leadership development research institute will improve the programs of vocational education offered by the institution and contribute to the development of teacher education, leadership, and personnel in the field of vocational education, in conjunction with the provisions of section 406; and

"(9) provide a plan to develop model programs and curriculum suitable for replication.

"(e) The Assistant Secretary shall compile and disseminate the results of research and leadership development projects conducted by leadership development research institutes and promote replication of successful approaches.

"(f) Of the amounts available pursuant to section 3(d) for any fiscal year for this part, there shall be available for each fiscal year up to $7,500,000 to carry out the purposes of this section relating to leadership development research institutes. Of such grants or contracts that the Secretary shall approve for the purposes of this section, no such grant or contract shall exceed $750,000 nor be less than $500,000 during any given fiscal year for which the grant or contract is awarded.".

PART B—DEMONSTRATION PROGRAMS

**Subpart 1—Cooperative Demonstration Programs**

SEC. 411. PROGRAM AUTHORIZED.

Section 411 of the Act (20 U.S.C. 2411) is amended—

(1) in subsection (a)—

(A) by inserting "Assistant" before "Secretary";

(B) in paragraph (2)(A), by inserting ", cooperative education, after "experience";

(C) in paragraph (3)—

(i) by inserting ", especially those in new and emerging occupations" after "Commerce"; and

(ii) by striking "and" at the end;

(D) by redesignating paragraph (4) as paragraph (7);

(E) by inserting after paragraph (3) the following new paragraphs:

"(4) programs to provide for professional leadership development designed to attract qualified individuals, especially minorities, to full-time study and preparation for leadership within the field of vocational education;

"(5) model programs, including but not limited to, child growth and development labs and centers, which carry out those programs described in section 312(b)(1);

"(6) programs with secondary vocational school students designed to provide participating students with the skills needed for employment or further education by forming partnerships with business, industry, and labor for the purpose of incorporating into school curriculums—

"(A) practical applications of academic subjects;

"(B) career exploration;

"(C) instruction relating to job seeking skills, career choices, and the use of information relating to the labor market; and

"(D) school monitored work experience programs, designed to equip each vocational high school graduate with a resume as well as a diploma; and"; and

(F) in paragraph (7) (as redesignated by subparagraph (E) of this paragraph), by inserting "Assistant" before "Secretary";

(2) in subsection (b), by inserting "Assistant" before "Secretary"; and

(3) in subsection (d), by inserting "Assistant" before "Secretary".

**Subpart 2—State Equipment Pools**

SEC. 413. PROGRAM AUTHORIZED.

Section 413 of the Act (20 U.S.C. 2413) is amended by inserting "Assistant" before "Secretary" each place it appears.

**Subpart 3—Demonstration Centers for the Retraining of Dislocated Workers**

SEC. 415. PROGRAM AUTHORIZED.

Section 415 of the Act (20 U.S.C. 2415) is amended by inserting "Assistant" before "Secretary".

**Subpart 4—Model Centers for Vocational Education for Older Individuals**

SEC. 417. PROGRAM AUTHORIZED

Section 417 of the Act (20 U.S.C. 2417) is amended—

(1) in subsection (a), by inserting "Assistant" before "Secretary";

(2) in subsection (b)(1), by inserting ", including worksite programs such as cooperative education," after "retraining" the second place it appears; and

(3) in subsection (c), by inserting "Assistant" before "Secretary".

## PART C—VOCATIONAL EDUCATION AND OCCUPATIONAL INFORMATION DATA

SEC. 421. NATIONAL VOCATIONAL EDUCATION DATA SYSTEM.

Section 421 of the Act is amended to read as follows:

"NATIONAL VOCATIONAL EDUCATION DATA SYSTEM

"SEC. 421. (a) The Assistant Secretary shall, by September 30, 1991, establish a National Vocational Education Data System using comparative information elements and uniform definitions which shall include, but not necessarily be limited to, information on—

"(1) vocational students (including information concerning race, sex, handicapping condition, and representation among special populations);

"(2) vocational student outcomes (including completers, leavers, placement, and follow-up information);

"(3) vocational education programs (including prevocational, secondary, postsecondary, adult, part-time, and all other types of programs offered by occupational specialty;

"(4) student participation in vocational education programs (including the participation of special populations), including disadvantaged and handicapped individuals, women, persons with limited English proficiency, and minorities, in such a manner that longitudinal comparisons may be made;

"(5) vocational education staff; and

"(6) vocational education fiscal expenditures relating to the requirements of this Act, including expenditures by eligible recipients and expenditures for each category of special populations.

"(b)(1) In order to establish, operate, and update such system and develop comparative information elements and uniform definitions, the Assistant Secretary shall establish a task force to be chaired by the Assistant Secretary.

"(2) The task force shall include representation from the National Center for Education Statistics, the Office of Vocational and Adult Education, the Office of Postsecondary Education, the National Center for Research in Vocational Education, the National Occupational Information Coordinating Committee (NOICC) State directors of vocational education, the Committee on Evaluation and Information Systems (CEIS), and national vocational education organizations and associations.

"(3) The task force shall advise the Assistant Secretary concerning the development of comparative information elements and uniform definitions, methodologies to be used, group sample sizes, the frequency with which data in this section are to be collected, and appropriate uses of data and information.

"(c) The data system established by the Assistant Secretary with the advice of the task force shall establish linkages between the data system and evaluations, State plans, performance reports, and local applications required by this Act to facilitate quality use of the data by Federal, State, and local administrators.

"(d)(1)(A) In maintaining and updating the data system, the Assistant Secretary shall endeavor to the fullest extent feasible to make use of other National Center for Education Statistics data collection systems in order to allow for comparability of data across educational programs and to reduce the burden on States for duplicative data collection efforts.

"(B) The Administrator of the National Center for Education Statistics shall provide all necessary assistance to the Assistant Secretary in carrying out the provisions of this section.

"(C) The Assistant Secretary shall endeavor to the fullest extent feasible to make the system compatible with the occupational information system established pursuant to section 422 of this Act, with the vocational data systems authorized under section 161(a) of the Vocational Education Act of 1963, with other systems developed or assisted under the Job Training Partnership Act, and with information collected pursuant to the Education of the Handicapped Act.

"(2) Any State receiving assistance under this Act shall cooperate with the Assistant Secretary in supplying the information required to be submitted by the Assistant Secretary. Each State shall submit the data required to carry out this subsection to the Assistant Secretary in a format developed by the Assistant Secretary with the advice of the task force.

"(3) The Assistant Secretary shall review and update the National Vocational Education Data System in conjunction with the task force every 2 years and prepare acquisition plans of data for operating the system. In carrying out the requirements under this paragraph, the Secretary shall use methodologies developed in conjunction with the task force to ensure comparisons with the general student population and across program areas, except that the information with respect to a handicapped student shall be furnished in accordance with section 423.

"(4) The Assistant Secretary may conduct special studies on vocational education programs to answer specific questions regarding the enrollment and participation of special populations, the success of occupationally specific instruction programs to fulfill workplace needs, and other similar subjects which the Assistant Secretary deems appropriate.

"(e) In carrying out responsibilities under this section, the Assistant Secretary shall cooperate with the Secretary of Labor in implementing section 463 of the Job Training Partnership Act to ensure that the data system operated under this section is compatible with and complementary to other occupational supply and demand information systems developed or maintained with Federal assistance.

"(f) The Assistant Secretary shall prepare an annual report on the operation and findings of the National Vocational Education Data System to be distributed to the States and included as part of the annual report by the Secretary of Education to the Congress on the status of vocational education, submitted on the last day of each fiscal year.

"(g) Of the amounts available pursuant to section 3(f) for each fiscal year for this part, there shall be available in each fiscal year not less than $10,000,000 to carry out the provisions of this section. Of such amounts, not less than 75 percent shall be distributed equitably among the States to assist States in providing data and information relative to the purposes of this section. The Assistant Secretary may retain up to 25 percent of such amounts to enable the task force to carry out its purposes under this part and for discretionary use pursuant to the purposes of subsection (d)(4) of this section.".

SEC. 422. OCCUPATIONAL INFORMATION SYSTEM.

Section 422 of the Act (20 U.S.C. 2422) is amended—

(1) in subsection (a)—

(A) in the second sentence, by striking "section 451" and inserting "this section";

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

(C) by redesignating paragraph (4) as paragraph (5); and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) develop and implement a labor market data base which is representative of actual jobs, new jobs, replacements, and trends; and"; and

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

"(c) Of the amounts available pursuant to section 3(f) for each fiscal year for this part, there shall be available in each fiscal year not less than $6,000,000 to carry out the provisions of this section. Of such amounts available for the purposes of this section, not less than 75 percent shall be used by the National Occupational Information Coordinating Committee to support State occupational information coordinating committees for carrying out State occupational information systems and career information delivery systems.".

SEC. 423. INFORMATION BASE FOR VOCATIONAL EDUCATION DATA SYSTEM.

The first sentence of section 423 of the Act (20 U.S.C. 2423) is amended by inserting "Assistant" before "Secretary".

SEC. 424. NATIONAL NETWORK FOR CURRICULUM COORDINATION IN VOCATIONAL AND TECHNICAL EDUCATION.

Part C of title IV of the Act (20 U.S.C. 2421 et seq.) is amended by adding at the end the following new section:

"NATIONAL NETWORK FOR CURRICULUM COORDINATION IN VOCATIONAL AND TECHNICAL EDUCATION

"SEC. 424. (a) From the sums allocated to carry out this section, the Assistant Secretary shall establish through grants or contracts a National Network for Curriculum Coordination in Vocational and Technical Education consisting of six regional curricu-

lum coordination centers. The Network shall encourage the designation of a State liaison representative in each of the States. It shall be the purpose of the Network to—

"(1) provide leadership and technical assistance in vocational and technical education curriculum design, development, and dissemination;

"(2) coordinate vocational and technical education curriculum information sharing among all the States and territories;

"(3) reduce duplication of effort in vocational and technical education curriculum development activities among the States and territories; and

"(4) promote the use of vocational and technical education curriculum research findings.

"(b) Of the amounts available pursuant to section 3(f) for any fiscal year for this part, there shall be available in each fiscal year not less than $1,000,000 to carry out the purposes of this section.".

**PART D—NATIONAL COUNCIL ON VOCATIONAL EDUCATION**

SEC. 431. COUNCIL ESTABLISHED.

Section 431 of the Act (20 U.S.C. 2431) is amended—

(1) in the second sentence of subsection (a)(2), by inserting after "Job Training Partnership Act," the following: "at least one member shall be enrolled as a student in a secondary or postsecondary vocational education program and be an active participant in a vocational student organization,";

(2) in subsection (b)—

(A) by inserting "Assistant" before "Secretary"; and

(B) in paragraph (2), by inserting ", including worksite programs such as cooperative education," after "education";

(3) in the first sentence of subsection (e), by inserting "Assistant" before "Secretary"; and

(4) in the first sentence of subsection (g), by inserting "Assistant" before "Secretary".

**PART E—BILINGUAL AND LIMITED ENGLISH PROFICIENCY VOCATIONAL TRAINING**

SEC. 440. BILINGUAL AND LIMITED ENGLISH PROFICIENCY VOCATIONAL TRAINING.

(a) AMENDMENT OF PART HEADING.—The heading for part E of title IV of the Act (20 U.S.C. 2441 et seq.) is amended to read as follows:

"PART E—BILINGUAL AND LIMITED ENGLISH PROFICIENCY VOCATIONAL TRAINING".

(b) FINDINGS AND PURPOSE.—Part E of title IV of the Act (20 U.S.C. 2441 et seq.) is amended by inserting after the part heading the following new section:

"FINDINGS AND PURPOSE

"SEC. 440. (a) The Congress finds that—

"(1) persons with limited English proficiency comprise a significant and ever growing portion of our national population;

"(2) with their language, cultural diversity, and strong work ethic, limited English proficient persons represent a valuable resource for this country's future productivity, competitiveness, and defense;

"(3) one of 10 Americans aged 5 and older, representing more than 23,000,000 people, speak a language other than English at home;

"(4) minorities and immigrants will comprise the largest share of new entrants into the labor force between now and the year 2000;

"(5) in the last census, only 21 percent of limited English proficient adults aged 25 and older were high school graduates, compared to 69 percent for persons who spoke only English;

"(6) the unemployment rate of limited English proficient adults 16 years old and older is almost twice that of the general population;

"(7) vocational education can play an important role in assisting persons with limited English proficiency become self-sufficient and productive workers;

"(8) although gains are being made, persons with limited English proficiency are still critically under represented in education and vocational education and training programs; and

"(9) if access and equality of educational opportunity are to be ensured for limited English proficient populations, special vocational education and training programs, targeted to need, must be provided which address the barriers imposed by cultural and language differences.

"(b) It is therefore the purpose of this part—

"(1) to provide direct and targeted assistance for necessary programs and services for persons with limited English proficiency to ensure their access to and successful participation in vocational education and training programs;

"(2) to develop technical assistance and staff development capacity, including recruitment of instructors and staff with bilingual skills or experience in teaching persons with limited English proficiency, within State vocational education departments to better assist local programs serving persons with limited English proficiency; and

"(3) to develop, evaluate, and disseminate information regarding model vocational education and training programs, suitable for replication, designed to assist persons with limited English proficiency.".

(c) SUBPART HEADING.—Part E of title IV of the Act (20 U.S.C. 2441 et seq.) is further amended by inserting after section 440 the following new heading:

"Subpart 1—Bilingual Vocational Training".

**Subpart 1—Bilingual Vocational Training**

SEC. 441. PROGRAM AUTHORIZED.

Section 441 of the Act is amended—

(1) in subsections (a) through (d), by inserting "Assistant" before "Secretary" each place it appears;

(2) in subsection (a)(1)—

(A) by inserting "20 percent of" after "From";

(B) by striking "section" the first place it appears and inserting "part";

(C) by striking "3(d)" and inserting "3(h)"; and

(D) by striking "English" the first place it appears and inserting the following: "English. Of such sums as are available for this subpart, a portion shall be used"; and

(3) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) Of such sums as are available for this subpart, a portion shall be used for training for instructors and staff of bilingual vocational education and training programs.";

(B) in paragraph (2)(A)—

(i) by inserting "career guidance and vocational" before "counselors,";

(ii) by inserting "and staff" after "ancillary personnel"; and

(iii) by inserting "serving individuals with limited English proficiency" after "programs" before the semicolon at the end;

(4) in subsection (c), by amending paragraph (1) to read as follows:

"(1) Of such sums as are available for this subpart, a portion shall be used for the development of instructional and curriculum materials, methods, or techniques for bilingual vocational training.";

(5) in subsection (d)—

(A) in paragraph (2), by striking "111" and inserting "116";

(B) in paragraph (5), by striking "111" and inserting "116"; and

(C) in paragraph (6), by striking "section" each place it appears and inserting "subpart";

(6) in subsection (e)—

(A) in paragraph (1)—

(i) by inserting "Assistant" before "Secretary" the first place it appears; and

(ii) by striking "section" and inserting "subpart";

(B) in paragraph (2), by striking "section" and inserting "subpart"; and

(C) in paragraph (3), by striking "Secretary of Education" where it appears and inserting "Assistant Secretary of Education"; and

(7) in subsection (f), by striking "section" each place it appears and inserting "subpart".

**Subpart 2—Targeted Assistance for Persons with Limited English Proficiency**

SEC. 445. TARGETED ASSISTANCE FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY.

Part E of title IV of the Act (20 U.S.C. 2441 et seq.) is amended by adding at the end the following new subpart:

"Subpart 2—Targeted Assistance for Persons with Limited English Proficiency

"PROGRAM AUTHORIZED

"SEC. 445. (a) From 80 percent of the sums made available to carry out this part in each fiscal year under section 3(h), the Assistant Secretary shall allot to each State for each fiscal year an amount which bears the same ratio to such sums as the population of linguistic minorities in such State, according to the most recent census data, bears to the population of linguistic minorities in all States. Up to 7 percent of such amount shall be available for State administration of programs carried out pursuant to this subpart.

"(b) Any State desiring to receive funds from its allotment for any fiscal year shall include an application as a part of its State plan submitted pursuant to section 123 of this Act. The State board shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public, but especially organizations and groups representing linguistic minorities, an opportunity to present their views and make recommendations regarding the application. A summary of such recommendations and the State board's response shall be included with the application.

"(c) In developing the State application, the State shall—

"(1) provide assurances that the State will provide leadership, supervision, and resources for assuring access to vocational education and training programs by individuals with limited English proficiency and, as a component of such assurances, further assure that, for each fiscal year, expenditures from allotments for title II for limited English proficient programs and bilingual vocational training will not be less than the expenditures for such programs and training in the State for the fiscal year 1988;

"(2) include enrollment information regarding the limited English proficient

within the State, by specific occupational programs, by grade level, completers and leavers, and State and local expenditures on the limited English proficient;

"(3) provide assurances that the State will provide technical assistance to local programs serving the limited English proficient at the secondary, postsecondary, and adult levels; and

"(4) provide assurances that the State will evaluate programs funded under this subpart in terms of their success in meeting stated objectives and their appropriateness for statewide and national replication.

"(d) From sums made available to carry out this subpart in each fiscal year, States are authorized to make grants and to enter into contracts with appropriate State agencies, local educational agencies, postsecondary educational institutions, private nonprofit vocational training institutions, and other nonprofit organizations specially created to serve persons with limited English proficiency.

"(e) Grants and contracts under this subpart may be used for the development of model programs potentially suitable for statewide or national replication serving persons with limited English proficiency, including—

"(1) vocational education, training, and worksite programs, including bilingual programs, which integrate instruction in the English language into the curriculum or training program to ensure that students or participants in such training will be equipped to pursue work in an English language environment;

"(2) business-industry-labor-education partnership programs which encourage private employer participation in the design and implementation of cost-effective, technology-based worksite training programs for young, limited English proficient individuals;

"(3) vocational skill training for finding and keeping a job, designed specifically for persons with limited English proficiency;

"(4) programs which provide increased access to vocational education and training programs and appropriate support services for those persons with limited English proficiency;

"(5) special services which address the barriers imposed by cultural and language differences;

"(6) staff development and leadership training, including activities to improve the recruitment of linguistic minorities and the preparation of vocational personnel to work with the limited English proficient;

"(7) programs, in cooperation with the State sex-equity coordinator described in section 116, to assure access and equality of opportunity to linguistic minority women;

"(8) programs to create and strengthen collaborative efforts linking vocational education and training programs with bilingual education, adult literacy, career guidance and vocational counseling, and human service providers to better serve those persons with limited English proficiency; and

"(9) transitional education skills programs which teach vocational specific language, literacy, and math skills to prepare limited English proficient persons for entry into vocational education.".

### PART F—GENERAL PROVISIONS

SEC. 451. GENERAL PROVISIONS.

Part F of title IV of the Act (20 U.S.C. 2451) is repealed.

## TITLE V—GENERAL PROVISIONS

### PART A—FEDERAL ADMINISTRATIVE PROVISION

SEC. 501. PAYMENTS.

Section 501 of the Act (20 U.S.C. 2461) is amended—

(1) in subsection (a)—

(A) by inserting "Assistant" before "Secretary"; and

(B) by striking "101" and inserting "106"; and

(2) in subsection (b), by inserting "Assistant" before "Secretary".

SEC. 502. FEDERAL SHARE.

Section 502(b) of the Act (20 U.S.C. 2462(b)) is amended—

(1) in the first sentence—

(A) by striking "equitably" and inserting "in aggregate"; and

(B) by inserting "(including private sector and third-party contributions)," after "local sources" the first place it appears; and

(2) in the second sentence, by striking "local sources" and inserting "State and local sources (including private sector and third party contributions)".

SEC. 503. MAINTENANCE OF EFFORT.

Section 503 of the Act (20 U.S.C. 2463) is amended by inserting "Assistant" before "Secretary" each place it appears.

SEC. 504. WITHHOLDING JUDICIAL REVIEW.

Section 504 of the Act (20 U.S.C. 2464) is amended by inserting "Assistant" before "Secretary" each place it appears.

### PART B—DEFINITIONS

SEC. 521. DEFINITIONS.

Section 521 of the Carl D. Perkins Vocational Education Act of 984 is amended—

(1) in paragraph (4), by inserting "vocational" before "counseling";

(2) in paragraph (7), by adding at the end the following new sentence: "Student employment shall be compensated in conformity with Federal, State, and local laws, unless a waiver for compensation is justified and approved by the Assistant Secretary.";

(3) in paragraph (8), by inserting "or delinquent" after "criminal";

(4) in paragraph (9)(F), by inserting "or delinquent" after "criminal";

(5) in paragraph (11)—

(A) by inserting "vocational" before "counseling"; and

(B) by inserting "career" before "guidance";

(6) in the second sentence of paragraph (12), by inserting ", foster care youth making the transition to independent living," after "proficiency";

(7) in paragraph (13), by inserting "Assistant" before "Secretary";

(8) in the second sentence of paragraph (17), by inserting "Assistant" before "Secretary";

(9) in paragraph (20), by inserting "Assistant" before "Secretary";

(10) in paragraph (22), by inserting "Assistant" before "Secretary" each place it appears;

(11) in paragraph (24), by inserting after "Education" the following: "and the term 'Assistant Secretary' means the Assistant Secretary for Vocational and Adult Education";

(12) in paragraph (25), by inserting ", divorced," after "unmarried";

(13) in paragraph (27)—

(A) by striking "and"; and

(B) by inserting before the period the following: "the Marshall Islands, Micronesia, and, upon the effective date of the Compact of Free Association with Palau, Palau";

(14) in paragraph (31)—

(A) by striking "modern industrial and agricultural arts" and inserting "programs of industrial arts/technology education, programs of vocational agriculture education";

(B) by inserting "vocational" before "counseling"; and

(C) by inserting "(including cooperative education)" after "instruction"; and

(15) by adding at the end the following new paragraphs:

"(33) The term 'Office' means the Office of Vocational and Adult Education established by section 101.

"(34) The term 'postsecondary education' means vocational education for persons who have completed or left high school and who are enrolled in organized programs of study for which credit is given toward an associate or other degree, but which programs are not designed as baccalaureate or higher degree programs.

"(35) The term 'prevocational' means any organized, sequential educational program which is directly related to the preparation of individuals for entry into vocational education programs.".

## TITLE VI—CONFORMING AMENDMENTS

SEC. 601. AMENDMENT TO TABLE OF CONTENTS.

The table of contents contained in section 1 of the Act is amended—

(1) by striking the item relating to title I and all items that follow through the item relating to section 115 and inserting the following:

"TITLE I—VOCATIONAL AND ADULT EDUCATION

"PART A—OFFICE OF VOCATIONAL AND ADULT EDUCATION

"Sec. 101. Establishment of Office.

"Sec. 102. Purpose.

"Sec. 103. Functions of the Assistant Secretary.

"Sec. 104. Staffing and personnel.

"Sec. 105. Administrative accountability.

"PART B—VOCATIONAL EDUCATION ASSISTANCE TO THE STATES

"Subpart 1—Allotment and Allocation

"Sec. 111. Allotment.

"Sec. 112. Within State allocation.

"Sec. 113. Indian and Hawaiian native programs.

"Subpart 2—State Organizational and Planning Responsibilities

"Sec. 116. State administration.

"Sec. 117. State council on vocational education.

"Sec. 118. State plans.

"Sec. 119. Approval.

"Sec. 120. Local application.";

(2) by striking the item relating to part D of title III and inserting the following:

"PART D—COMPREHENSIVE CAREER GUIDANCE AND VOCATIONAL COUNSELING PROGRAMS";

(3) by striking the item relating to section 331 and inserting the following:

"Sec. 331. Grants for career guidance and vocational counseling.";

(4) by striking the item relating to section 332 and inserting the following:

"Sec. 332. Use of funds from career guidance and vocational counseling grants.";

(5) by striking the item relating to part E of title III and inserting the following:

"PART E—BUSINESS-INDUSTRY-EDUCATION PARTNERSHIP FOR TRAINING IN HIGH-TECHNOLOGY OCCUPATIONS";

(6) by inserting after the item relating to section 343 the following new items:

"PART F—TECH-PREP EDUCATION PROGRAMS

"Sec. 351. Short title.
"Sec. 352. Findings and purposes.
"Sec. 353. General authority.
"Sec. 354. Uses of funds from tech-prep education grants.
"Sec. 355. Application.
"Sec. 356. Reports.
"Sec. 357. Definitions.";

(7) by striking the item relating to part A of title IV and inserting the following:

"PART A—RESEARCH AND PROFESSIONAL DEVELOPMENT";

(8) by inserting after the item relating to part A of title IV (as amended by paragraph (8) of this section) the following new item:

"Subpart 1—Research";

(9) by inserting after the item relating to section 404 the following new items:

"Subpart 2—Professional Development

"Sec. 406. Vocational education personnel development assistance.
"Sec. 407. Leadership development research institutes.";

(10) by striking the item relating to section 421 and inserting the following:

"Sec. 421. National vocational education data system.";

(11) by inserting after the item relating to section 423 the following new item:

"Sec. 424. National network for curriculum coordination in vocational and technical education.";

(12) by striking the item relating to part E of title IV and inserting the following:

"PART E—BILINGUAL AND LIMITED ENGLISH PROFICIENCY VOCATIONAL TRAINING";

(13) by inserting after the item relating to part E of title IV (as amended by paragraph 12 of this section) the following new items:

"Sec. 440. Findings and Purpose.

"Subpart 1—Bilingual Vocational Training";

(14) by inserting after the item relating to section 441 the following new items:

"Subpart 2—Targeted Assistance for Persons With Limited English Proficiency

"Sec. 445. Program authorized.";

(15) by striking the item relating to part F; and

(16) by striking the item relating to section 451.●

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By Mr. SYMMS:

S. 659. A bill to repeal the estate tax inclusion related to valuation freezes; to the Committee on Finance.

REPEAL OF ESTATE TAX INCLUSION RELATED TO VALUATION FREEZES

Mr. SYMMS. Mr. President, I rise today to introduce S. 659, to repeal section 2036(c) of the Internal Revenue Code of 1986, an estate tax provision relating to valuation freezes. Section 2036(c) has eliminated so-called "estate freezes" as a practical way of passing family businesses from one generation to the next. It is difficult enough to build a family business and pass it on to the next generation. This law makes it even more difficult.

Family owned businesses are the essence of the American dream. Hard work, ingenuity, resourcefulness, pride, these are the ingredients of a successful family business. These businesses provide jobs, tax revenue, essential products and services, and play a vital leadership role in our communities. It is not easy to build a family business, and we owe a debt to those America families who have chosen this often difficult road.

There are of course many rewards that come of building a family business. Perhaps the greatest is the knowledge that a business that is the result of a lifetime of hard work can be passed on to one's children and grandchildren. Unfortunately, passing on the family business can often be a difficult task. When the founder of a family business dies the value of that business can be subject to estate tax rates up to 55 percent. If the business is a valuable one, a great deal of cash will be required to pay the estate taxes. If the cash is not available, and if the heirs cannot afford to buy the business, that business will have to be sold to pay the taxes. Not only is this unfair to the family involved, it is also bad public policy. It is extremely shortsighted to substitute the one-time estate tax payment of a business that must be sold, and sometimes dissolved, for the potential steady stream of tax revenue from a family business that survives and grows. As the American College of Probate Counsel has pointed out, section 2036(c) "unfairly favors families whose wealth is represented by cash and marketable securities over those who own farms or small businesses."

In order to avoid the tragedy of a family business having to be sold to pay estate taxes, many families have used a technique called an estate freeze. An estate freeze typically involves the aging founder recapitalizing the business. Much of the current value and voting power is allocated to perferred stock which is retained by the founder. The founder then sells or gives common stock to his heirs. The future growth of the business is allocated to this common stock. There is no attempt to avoid taxes, the founder pays the appropriate taxes on this transfer. The difference is that the future growth in the value of the businesses is attributable to the stock held by the heirs, and will not revert back to the founder's estate upon his or her death. The founder's perferred stock will not rise in value, and at death may constitute a small percent of the total value of the business. Likewise, the founder's estate taxes will have been locked in by the freeze. A smaller sum of cash will be needed to pay the taxes or buy the founder's stock than would have been necessary without an estate freeze.

The estate freeze is not unfair to the Treasury. When the firm is recapitalized, the founder is typically old and the heirs are the ones whose hard work makes the business more valuable. The taxes on that value should be paid by the heirs when they either sell the business or die.

Section 2036(c) has largely eliminated this method of passing a family business from one generation to another. That law treats the typical estate freeze after December 17, 1987, as though it never occurred. Upon the founder's death the entire value of the business reverts back to the founder's estate and the heirs or estate must either come up with vast sums of cash or stand by as the family business is sold to the highest bidder to pay estate taxes. It is not difficult to see that this law can have a devastating effect on family businesses. I urge the support of my colleagues in this effort to repeal section 2036(c).

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 659

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) subsection (c) of section 2036 of the Internal Revenue Code of 1986 (as amended by the Technical and Miscellaneous Revenue Act of 1988) is hereby repealed.

(b) The repeal made by subsection (a) shall apply in the case of property transferred after December 17, 1987.

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By Mr. DECONCINI:

S. 660. A bill to amend the Social Security Act and the Internal Revenue Code of 1986 to modify beginning in 1990 the funding mechanism for Medicare catastrophic coverage by repealing the increase in the part B premium and the imposition of a supplemental premium and funding such coverage by eliminating the limit on wages or self-employment income subject to the hospital insurance tax and through general revenues; to the Committee on Finance.

MEDICARE CATASTROPHIC COVERAGE REFINANCING ACT

● Mr. DECONCINI. Mr. President, I am introducing a bill which proposes to restructure the financing of the catastrophic health benefits which were added to Medicare by Public Law 100-360, the Medicare Catastrophic Coverage Act of 1988. My proposal repeals the part B monthly premium increase and the supplemental premium authorized by Public Law 100-360. To pay for the additional benefits, I propose to uncap the amount of earnings now subject to the Medicare hospital insurance portion of the Social Security payroll tax and to apply the additional revenues collected to the Medicare trust funds. Under my bill, these

proposed changes would be effective January 1990.

In the months since enactment of the Medicare Catastrophic Coverage Act, the public debate about the merits of the new law has been clouded by strong objections to the funding mechanism used to pay for the new benefits. Since it is the first time Congress has applied the principle of progressive financing by the Medicare beneficiary population, some have denounced the new law in its entirety and have called for its repeal. Others have proposed various kinds of delays in the implementation of the law so we can review the fundamental way the act responds to the critical need for protection against catastrophic illness among the elderly. Most will acknowledge that the additional protection offered by the law does meet a number of critical acute care needs which are of particular concern to the elderly.

Mr. President, I joined 86 of my Democratic and Republican colleagues last year to approve the Medicare Catastrophic Coverage Act because I believed that the initial step toward addressing the catastrophic health care needs of the elderly had to begin with the improvement of Medicare. Medicare is the primary source of health insurance for our 31 million older Americans. These are the members of our communities who must live on fixed incomes in a decade when health care costs have outstripped their ability to pay. However, as health care costs have escalated, Medicare has fallen further and further behind in covering the actual health care expenses of the elderly. With each passing year Medicare has paid an increasingly smaller share of covered services, forcing the recipients to make greater out-of-pocket payments primarily for physician services and hospital care.

From 1977 until 1984, the elderly saw a 138-percent increase in their out-of-pocket expenses. They were spending $30.2 billion for these costs by 1984. Their payments for health care have increased at a rate which is 1½ times faster than their incomes have risen from 1980 to 1988. So by 1988, an elderly person was spending $2,394 on health care—18 percent of his or her income—compared to $966 or 12 percent in 1980. This is a substantial amount of money for anyone, let alone the elderly who generally have fewer resources outside of their Social Security or retirement pensions. They undoubtedly have been experiencing a serious erosion in their buying power. In fact, as recently as 1985, we had 2.9 million older Americans struggling to make ends meet on $99 or less a week. Any kind of illness is devastating for them. They must resort to making cruel choices about whether they go see a doctor for basic medical care or put food on their tables.

We as a country decided in 1965 that no elderly citizen in this Nation should have to endure such hardship and enacted Medicare. None of us today would question the wisdom Congress exercised then to provide needed insurance protection for the elderly. I certainly am glad our leaders had the foresight 23 years ago to take the steps they did in enacting Medicare. As a matter of principle, I believe we have a responsibility to protect those who are most vulnerable to the ravages of runaway health care costs. I suspect most of us share that view.

Three years ago most of us welcomed President Reagan's State of the Union commitment to address the issue of catastrophic protection for Americans of all ages. We saw it as a crucial turning point in a decade when affordable health care was slipping beyond the economic means of too many citizens. While the report of the Secretary of Health and Human Services, Otis Bowen, addressed three components of the catastrophic coverage protection, the first response to the findings focused on the financial burden which was being borne by the elderly. Secretary Bowen identified the considerable gaps which had developed in Medicare coverage for the elderly and disabled as a critical area needing our immediate attention. I joined the President when he presented his proposal to shore up the fundamental protection offered by Medicare to the elderly.

Many people felt that this proposal did not go far enough. I agreed, but I also believed it was an important first step in our efforts to respond to our elderly's health care needs. Those who criticized the President's proposal urged expansion of Medicare coverage to include prescription drugs and long-term care. Throughout 1987 the Senate and House grappled with the most fiscally reasonable way to close the Medicare gaps and to alleviate the high acute care costs encountered by the elderly while looking for ways to add coverage for additional benefits like prescription drugs, respite care, skilled care, and home health care. But the Federal Government's fiscal problems placed severe constraints on our ability to develop a satisfactory package of benefits which would make everyone happy.

In the face of such difficult circumstances, it became necessary to make some hard choices. We clearly could not do everything. In addition to catastrophic protection for physician and hospital care, we chose to include phased-in coverage of prescription drugs and add certain types of long-term care benefits. These are all benefits which are not generally available to the elderly through policies offered by private insurers. For those individuals who are fortunate enough to have the resources to buy private insurance, the annual premium costs alone averaged $550 to $600 per year. And these policies are not necessarily comprehensive since many exclude coverage for preexisting conditions. Medicare, on the other hand, is designed to provide coverage to all beneficiaries regardless of income and prior health history. The size of the Medicare population and the program's relatively low administrative costs enable Medicare to provide the needed protection at a lower cost than private insurers.

When fully implemented, the prescription drug benefit alone will benefit 5.8 million Medicare enrollees. Without this coverage, many of these are people who could not follow their doctor's orders to use a prescribed drug simply because they lacked the money to pay for the prescription. Those who were able to marshal their resources to cover their drug therapy expenses were estimated to have spent over $9 billion in 1986. In this age of medical miracles, the miracle of drug therapy unfortunately is not equally accessible to all beneficiaries and the inclusion of the drug benefits corrects this inequity.

Few if any supplemental policies provide coverage for important health care services like respite care, hospice, and home health care. Unfortunately, when it is offered by private policies, many elderly are unable to access affordable policies because they suffer from preexisting illnesses or conditions. So only those with the most resources to spare can pay for the coverage for these vital benefits through Medigap policies. The Catastrophic Health Care Act removes this barrier for more than a million elderly who need these types of care.

Another important long-term care related reform enacted by the new law protects the income, savings, and assets of the wife or husband who remains at home when his or her spouse is living in a nursing home. Now couples will no longer have to spend themselves into poverty before the institutionalized spouse could get financial assistance from the Federal Government.

It is important to consider the value of the added measure of protection gained by the elderly as the result of the new law in the context of their economic status as compared to the rest of the population. In general, the economic status among the elderly is more unequal than among the nonelderly. While their overall poverty rate is lower, a much higher proportion of the elderly than the nonelderly must make do with below-average incomes. In the State of Arizona, the average income for an elderly person in 1984 was $7,700. Nationally in 1984, nearly one-third of the elderly, compared to

less than one-fifth of the nonelderly, had incomes between only one and two times the poverty level. The net wealth of the aged is highly concentrated in the top 5 percent of the elderly households. This 5 percent accounts for over 50 percent of total net wealth for the elderly. Home equity is the only significant form of wealth that is widespread among the lower- and middle-income households of senior citizens.

While the lifetime risk for nursing home institutionalization definitely increases with age, only 5 percent of the elderly are now in nursing homes. In addition to these individuals, the elderly who face the greatest economic insecurity are the one-half to two-thirds who fall into the broadly defined lower-middle income class. These are the members of our communities who are dependent on Medicare to a large extent. They are the ones whose personal budgets take the brunt of the escalating medical costs. They live with the spectre of financial disaster caused by the high out-of-pocket expenses associated with any serious illness requiring hospitalization, doctors' services, and prescription drug treatment as well as the expensive costs of long-term nursing home care should they ever need it.

The ideal solution would provide protection for everyone against all medical expenses whether they are the direct result of acute care or long-term care. But our resource limitations left us very little choice but to address the acute care needs first. I do not like to make these kinds of choices, but these are the difficult decisions we were elected to make.

Unfortunately, developing a solution to the long-term care need had to be deferred. Financing long-term care presented a particularly difficult set of circumstances which had to be carefully thought out. How we respond to this problem holds tremendous implications for the future course of health policy in this country. Rather than moving into uncharted territory to make commitments of significant public resources with little understanding of their long range implications, Congress delayed action but pledged to address this issue during the 101st Congress.

In fact, the Pepper Commission which was authorized by the new law has, been appointed and the members are now sitting down to hammer out a national policy on long-term care. I look forward to receiving their recommendations by the end of the year. Being the eminent experts and leaders in health and aging policy that they are, they surely will provide us with policy recommendations upon which we can fashion a sensitive and reasonable long-term care program that we can all be proud to offer all older Americans.

I know that 86 of my colleagues and President Reagan shared my dilemma. Others argued that the lack of long-term care made the package unacceptable. I had to disagree because to reject the proposal would have amounted to shirking our responsibility to the most vulnerable members of our society. But I agree that the use of beneficiary-paid premiums needs reconsideration.

When President Reagan insisted that the beneficiaries pay for the costs of the bill, all the parties who were involved in the process got the message that he would deny all Medicare beneficiaries additional benefits they needed rather than bend on that point. The consensus was to use his solution—have the beneficiaries pay for the costs through additional premiums. Every effort was made to distribute the financing equitably. However, there are still those in the elderly community who feel that the financing method treats them unfairly. Perhaps we ought to have forced the issue with the President. It is unlikely, however, that we would have won that battle and today the elderly would be without any kind of comprehensive protection against financial bankruptcy caused by serious illness.

It is always easier in retrospect to think that maybe a different approach would have produced different results. Rather than dwelling on that, I offer my proposal to finance the catastrophic benefits provided by the new law by removing the income cap—$45,000—on payroll contributions to the Medicare Trust Fund. I urge my colleagues to consider the financing modifications it proposes. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 660

*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 "Medicare Catastrophic Coverage Refinancing Act of 1989".

SEC. 2. REPEAL INCREASE IN PART B PREMIUM.

(a) IN GENERAL.—Section 1839(g) of the Social Security Act (42 U.S.C. 1395r(g)) is amended to read as follows:

"(g)(1) Except as provided in paragraph (2) and subsections (b) and (f), the monthly premium for each individual enrolled under this part otherwise determined, without regard to this subsection, shall be increased by the catastrophic coverage monthly premium of $4.00 for months in 1989.

"(2)(A) In the case of an individual who is a resident of Puerto Rico or who is a resident of another United States commonwealth or territory during any month, instead of the premium increase provided under paragraph (1), subject to subsection (b), the monthly premium for each individual enrolled under this part otherwise determined without regard to this subsection, shall be increased by the catastrophic coverage monthly premium for months in 1989 of $1.30 for a resident of Puerto Rico and $2.10 for a resident of another United States commonwealth or territory.

"(B) For purposes of this paragraph, the term 'United States commonwealth or territory' means Puerto Rico, the United States Virgin Islands, Guam, American Samoa, or the Northern Mariana Islands.".

(b) CONFORMING AMENDMENT.—Section 1389(b) of such Act (42 U.S.C. 1395r(b)) is amended by striking out "(without regard to subsections (f) and (g)(6))" and inserting in lieu thereof "(without regard to subsection (f))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to monthly premiums for months beginning with January 1990.

SEC. 3. REPEAL SUPPLEMENTAL MEDICARE PREMIUM.

Section 59B of the Internal Revenue Code of 1986 (relating to the supplemental medicare premium) is amended by adding at the end thereof the following new subsection:

"(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1989.".

SEC. 4. ELIMINATION OF LIMIT ON WAGES OR SELF-EMPLOYMENT INCOME SUBJECT TO HOSPITAL INSURANCE TAX.

(a) ELIMINATION OF LIMIT.—

(1) IN GENERAL.—Section 230 (42 U.S.C. 430) is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of this Act or of the Internal Revenue Code of 1986, this section shall not have the effect of limiting the total amount of any individual's net earnings from self-employment or remuneration for employment which is subject to the hospital insurance tax under section 1401(b), 3101(b), or 3111(b) of the Internal Revenue Code of 1986; and sections 1402(b)(1) and 3121(a)(1) of such Code shall not apply in determining the amount of any individual's wages and self-employment income for purposes of that tax.".

(2) CONFORMING AMENDMENTS.—

(A) SELF-EMPLOYMENT INCOME.—Section 1402(b) of the Internal Revenue Code of 1986 is amended by striking "except that such term shall not include" in the matter preceding paragraph (1) and inserting "except that (subject to section 230(e) of the Social Security Act) such term shall not include".

(B) WAGES.—Section 3121(a) of such Code is amended by striking "except that such term shall not include" in the matter preceding paragraph (1) and inserting "except that (subject to section 230(e) of the Social Security Act) such term shall not include".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to remuneration paid after December 31, 1989, and with respect to earnings from self-employment attributable to taxable years beginning after December 31, 1989.

SEC. 5. CONFORMING AMENDMENTS TO FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND, FEDERAL CATASTROPHIC DRUG INSURANCE TRUST FUND, AND MEDICARE CATASTROPHIC COVERAGE ACCOUNT.

(a) RESERVE FUND.—Paragraph (2) of section 1817A(a) of the Social Security Act (42 U.S.C. 1395i-1a(a)) is amended—

(1) by striking out the first sentence thereof and inserting in lieu thereof the following: "There are hereby appropriated to the Reserve Fund from premiums attributa-

ble to the amendments made by section 4 of the Medicare Catastrophic Coverage Refinancing Act of 1989, and such sums as may be necessary (if any) from the general fund in the Treasury amounts equivalent to 100 percent of the amount of outlays made under this part attributable to the amendments made by the Medicare Catastrophic Coverage Act of 1988.", and

(2) by striking out the last sentence thereof.

(b) DRUG FUND.—

(1) Paragraph (2) of section 1841A(a) of the Social Security Act (42 U.S.C. 1395t-1(a)) is amended—

(A) by striking out the first sentence thereof and inserting in lieu thereof the following: "There are hereby appropriated to the Trust Fund from such premiums attributable to the amendments made by section 4 of the Medicare Catastrophic Coverage Refinancing Act of 1989 and remaining after appropriations under section 1817A(a)(2), and such sums as may be necessary (if any) from the general fund in the Treasury, amounts equivalent to 100 percent of the payments described in subsection (c).", and

(B) by striking out the last sentence thereof.

(2) Paragraph (1) of section 1841A(d) of such Act (42 U.S.C. 1395t-1(d)) is amended to read as follows:

"(d)(1) The Secretary of the Treasury, in consultation with the Board of Trustees of the Trust Fund, shall publish in the Federal Register, not later than July 1 of each year (beginning with 1992), information on—

"(A) outlays made from the Trust Fund in the preceding year, and

"(B) the balance in the Trust Fund as of the close of the preceding year.".

(3) Paragraph (2) of section 1841A(d) of such Act (42 U.S.C. 1395t-1(d)) is amended by striking out "and of premiums established under section 1839(g) and under section 59B of the Internal Revenue Code of 1986".

(4) Subsection (i) of section 1840 of such Act (42 U.S.C. 1395s) is repealed.

(5) Subsection (a) of section 1841 of such Act (42 U.S.C. 1395t) is amended by striking out the last 3 sentences thereof.

(c) ACCOUNT.—Section 1841B of the Social Security Act (42 U.S.C. 1395t-2) is amended—

(1) by striking out "and section 59B of the Internal Revenue Code of 1986," in subsection (a),

(2) by striking out "and for purposes of section 59B of the Internal Revenue Code of 1986" in subsection (a),

(3) by striking out subparagraph (A) of subsection (b)(1) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively,

(4) by striking out paragraph (1) of subsection (c) and inserting in lieu thereof the following:

"(c)(1) The Secretary of the Treasury shall publish in the Federal Register, not later than July 1 of each year (beginning with 1990), information on—

"(A) the outlays made from the Account in the preceding year, and

"(B) the balance in the Account as of the close of the preceding year.", and

(5) by striking out "and of the premiums established under section 1839(g) and under section 59B of the Internal Revenue Code of 1986" in subsection (c)(2).

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on January 1, 1990.●

By Mr. SYMMS (for himself and Mr. MCCLURE):

S. 661. A bill to amend title 23, United States Code, to authorize the Secretary of Transportation to approve the use of interstate safety rest areas for limited commercial enterprises; to the Committee on Environment and Public Works.

OPERATION OF CERTAIN COMMERCIAL ENTERPRISES AT INTERSTATE SAFETY REST AREAS

Mr. SYMMS. Mr. President, today I am pleased to be joined by the senior Senator from Idaho, Mr. MCCLURE, in introducing legislation that will allow States celebrating centennial or other extraordinary State historical observances to operate concessions at rest areas along the Interstate System. In 1989 and 1990, six Northwest States, North and South Dakota, Montana, Wyoming, Idaho, and Washington, will celebrate their centennials.

These celebrations are important to each State; activities planned include centennial commissions, centennial license plates, native and cultural heritage exhibits, and even a designation of 1,200 miles of refurbished trails in my State of Idaho. These special occasions draws attention to the highly varied and distinct history of cultures and heritage that make up each respective State. Commemorating these historical events is an important study in State history that undoubtedly will draw attention to activities and people that are much a part of this Nation's founding history.

This legislation authorizes the Secretary of Transportation to approve the use of interstate safety rest areas for limited commercial enterprises. Current Federal law prohibits commercial establishments or any charge to the public at safety rest areas. This provision provides all States this opportunity but also requires that these activities be conducted at appropriate information centers that will not interfere with the normal operations of a safety rest area. In addition, any State wishing to use rest area facilities for this purpose is required to provide adequate information regarding how the facilities will be used and what items will be sold well in advance of any celebratory occasion.

Mr. President, State historical observances are rare occasions and celebrating them to their fullest extent is important to citizens of all ages. I urge this Congress to pass this provision that will affect each and every State in the coming years.

I ask unanimous consent that the bill be printed in the RECORD at the end of my remarks.

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

S. 661

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

Section 1. Section 111 of title 23, United States Code, is amended—

(1) by adding the following new subsection:

"(C) STATE HISTORICAL OBSERVANCES.—Notwithstanding subsections (a) and (b) any state may operate concessions in safety rest areas located on rights-of-way of the Interstate System in conjunction with extraordinary State occasions such as centennial, sesquicentennial, and similar celebrations. Such activities are to be conducted at appropriate information centers so situated as to not interfere with the normal operations of a safety rest area. The State shall provide adequate information about such facilities to the Secretary sufficiently in advance of the occasion.

Mr. MCCLURE. Mr. President, I rise in support of the legislation offered by my colleague from Idaho, Mr. SYMMS. This bill will amend section 111 of title 23 to allow States to operate concessions in safety rest areas located on rights-of-way of the Interstate System. Concessions will be allowed only in conjunction with extraordinary State occasions such as centennial celebrations.

Mr. President, Idaho will celebrate its centennial next year. The Idaho Centennial Commission and local centennial committees in each of the Idaho's 44 counties are planning events and projects which will involve all of Idaho's 1 million citizens in the celebration. In addition, other activities are designed to attract people from outside of Idaho and give them the opportunity to share in our celebration.

The bill we introduce today will provide another opportunity to share a little of Idaho with traveling motorists by allowing the State to set up roadside concession stands at rest areas. Current law prohibits such activity but our bill authorizes the Secretary of Transportation to approve limited commercial activities for extraordinary State events such as centennials.

Mr. President, Idaho covers approximately 83,000 square miles—that's roughly the size of Pennsylvania and Ohio combined. The distance between Idaho's northern and southern borders is the equivalent of driving from Washington, DC to Boston. Many visitors are unable to see the beauty of the entire State due to its vast area. Most see only the scenery from the interstate highways as they pass through the State. Therefore, by allowing the State to establish concession enterprises at the rest areas, Idahoans can make available to the traveling public items and goods which will provide a much broader experience of our great State.

Mr. President, I am proud to represent the "Gem State" and look forward to the many activities and events which will commemorate its 100th year.

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By Mr. SYMMS:

S. 662. A bill to amend the Internal Revenue Code of 1986 to increase and index the calendar quarter wage threshold for determining agricultural labor employees for purposes of imposing the Federal unemployment tax; to the Committee on Finance.

FEDERAL UNEMPLOYMENT COMPENSATION

Mr. SYMMS. Mr. President, I rise to introduce legislation to update language in the unemployment compensation law that is extending a larger tax burden on more and more small family farms because of its insensitivity to inflation.

Currently, under the Federal Unemployment Tax Act [FUTA] employers of agricultural labor must pay a payroll tax on a portion of wages paid in order to finance our unemployment compensation system. However, when Congress authorized FUTA, there was a desire to exempt small family farms from this contribution. This was done by defining, as liable to contribute, only employers who pay more than $20,000 for agricultural labor in any calendar quarter during the current or preceding calendar year. The problem with this exemption is that it was established in 1977 and has not kept up with inflation or the increased labor costs associated with the Immigration Reform and Control Act of 1986. Clearly, if Congress is serious about the commitment it has historically made to the small family farm, this FUTA threshold ought to be raised.

The legislation I am introducing today would not only right this wrong, but also would adjust the small family farm exemption for future inflation. I propose to accomplish this by raising the minimum quarterly wage payment provision from $20,000 to $40,000 and by tying this dollar amount in the future to the cost-of-living adjustment.

The bill would also allow agricultural employers to more fairly compensate tenured workers by paying them higher wages. Small employers currently have no incentive to do this if it would mean being pushed into FUTA contributing status. This makes it even harder for small farmers to compete with the larger farming operations' wages and it also makes it harder for experienced workers to stay with a smaller farm.

In closing, this bill is needed to lift an unforeseen tax burden on small farming operations and to prevent a future burden to be laid upon them. I urge my colleagues to support the legislation, and I ask unanimous consent that the bill be printed in the RECORD.

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

S. 662

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

SECTION 1. CALENDAR QUARTER WAGE THRESHOLD FOR DETERMINING AGRICULTURAL LABOR EMPLOYERS INCREASED TO $40,000.

(a) IN GENERAL.—Paragraph (2) of section 3306(a) of the Internal Revenue Code of 1986 (defining employer) is amended—

(1) by striking out "$20,000" in subparagraph (A) and inserting in lieu thereof "$40,000", and

(2) by adding at the end thereof the following new sentence:

"In the case of any calendar year beginning after 1989, the dollar amount referred to in subparagraph (A) shall be increased by an amount equal to such dollar amount, multiplied by the cost-of-living adjustment (determined under section 1(f)(3) for the calendar year by substituting 'calendar year 1989' for 'calendar year 1987' in subparagraph (B) thereof).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any calendar year beginning after December 31, 1989.

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By Mr. HEFLIN:

S. 663. A bill to provide for additional contingent termination liability for the Advanced Solid Rocket Motor Program; to the Committee on Commerce, Science, and Transportation.

ADVANCED SOLID ROCKET MOTOR CONTINGENT LIABILITY ACT

Mr. HEFLIN. Mr. President, I rise today to introduce legislation to provide for additional contingent liability for NASA's Advanced Solid Rocket Motor Program. Contingent liability can also be termed "termination liability."

As many of my colleagues know, whenever the Federal Government enters into a contract with a private concern and the contract contains any element of private financing, the Federal department or agency initiating the contract must have the authority to cover any losses that the private contractor might incur in the event that the Government, for reasons of its own, terminates the contract.

In the case of the ASRM Program, NASA's original intention was to develop a Government-owned contractor operated [GOCO] facility in which to build the new powerful rocket motors. However, the Reagan administration, through OMB, decided that private financing of the facility should be considered. As a result, contractors bidding on the ASRM Program were also required to propose bids which offered private financing options to NASA for the construction of the facility. Thus, there was no question that the issue of contingent liability would have to be addressed.

Mr. President, this is substantially the same language that had been included in section 207 of the Senate-passed version of the NASA authorization bill for fiscal year 1989. However, in the closing days of the 100th Congress, the House stripped this important portion of section 207 from that bill.

Officials at OMB and NASA, along with Senate supporters of the ASRM, felt that omission of this Senate language dealing with contingent liability was serious enough that something had to be done or else the entire program would be delayed to the extent that the entire program could be killed.

In order to resolve this matter, the distinguished Senator from South Carolina and chairman of the Commerce Committee, Senator HOLLINGS; Dr. Fletcher, the Administrator of NASA; senior officials at OMB and I worked diligently together in the last days of the 100th Congress to establish an agreement that insured that the $27 million authorized in the bill for the construction of the plant could be used as interim contingent liability should it become necessary. Legislative history was made to establish that $27 million in construction money would be available for contingent liability. This was established through discussions and agreements between NASA, senior officials at OMB, and the backers of the Senate bill, as well as the author of the Senate bill. In order to finalize these discussions and agreements into the legislative history, a colloquy occurred between the author of the bill, Senator HOLLINGS, and myself, on the floor of the Senate during final consideration of the NASA authorization bill after it had come back from the House, to clearly establish that the $27 million in construction money could be used toward contingent liability. With this assurance NASA went ahead and conducted a fair and open competition that would allow the consideration of both privately and publicly financed facilities.

NASA officials have related to me that this action, in which legislative history was created to allow the $27 million construction money to be used for contingent liability, kept the program from being killed. However, we must realize that the availability of these moneys from the construction aspect of the program is merely interim and temporary relief as it would relate to contingent liability. In order to proceed it is necessary that we have language substantially similar to the language that was contained in said Senate passed bill which will clearly provide for contingent liability over the lifetime of the project. Therefore, this legislation is necessary and needed.

An additional reason for the necessity of this legislation is that the President in the submission of his budget did not request funds for the construction of the facilities. This clearly and unmistakenly points out that the Bush administration wants this project to proceed under a private financing arrangement.

Mr. President, based on last fall's discussions and the legislative record, NASA's position is that a contractor can be selected under the current status. It is anticipated that NASA will select a contractor for the advanced solid rocket motor in April of this year. However, should a proposal which contains private financing on the Government selected site be selected, the contract could not be signed responsibly and in good conscience without the legislation that I am proposing today. It is important, therefore, that the Congress proceed with this legislation so that should NASA choose to select a private financing option, there will be no delays in the program.

In that regard, I am pleased to introduce this bill and urge expeditious action by the Senate.

Mr. President, I ask unanimous consent that a copy of the bill be included in the RECORD.

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

S. 663

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

SECTION 1. This Act may be cited as the "Advanced Solid Rocket Motor Contingent Liability Act."

SEC. 2. If, pursuant to Section 207 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (Public Law 100-685) the Administrator selects a proposal for an Advanced Solid Rocket Motor (ASRM) offering a privately financed production facility to be constructed on a government site, the Administrator is authorized, notwithstanding any provision of law to the contrary, to provide for the payment for contingent liability in excess of available appropriations in the event the Government for its convenience terminates such contract, if any such contract limits the amount of the payments that the Federal Government is allowed to make under such contract to amounts to be provided in advance in appropriation Acts.

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By Mr. ARMSTRONG (for himself, Mr. DECONCINI, Mr. SIMPSON, Mr. KASTEN, Mr. SYMMS, Mr. BOSCHWITZ, and Mr. WALLOP):

S. 664. A bill to amend the Internal Revenue Code of 1986 to provide for the indexing of certain assets; to the Committee on Finance.

INDEXING OF CERTAIN ASSETS

Mr. ARMSTRONG. Mr. President, just about every student of elementary economics is familiar with the Invisible Hand, Adam Smith's personification of capitalism. And in America, the land of capitalism, we've relied on the Invisible Hand to build up capital, to promote enterprise, and to create jobs.

For two centuries, it's done a pretty good job. The United States, with its capitalist economy, has been a successful model for the rest of the world. We flourished because capital—the tangible result of investment and productivity—was safe. American homeowners don't live in the fear that the Government will confiscate their biggest capital investment. Corporations don't live in fear that triple-digit inflation or a capricious monarch will obliterate their businesses.

But in the United States in 1989, the Invisible Hand holds an Invisible Knife. The unseen forces guiding the economy aren't working the way Adam Smith envisioned. The economic forces that built the powerful American economy—investment, productivity, and savings—are no longer gently encouraged by the Invisible Hand. They are steadily carved out by oppressive capital gains tax rates and by the invisible tax on capital gains caused by inflation.

Both problems should be remedied: Congress should reduce capital gains rates, as President Bush has requested, and index the basis of capital gains.

Today, I am introducing legislation to do the latter: to index the basis of capital gains tax rates to keep pace with inflation. American taxpayers and businesses desperately need protection from capital erosion, the higher taxes that result when inflation artificially increases the value of capital.

Indexing would reduce the effective capital gains rate and would protect taxpayers from a patently unfair tax. For example, if a family bought a farm for $40,000 in 1963, worked hard for 25 years and built it up, and sold it last year for $300,000, they owed capital gains tax on $260,000. But most of that $260,000 increase in price is due to inflation. That family had to pay taxes, not just on the real gains in their capital investment, but on paper gains caused by inflation.

That's not fair. Forcing individuals, families, and businesses to pay taxes on inflation runs counter to every notion of basic equity that ought to be the guiding principle of the American tax system. The solution is as simple as the problem: index the basis of the capital gains tax to offset that part of the price increase caused purely by inflation.

For the family selling the farm, that would make a big difference. Instead of paying taxes on a $260,000 gain, they could adjust the original purchase price of the farm to keep pace with inflation. If $160,000 of the gain is inflationary, they pay taxes on only the $100,000 of the real gain in their assets.

Basic fairness to the American taxpayer isn't the only problem with American capital gains treatment. As you might expect, what's good for American taxpayers and businesses is good for the economy as a whole: if the Invisible Knife in our present capital gains tax structure stops carving away at American savings and investment, the efficiency and productivity of the whole economy improves. We would stimulate long-term investment, boost employment, increase national output, and in turn fuel Federal revenues from virtually every tax the Government collects.

With our current, destructive capital gains tax, we unwittingly discourage the sale and exchange of assets. We have erected giant roadblocks on the paths of productivity where Adam Smith's Invisible Hand would otherwise guide investment. Savings, entrepreneurial ventures, investment in new plant and equipment, and new technologies all suffer under the attack of the Invisible Knife. Families and homeowners see the investment of their lives evaporate as if by black magic. American businesses are dragged down in their efforts to compete in international markets.

In fact, America—the model of the capitalist system—probably has the most anticapital tax system in the free world. The respected magazine, the Economist, has reported: "At a time when most of the capitalist world is moving toward cutting capital gains taxes * * * America is moving in the opposite direction." West Germany, Belgium, Italy, Holland, Taiwan, Singapore, Hong Kong, and South Korea have no long-term capital gains tax at all. While the United States maximum rate rose from 20 to 33 percent, even the socialist Governments of France and Sweden imposed rates of only 16 and 18 percent, respectively. In Canada, the top rate is 17.51 percent, applied only after the first $22,650 per year in capital gains is realized. And Japan, perceived as our toughest international competitor, has a capital gains rate of only 5 percent.

America needs capital gains indexing. It would be one of the most important tax initiatives that has ever been undertaken by the Congress. Tax law, in the wake of the 1986 reforms, punishes capital investment more than ever. Not long ago, 60 percent of all capital gains were tax-exempt, and taxable gains faced a maximum rate of 20 percent—a rate much lower than ordinary income. But the 1986 act repealed the capital gains exclusion. Capital gains are now taxed at the same rate as wages, salaries, dividends, and other sources of earned income. They face a Federal tax rate as high as 33 percent.

In its rush to tax capital gains more heavily to fuel the tax-and-spend machine, Congress has revealed its institutional amnesia. History is clear: Raising tax rates does not raise revenues. In fact, the opposite has been true. In 1969, the capital gains tax rate was hiked from 35 to 49 percent, and within 2 years revenues fell more than 40 percent. Despite the gloomy predic-

tions of the Carter Treasury Department in 1978 that cutting capital gains taxes to 28 percent would cost more than $2 billion per year, Congress did lower the top rate to that level. The result? Capital gains revenues jumped 44 percent in 1 year.

Mr. President, indexing capital gains is not a new idea. The Senate has passed this type of legislation twice; it has passed the House of Representatives; and it has been endorsed by the U.S. Chamber of Commerce, by many thoughtful journals of opinion, and by leading economists such as Martin Feldstein, former chairman of the President's Council of Economic Advisers.

Nor is indexing unprecedented for the Tax Code. Individual income taxes are already indexed for inflation, so Americans are no longer bumped into higher brackets or slapped with a bigger tax bill just because their salaries increase with inflation. The same principle applies to capital gains: it's ironic, and just plain unfair, for the Government to create inflation in the first place, then to try to make the taxpayers pay for it.

How would capital gains indexing work? My legislation removes the inflation tax by letting taxpayers adjust the basis of certain assets using the gross national product deflator. The adjustment is the percent increase in inflation as measured by the GNP deflator from the time the asset was purchased or the effective date of legislation, whichever is later, until the time the asset is sold. Then, the capital gains tax will apply only to the real gain and not to the false, inflationary gain.

Under this bill, capital gains indexing applies only to corporate stock and real property purchased when capital gains rates were at near historical lows and which are now taxed at ordinary tax rates. It does not apply for purposes of determining depreciation, cost depletion, or amortization. Debt is completely excluded from the inflation adjustment. Other provisions apply the inflation adjustment to index assets for determining corporate earnings and profits, and allow the indexing benefit to be passed on to shareholders and owners in conduit organizations such as partnerships, subchapter S corporations, regulated investment companies, and real estate investment trusts.

Mr. President, I hope Congress will soon debate the issue of capital gains rate reduction. President Bush has given the idea a high profile ever since the campaign, by promoting his plan to lower the top capital gains rate from 33 to 15 percent. That will be a worthwhile debate. In the meantime, however, I hope Congress will look favorably on my more modest proposal to index the basis of capital gains.

I'm sure, in this debate, we'll hear the same tired old arguments we always hear about reducing the capital gains tax burden: First, that it would cost the Treasury revenues. Even the most critical estimates project indexing would cost the Treasury very little. Many estimate it would, in fact, boost revenues as overall productivity increases. Second, we'll hear that improving capital gains treatment benefits only the wealthy. Who believes that? Not the lower middle income family selling its home, paying taxes on an illusory, inflated gain when the inflation-adjusted value of the home has actually decreased. Who believes it? Not the small businessman who bought a laundromat 10 years ago in the hope of making an investment, worked hard for a decade, then saw all his profits taxed as a result of phantom, paper gains.

Mr. President, I hope Congress doesn't believe those old arguments anymore. Somewhere along the line, U.S. policymakers got the idea they could make taxpayers pay for inflation, increase revenues, and expand the economy all at once. But all the indicators now tell us capitalism won't work if we punish the capital. Improving treatment of capital gains is the first step toward putting it back.

Finally, Mr. President, I ask unanimous consent that the text of our bill indexing capital gains be printed in the RECORD.

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

S. 664

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

SECTION 1. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Except as provided in paragraph (2), if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, for purposes of this title the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) stock in a corporation, and

"(B) tangible property (or any interest therein), which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) OPTIONS.—Any option or other right to acquire an interest in property.

"(C) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (h)(1)).

"(D) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(E) STOCK IN CERTAIN CORPORATIONS.—Stock in—

"(i) an S corporation (within the meaning of section 1361),

"(ii) a personal holding company (as defined in section 542), and

"(iii) a foreign corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Clause (iii) of paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

"(A) the gross national product deflator the calendar quarter in which the disposition takes place, by

"(B) the gross national product deflator for the calendar quarter in which the asset was acquired by the taxpayer (or, if later, the calendar quarter ending December 31, 1988).

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest one-tenth of 1 percent.

"(3) GROSS NATIONAL PRODUCT DEFLATOR.—The gross national product deflator for any calendar quarter is the implicit price deflator for the gross national product for such quarter (as shown in the first revision thereof).

"(4) SECRETARY TO PUBLISH TABLES.—The Secretary shall publish tables specifying the applicable inflation ratios for each calendar quarter.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) a substantial improvement to property,

"(B) in the case of stock of a corporation, a substantial contribution to capital, and

"(C) any other portion of an asset to the extent that separate treatment of such por-

tion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

"(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

"(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

"(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(6) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(e) CERTAIN CONDUIT ENTITIES.—

"(1) REGULATED INVESTMENT COMPANIES; REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST FUNDS.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(E) QUALIFIED INVESTMENT ENTITY.—For purposes of this paragraph, the term 'qualified investment entity' means—

"(i) a regulated investment company (within the meaning of section 851),

"(ii) a real estate investment trust (within the meaning of section 856), and

"(iii) a common trust fund (within the meaning of section 584).

"(2) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(3) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation, the adjustment under subsection (a) at the corporate level shall be passed through to the shareholders.

"(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(g) TRANSFERS TO INCREASE INDEXING ADJUSTMENT OR DEPRECIATION ALLOWANCE.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is—

"(1) to secure or increase an adjustment under subsection (a), or

"(2) to increase (by reason of an adjustment under subsection (a)) a deduction for depreciation, depletion, or amortization,

the Secretary may disallow part or all of such adjustment or increase.

"(h) DEFINITIONS.—For purposes of this section—

"(1) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased real property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(2) STOCK INCLUDES INTEREST IN COMMON TRUST FUND.—The term 'stock in a corporation' includes any interest in a common trust fund (as defined in section 584(a)).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of such chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets for purposes of determining gain or loss."

(c) ADJUSTMENT TO APPLY FOR PURPOSES OF DETERMINING EARNINGS AND PROFITS.—Subsection (f) of section 312 (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

"(3) EFFECT ON EARNINGS AND PROFITS OF INDEXED BASIS.—

For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets after December 31, 1988, see section 1022(a)(1)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after December 31, 1988, in taxable years ending after such date.

● Mr. DECONCINI. Mr. President, I am pleased today to be joining my distinguished colleague, Senator ARMSTRONG, in introducing legislation to correct a longstanding wrong. Under current law, an individual can see his illusory, inflationary gains on real property or other capital assets taxed as real gains. This is unfair. And that is why today Senator ARMSTRONG and I are introducing this bill which will index the basis of capital gains to inflation.

Because current capital gains law makes no allowance for inflation's effect, America's taxpayers are being taxed on inflation not on real gain. The Armstrong-DeConcini bill seeks to correct that injustice by adjusting the basis of capital gains to inflation through the GNP deflator.

While ideally our bill would take into account past inflationary gains, that simply isn't possible or practical. Therefore our bill applies to capital gains realized after December 31, 1989, and begins to index to inflation after that same date. Additionally, our bill would require a 1-year holding period before this indexation of the basis to inflation would take place.

I congratulate my colleague Senator ARMSTRONG for moving forward on this important legislation and am pleased to join him as his principal cosponsor.●

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By Mr. HEINZ:

S. 665. A bill to amend title XVI of the Social Security Act by extending eligibility for supplemental income benefits, by promoting the efficient administration of such benefits, by extending eligibility for Medicaid benefits, and for other purposes; to the Committee on Finance.

SUPPLEMENTAL SECURITY INCOME REFORM ACT

Mr. HEINZ. Mr. President, I rise today to introduce legislation which will benefit thousands of poor elderly and disabled men, women, and children, by reforming title XVI of the Social Security Act, the Supplemental Security Income [SSI] Program.

Since the beginning of the program in 1972, the purpose of the SSI Program has been to ensure that the disabled and elderly poor in our country have adequate resources available to maintain a basic standard of living. However, estimates indicate that for every person currently receiving SSI, there is at least another out there that, for one reason or another, has not been able to obtain any of the benefits of the program. The provisions of the SSI Reform Act of 1989 are intended to reach those people, to make SSI available to all of the low-income disabled people, not just half of them, so that the original purpose of the program can be realized.

Mr. Chairman, the people this bill would help are truly needy. They are the disabled and elderly people who live on monthly incomes below $368 for an individual or $553 for a couple and who have assets below $2,000 or $3,000 respectively.

They are disabled children like Jason E., age 5, who was denied SSI benefits and Medicaid because the rigid medical criteria the Social Security Administration uses in determining disability in children does not adequately consider the functional limitations caused by the disease or illness. When Jason first applied for SSI, his combination of medical and functional problems did not meet the inflexible criteria the SSA required. Jason suffered from muscular dystrophy. He had difficulty walking, could not hold a pencil, needed help dressing and eating, and had difficulty speaking because of deteriorating mouth and vocal cords. It was not until 4 years later, after many appeals and court battles, that Jason finally got SSI. Because of this long delay, Jason was deprived of valuable Medicaid and SSI benefits and could not afford to pay for the expensive physical and occupational therapy he needed. Unfortunately, by the time he did get benefits, he was totally confined to a wheelchair and had to be carried by his family.

They are the hundreds and hundreds of Pittsburgh area senior citizens who had been living without SSI, even though they were poor enough to qualify for SSI, until the outreach efforts of the American Association of Retired Persons and the local area agency on aging got them to finally sign up. These people had not filed for SSI before, because either they did not know about the program and its eligibility guidelines, or possibly, they just did not know how to go about applying for benefits. The disconcerning fact is, that without the valuable information provided during this 3-month outreach effort, they still would not be getting SSI.

They are the 100,000 disabled people of all ages who have been removed from the SSI Program solely because the value of their assets were too high to meet the resource limit guideline. Yet, had the level of the resource eligibility limit not eroded in value since the beginning of the program in 1972, but had instead kept up with inflation, they would still be getting benefits.

Mr. Chairman, the above examples tell the story of some of the problems with the current SSI Program. My bill will work toward correcting these problems. Among other things, it addresses the need for a better system of determining disability for our children, a system which would be more successful in evaluating the total medical and functional effect of the child's illness or injury. It would expand the outreach efforts of the Social Security Administration and require that a separate national effort be initiated to target impoverished and disabled children and adults, and of course, the elderly. And, it would increase the current resource limit to the level it would now be, had the original 1974 limit been indexed to keep up with inflation, so that truly disabled people are not deprived of benefits just because of our eroding eligibility limit.

Mr. Chairman, the SSI Reform Act of 1989 is desperately needed. It is needed to ensure that the poor, disabled members of our society do not go without the food and clothing and care they need. It is my hope that this bill will be a first step, not a final solution, toward solving some of today's problems in the SSI Program. I would like to urge the expedient review of this bill in the Finance Committee and would ask that a copy of the bill be included for the RECORD.

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

S. 665

*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 "Supplemental Security Income Reform Act of 1989".

SEC. 2. INCREASES IN SSI RESOURCE LIMITS.

(a) IN GENERAL.—Section 1611(a)(3) of the Social Security Act (42 U.S.C. 1382(a)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking out "and" before "to $3,000"; and

(B) by inserting before the period the following: ", and to $6,300 on January 1, 1990, (or if greater, the amount determined under section 1617(b) for any calendar year thereafter)"; and

(2) in subparagraph (B)—

(A) by striking out "and" before "to $2,000"; and

(B) by inserting before the period the following: ", and to $4,200 on January 1, 1990 (or if greater, the amount determined under section 1617(b) for any calendar year thereafter)".

(b) ADJUSTMENT OF SSI RESOURCE LIMITS.—Section 1617 of the Social Security Act (42 U.S.C. 1382f) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(2) by inserting after subsection (a), the following new subsection:

"(b) with respect to any calendar year after 1990, each of the dollar amounts in effect for the preceding calendar year under subparagraphs (A) and (B) of section 1611(a)(3) shall be increased by the percentage increase in the CPI (as determined under section 1839(g)(8)(C)) for the 12-month period ending with September of the preceding calendar year."; and

(3) by inserting "or (b)" after "by reason of subsection (a)" in subsection (c), as redesignated by this subsection.

(c) EFFECTIVE DATE.—The amendments made under this section shall take effect on January 1, 1990.

SEC. 3. AMENDMENTS RELATING TO THE DETERMINATION OF CHILDHOOD DISABILITY.

(a) REVISIONS IN CRITERIA FOR DETERMINING DISABILITY IN CHILDREN.—Section 1614(a)(3)(A) (42 U.S.C. 1382c(a)(3)(A)) is amended—

(1) by striking "An individual" and inserting "(i) An individual (other than a child who has not attained the age of 18 years)";

(2) by striking "(or, in the care" and all that follows through "severity)"; and

(3) by adding at the end thereof the following new clause:

"(ii) A child who has not attained the age of 18 years shall be considered to be disabled for purposes of this title if the child suffers from any medically determinable physical or mental impairment which severely interferes with the activities of daily living, as measured by the degree and extent to which medical support and intervention are required to enable the child to engage in such activities. Any child who is born with any genetic or congenital condition which is extremely likely to result in disability shall be presumed to be disabled from birth for purposes of this title until the child attains the age of 3 years, at which time a determination shall be made as to whether the child is disabled within the meaning of the preceding sentence.".

(b) STUDY AND REPORT RECOMMENDING APPROPRIATE CRITERIA FOR DETERMINING DISABILITY IN CHILDREN.—(1) The Secretary of Health and Human Services (hereinafter in this subsection referred to as the "Secretary") shall enter into a contract with the Institute of Medicine of the National Academy of Sciences or with any other appropriate nonprofit private group or association with equivalent professional qualifications, under which the Institute, group or association agrees to develop appropriate and meaningful criteria which may be used to determine whether or not a child should be considered to be disabled for purposes of title XVI of the Social Security Act. In conjunction with the development of such criteria, such Institute, group or association shall review all childhood impairment listings and make proposals that take account of age-appropriate medical and functional criteria, and submit to the Secretary a report and recommendations for revisions of the current listings and any standard of comparable severity under section 1614(a)(3)(A)(ii) of the Social Security Act (42 U.S.C. 1382c(a)(3)(A)(ii)) (as added by subsection (a) of this section).

(2) The Secretary shall, within 18 months after the date of enactment of this Act, publish the proposed criteria and revisions in such listings (as described in paragraph (1)) as a notice of proposed rulemaking.

(c) IMMEDIATE PUBLICATION OF CHILDHOOD MENTAL IMPAIRMENT LISTING.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall publish a revision of the listings of mental and emotional disorders under section 112.00 of part B of appendix 1 of subpart P of part 404 of title 20, Code of Federal Regulations (as in effect on the date of enactment of this Act), as a notice of proposed rulemaking, and, in such notice, explain and justify each deviation of such revised listings from the recommendations contained in the Revised Childhood Listings of Mental Impairments submitted by the Mental Impairment Listings Workgroup to the Associate Commissioner for Disability on April 1, 1986.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1990.

SEC. 4. COUNTING RESOURCES FOR THE PURPOSES OF DETERMINING THE ELIGIBILITY OF A BLIND OR DISABLED CHILD.

(a) TREATMENT OF INCOME PRODUCING PROPERTY IN AGRICULTURAL USE.—Notwithstanding the regulations relating to property essential to self-support and relating to the counting of such property under 20 CFR 416.1220 and 20 CFR 416.1222, respectively, as in effect on the date of enactment of this Act, for purposes of counting the resources of a parent (or the spouse of such parent) of a disabled or blind child in making a determination of the eligibility of such child, equity in any property, including real and personal property, used in the trade or business of agriculture shall be deemed to meet the 6 percent return requirement under 20 CFR 416.1222.

(b) DETERMINATION OF FAMILY RESOURCES COUNTED AS AVAILABLE TO A BLIND OR DISABLED CHILD.—Paragraph (2) of section 1614(f) of the Social Security Act (42 U.S.C. 1382c(f)(2)) is amended to read as follows:

"(2) For purposes of determining eligibility for and the amount of benefits for any individual who is a child under age 18, the income of such individual and the resources of such individual shall be deemed to include—

"(A) the income of such individual and the income of a parent (or the spouse of such parent) of such individual who is living in the same household as such individual;

"(B) the resources of such individual and the resources of a parent of such individual (or the spouse of such parent), except that in calculating the resource limit of such individual under this paragraph, the Secretary shall use the greater of:

"(i) the resource limit for an individual under section 1611(a)(1)(B)(ii), or

"(ii) the dollar amount of the resource limit for an individual under clause (i), multiplied by 50 percent of the number of children in the household of such individual (excluding such individual) and parents in such household (including any spouse of any parent in such household).".

(c) EFFECTIVE DATE.—The provisions of subsection (a) and the amendments made by subsection (b) shall take effect January 1, 1990.

SEC. 5. ESTABLISHMENT AND CONDUCT OF SSI OUTREACH PROGRAMS FOR ADULTS AND CHILDREN.

(a) IN GENERAL.—Part B of title XVI of the Social Security Act (42 U.S.C. 1383 et seq.) is amended by adding at the end thereof the following new section:

"SSI OUTREACH PROGRAMS FOR ADULTS AND CHILDREN

"SEC. 1635. (a)(1) Within 180 days after the date of enactment of the Supplemental Security Income Reform Act of 1989, the Secretary shall establish and conduct an ongoing adult SSI outreach program to provide information about supplemental security income benefits (including State supplemental income benefits) to low-income aged, blind, and disabled adult individuals who are not receiving such benefits.

"(2) In conducting the program under paragraph (1) the Secretary shall appoint a full-time Coordinator (hereinafter in this subsection referred to as the 'Coordinator') of such program who shall—

"(A) implement and operate such program;

"(B) consult with the Secretary and other Federal, State, local, and private agencies which may be able to provide information about low income aged, blind, or disabled individuals who may be eligible for supplemental security income benefits and who are not receiving such benefits, especially those individuals who are currently receiving social security benefits for whom applicable benefit levels are less than applicable supplemental security income benefit levels, and, to the extent available, obtain lists of such individuals from such agencies;

"(C) not less frequently than annually, oversee the provision of notice of the availability of supplemental security income benefits by mailing such information to all such individuals (in providing such notice, the Secretary, acting through the Coordinator, may enter into an agreement with a Federal agency whereby such agency provides such notice to all individuals on any list that such agency provides under subparagraph (B));

"(D) implement public information campaigns which—

"(i) are designed to inform homeless individuals, illiterate individuals, and low-income individuals who do not speak English, of the availability of supplementary security income benefits; and

"(ii) to utilize to the extent practicable, other means of communication as alternatives to written materials, which shall supplement any written materials used in such campaigns.

"(b)(1) Within 180 days after the date of enactment of the Supplemental Security Income Reform Act of 1989, the Secretary shall establish and conduct an ongoing children's SSI outreach program of outreach to children who may be eligible for benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) by reason of blindness or disability.

"(2) In conducting the program under paragraph (1) the Secretary shall appoint a full-time Coordinator (hereinafter in this subsection referred to as the 'Coordinator') of such program who shall—

"(A) implement and operate such program;

"(B) develop a set of strategies for identifying blind or disabled children who may be eligible for benefits under title XVI of the Social Security Act.

"(3) The Secretary, acting through the Coordinator, shall enter into agreements with Federal, State, or local departments, agencies, or hospitals which may have knowledge of children who are potentially eligible for such benefits by reason of blindness or disability, under which such entities will notify the parents or guardians of such children of such potential eligibility. In addition, the Secretary shall take such additional steps as may be necessary to identify any potentially eligible children and notify the parents or guardians of such children of such potential eligibility.

"(c) Within 180 days after the date of enactment of the Supplemental Security Income Reform Act of 1989, the Secretary shall require that all Federal supplemental security income application forms contain a questionnaire which requests each applicant to provide information concerning how such applicant learned about the availability of supplemental security income benefits.

"(d) The Secretary shall conduct an evaluation program to determine the progress of the programs under subsections (a) and (b) in notifying potentially eligible individuals, and shall, no later than September 30, 1989, and annually thereafter, submit to the Congress a report on such progress, with separate sections for the adult SSI outreach program and for the children's SSI outreach program. Such report shall also specify statistics on the response to the questionnaire on supplemental security income application forms, described in subsection (c).".

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By Mr. MURKOWSKI:

S. 666. A bill to enroll 20 individuals under the Alaska Native Claims Settlement Act; to the Committee on Energy and Natural Resources.

ENROLLMENT OF CERTAIN INDIVIDUALS UNDER THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

Mr. MURKOWSKI. Mr. President, I am introducing legislation today to resolve a long standing disagreement over the enrollment of 20 Alaska Natives under the Alaska Native Claims Settlement Act [ANCSA]. Even though these people have been found eligible for enrollment by the Department of Interior, they have been continually denied enrollment by the BIA and thereby denied the benefits granted to them by Congress in the ANCSA.

Under the regulations promulgated by the Secretary of the Interior to carry out his responsibilities under ANCSA, the Alaska regional solicitor was delegated the final authority for determining eligibility for ANCSA enrollment. In 1984, the regional solicitor reconsidered a previous denial of eligibility for 20 Alaska Natives and found them eligible contingent on the filing of an affidavit of Native ancestry. Their eligibility had been originally denied because of their inability to prove blood quantum. The 20 individuals obtained the required affidavit from the Kenai Native Association indicating that they were regarded as Native by their community and filed it with the Bureau of Indian Affairs [BIA].

This should have resulted in the enrollment of these people under ANCSA. However, the BIA refused to abide by the regional solicitor's decision and would not enroll these people. As a result, 13 of these people brought suit against the BIA to try to enforce the decision.

Mr. President, the Native corporations to which these Native people should be enrolled, Cook Inlet Region, Inc. and Kenai Native Association, did not oppose the court action and agreed before the Federal court that the Native plaintiffs ought to be enrolled and issued stock in the corporations. Neither corporation opposes this legislation and can see no reason for continuing to deny stock to these individuals who have been found eligible for enrollment and who are accepted as Natives by the very corporations to which they will be enrolled.

Following initiation of the law suit, the Assistant Secretary of the Interior responsible for Indian Affairs issued an order purporting to vacate the regional solicitor's 1984 decision. This

action arguably denies these people any opportunity to benefit from the enrollment provisions of the recently enacted amendments to the ANCSA because they may no longer be considered eligible for enrollment.

Mr. President, I introduce this legislation to correct this wrong and to further the policy the ANCSA to ensure that the settlement is accomplished in "conformity with the real economic and social needs of the Natives and without litigation". The regulations under which the regional solicitor acted have now been withdrawn and the circumstances which have lead to this conflict are incapable of being repeated. These individuals are the only people who have been determined eligible for enrollment by the Interior Department and who have not been subsequently enrolled. This legislation will break this unfortunate deadlock and further the purposes of ANCSA.

I ask that the text of the bill be printed in full following my statement.

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

S. 666

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

Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to enroll the following named individuals as Natives under the Alaska Native Claims Settlement Act (Public Law 92-203): Marilyn Jean (Warren) Sanchez, Theresa A. (Warren) Forbes, Linda Graham, Carol Graham, Debra (Sellers) Page, Glen Sellers, David P. Schmalzried, Odman H. Schmalzried, Carol Guzialek, Corbin Kooly, Charmaine I. (Warren) Forbes, John A. Warren, Jr., Phillip Graham, Sharon Graham, Wanda (Sellers) Clancy, Georgia A. (Schmalzried) Flood, Rhonda S. (Schmalzried) Koski, Paula Guzialek, Pamela Kooly, and Darrell Kooly. Each individual is entitled to receive 100 shares of stock in the Kenai Natives Association, and Cook Inlet Region, Inc. and such other benefits as the boards of directors of those corporations may approve.

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By Mr. MATSUNAGA:

S. 667. A bill to amend the Federal Unemployment Tax Act with respect to employment performed by certain employees of educational institutions; to the Committee on Finance.

AMENDMENTS OF FEDERAL UNEMPLOYMENT TAX ACT WITH RESPECT TO CERTAIN EMPLOYEES OF EDUCATIONAL INSTITUTIONS

Mr. MATSUNAGA. Mr. President, I am today introducing legislation to allow the States to extend unemployment compensation benefits to nonprofessional school employees between academic terms. This legislation is identical to a bill which I introduced in the 100th Congress as S. 2600. Congressman MATSUI of California has introduced comparable legislation (H.R. 290) in the House.

Mr. President, the Social Security Amendments Act of 1983—Public Law 98-21—contained a provision requiring that the States deny unemployment compensation benefits to nonprofessional educational service employees between academic years or terms if the employees have a "reasonable assurance" of returning to work in the next academic year. Prior to the adoption of this provision, States were granted the option of granting or denying unemployment compensation benefits to such workers during these periods.

Mr. President, the legislation I am introducing today would reinstate the State option to either provide or deny unemployment compensation benefits between academic terms to nonprofessional educational workers such as cafeteria workers, custodians, crossing guards, and secretaries. The current blanket denial of benefits to nonprofessional educational employees is particularly harmful to such workers because they are among the lowest paid workers in the United States. With the exception of educational employees and professional athletes, all other employees with major seasonal occupations are eligible to apply for unemployment compensation benefits. In addition, adequate mechanisms already exist within the Federal-State unemployment compensation system for denying unworthy benefit claims. Upon the enactment of this legislation, nonprofessional educational employees would have to satisfy the eligibility requirements set forth under State law for receiving unemployment compensation benefits.

Mr. President, this legislation is consistent with the basic objective of the unemployment compensation program, which is to provide temporary protection for qualified workers who lose their jobs until they may be rehired or find new employment. This legislation would remove an inequity in our current program and I therefore urge my colleagues to support this much needed bill.

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

S. 667

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

SECTION 1. EMPLOYEES PROVIDING SERVICES TO EDUCATIONAL INSTITUTIONS.

(a) IN GENERAL.—Clauses (ii)(I), (iii), and (iv) of section 3304(a)(6)(A) of the Internal Revenue Code of 1986 (relating to approval of State laws) are each amended by striking out "shall be denied" and inserting in lieu thereof "may be denied".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of compensation paid for weeks beginning on or after the date of the enactment of this Act.

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By Mr. MATSUNAGA (for himself and Mr. INOUYE):

S. 668. A bill to amend the Energy Policy and Conservation Act with respect to the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

STRATEGIC PETROLEUM RESERVE AMENDMENTS

Mr. MATSUNAGA. Mr. President, today I am introducing legislation together with my senior colleague from Hawaii, Mr. INOUYE, to amend the Energy Policy and Conservation Act of 1975 in order to establish regional petroleum reserves for areas of our Nation that would be exceptionally vulnerable in the event of a loss of oil imports.

EPCA, the original legislation that established the Strategic Petroleum Reserve, conferred discretionary authority on the Security of Energy to establish regional reserves—in lieu of central SPR storage—in insular or petroleum import-dependent areas of the country. My own State of Hawaii qualifies on both counts. However, the Department of Energy has consistently maintained that it is most economic to serve Hawaii from the central SPR on the gulf coast or from the diversion of tankers at sea carrying foreign or Alaskan North Slope crude oil.

I submit, Mr. President, that this line of reasoning on DOE's part is not convincing and will not stand up to examination of the facts. Indeed, a recent study concludes that neither the gulf coast nor Alaska will provide energy security for Hawaii during the 1990's, and supplies from the Pacific basin will become increasingly in tight supply.

This is because the industrial nations will become increasingly dependent on imported oil during the next decade, a period in the United States when North Slope production in Alaska will begin a precipitous decline. The"swing-producers" for imports into the United States will be in the Middle East, notably Saudi Arabia. It will be a period when U.S. dependency on foreign oil exceeds half of the Nation's consumption

But the Aloha State's oil dependency is far greater right now, Mr. President. Petroleum represents 90 percent of Hawaii's energy supply, half of it from foreign sources, and we are totally oil-dependent for transportation fuels, such as jet fuel upon which our economy is based.

By 1994, only 5 years from today, it is anticipated that Hawaii will be totally dependent on foreign imports for its crude oil supply. The west coast States are expected to import approximately one-third of their oil from overseas a few years later but before the turn of the century.

Today, Mr. President, the Pacific basin imports half of its oil from the Middle East. If there is a supply disruption—especially one in the Persian Gulf—the Pacific basin demand for available Australian and Southeast Asian crude oils will increase dramatically. Figures indicate that U.S. ship-

ping requirements must be met by foreign tankers and the domestic tanker fleet is inadequate to meet distruption scenario demand, as the head to the Military Sealift Command has recently warned us. There is also a deficiency in the number of small tankers, those below 80,000 dead weight tons designed to carry product rather than crude, within the domestic U.S. fleet.

For all these reasons, Mr. President, regional petroleum reserves are vitally needed and necessitate the measure I am introducing today.

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

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

S. 668

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

SECTION 1. REGIONAL PETROLEUM RESERVE.

(a) IN GENERAL.—Section 157 of the Energy Policy and Conservation Act (42 U.S.C. 6237) is amended by adding at the end the following new subsection:

"(d)(1) The Strategic Petroleum Reserve Plan shall provide for, and the Secretary shall establish and maintain (with funds appropriated for the Strategic Petroleum Reserve for fiscal year 1990 and fiscal years beginning thereafter), a Regional Petroleum Reserve for each region described in subsection (a) which contains a State—

"(A) in which imports of crude oil, residual fuel oil, or any refined petroleum product, during the 24-month period preceding the date of computation, equal more than 50 percent of demand for such oil or product in such region during such period, as determined by the Secretary annually; and

"(B) into which such oil or product is transported exclusively by means other than pipeline, rail, or highway.

"(2) Each such Regional Petroleum Reserve shall be located in the State described in paragraph (1).

"(3) The Secretary shall accumulate and maintain in any such Regional Petroleum Reserve volumes of such oil or product, described in paragraph (1), of a nature and at a level adequate to provide substantial protection against an interruption or reduction in imports of such oil or product to such State or region.".

(b) CONFORMING AMENDMENTS.—Section 157 of such Act (42 U.S.C. 6237) is amended—

(1) in subsections (a) and (c), by striking out "The" in the first sentence of each such subsection and inserting in lieu thereof "Subject to subsection (d), the"; and

(2) in subsection (b), by striking out "To" in the first sentence and inserting in lieu thereof "Subject to subsection (d), to".

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By Mr. WILSON (for himself and Mr. CRANSTON):

S. 669. A bill to require the Secretary of Energy to convey to the State of California by quitclaim deed certain lands in a naval petroleum reserve and to provide the money received from a naval petroleum reserve shall be treated the same as money received from other public lands; to the Committee on Armed Services.

CONVEYANCE OF CERTAIN LANDS

Mr. WILSON. Mr. President, today I am joined by my senior colleague from California, the distinguished majority whip, in introducing legislation that would return to the State of California lands that were promised to it over 130 years ago by Congress through the School Lands Act. The land in question is in the Elk Hills Naval Petroleum Reserve near Bakersfield, CA. In addition, this bill will provide that moneys received from Federal lands in a naval petroleum reserve will be treated as any other Federal lands under the Mineral Leasing Act for revenue disbursement purposes. I would like to take this opportunity to say a few words about this bill and to note that identical legislation has been introduced in the other body by Representatives LAGOMARSINO, THOMAS, and MATSUI.

The school lands grants began in 1785 in an ordinance relating to the Northwest Territory. Since then, all but five of the States admitted to the Union have had a school land grant of one or more sections per township. The idea was to give Federal lands to the States and allow the revenues generated from these lands to be used for the public school system.

The school grants constitute what the Supreme Court has called a solemn agreement between the States and the Federal Government, under which the public land States agreed to refrain from objecting to the retention of large tracts of land by the United States in return for a representative portion of the public lands. These lands were to be held in trust by the affected State and administered for the support of the public school system to compensate for tax revenues which the States would otherwise have collected. The State has fully lived up to its part of the bargain.

So long as the naval petrolum reserve was in fact operated as a reserve, the State did not object. However, in 1977 President Carter authorized full production of oil at the Elk Hills Reserve in order to provide revenues to help balance the budget. The reserve has been operating at maximum production capacity ever since, but has continued to be classified as a naval petroleum reserve. This oil production has generated over $12 billion in general revenues to the U.S. Treasury since 1977.

In short, Elk Hills has been treated like any other tract of public land held by the Bureau of Land Management with two very discriminatory exceptions: First, title to the school lands sections is still denied to the State; and second, the oil and gas revenues from the operation of the reserve are not shared with the State.

More recently, the Bush admininstration proposed a complete sale of the Elk Hills Reserve as part of its asset divestiture program. It is increasingly apparent that the reserve is no longer considered a vital part of the Naval Petroleum Reserve Program. If production continues at the current rate, the reserve will be empty in 20 years. If the Federal Government continues to rely on Elk Hills as a revenue producer rather than a petroleum reserve, title to the disputed lands should return to the State of California.

This legislation is designed to correct an inequity that has gone uncorrected for too long. It would recognize the State's rights in the two school land sections within Elk Hills, land that, but for the existence of the reserve, would long ago have passed to the State and been used for the benefit of the public school system. In as much as Elk Hills has been operated for profit as an oil field since 1976, this bill subjects naval petroleum reserve revenues to the same revenue disbursement requirements of the Mineral Leasing Act, to which all other operating oil fields on Federal lands are subject.

Congress' recognition of the State's rights to the lands affected by the school lands grant—approximately 6 percent of the total producing reserve—will not, however, affect the operation at Elk Hills. It would merely confirm the State of California's title to the disputed lands. This would allow needed revenues to begin flowing back into the public school system. California State law has declared that revenues from this land shall be used to help fund the State teachers' retirement system, thus allowing the State to reward its retired teachers and encourage quality educators to teach in the State schools.

No effort is made in this legislation to reap a cash bonanza from past defaults of the Federal administration. If the metamorphosis of Elk Hills into a commercial field had been honestly recognized in 1977, California would have received over $6 billion of the $12 billion in Federal revenues from sales since then. I am not suggesting, however, that these funds be repaid, This legislation is prospective only. It directs that title to the school lands be transferred, and that the remaining lands, as well as lands in other naval pertroleum reserves, be administered under the Mineral Leasing Act just as all other public lands are for revenue disbursement purposes.

I urge my colleagues to support this bill, and ask unanimous consent that it be printed in the RECORD at this time.

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

S. 669

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

SECTION 1. FINDINGS.

The Congress finds the following:

(1) Section 6 of the Act of March 3, 1853 (Chapter CXLV; 10 Stat. 246), granted to the State of California sections 16 and 36 of each township surveyed on public lands in the State to benefit public education in the State.

(2) The grant of lands referred to in paragraph (1) is similar to grants of public lands made to other States, and grants of this type compensated States for the loss of revenues that they would receive in real property taxes if public lands were privately owned.

(3) Because of the inclusion of sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principle Meridian, California, in naval petroleum reserve numbered 1, the Secretary of Energy has not accepted the claim of the State of California of holding title to such sections.

(4) The failure to comply with section 6 of the Act referred to in paragraph (1) unfairly discriminates against the State of California and impairs the ability of the State to support public education.

(5) Fifty percent of all money received from sales, bonuses, royalties, and rentals of public lands under the Mineral Leasing Act (30 U.S.C. 181 et seq.) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is paid to each State within which the lands are located to be used for planning, constructing, and maintaining public facilities and for providing public services, except that all money received from lands in a naval petroleum reserve is deposited in the general fund of the Treasury.

(6) No reason exists to treat money received from lands in a naval petroleum reserve differently from money received from other public lands.

(7) The failure to treat money received from lands in a naval petroleum reserve the same as money received from other public lands unfairly discriminates against States which contain lands included in a naval petroleum reserve.

SEC. 2. CONVEYANCE OF TITLE.

(a) CONVEYANCE REQUIRED.—The Secretary of Energy shall execute a quitclaim deed, without consideration, confirming and conveying to the State of California any right, title, and interest of the United States in the property described in subsection (b) if the State of Califorina agrees to accept—

(1) all existing agreements for the operation and development of the mineral resources of such property; and

(2) all restrictions applicable to such property and imposed on an owner of land within naval petroleum reserve numbered 1 for the purposes for which such reserve is maintained.

(b) DESCRIPTON OF PROPERTY.—The property referred to in subsection (a) is sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California.

SEC. 3. TREATMENT OF MONEY RECEIVED FROM LANDS IN A NAVAL PETROLEUM RESERVE.

(a) AMENDMENT OF THE MINERAL LEASING ACT.—Section 35 of the Mineral Leasing Act (30 U.S.C 191) is amended by striking ": *Provided,* That all moneys which may accrue" and all that follows through "(52 Stat. 1252)".

(b) AMENDMENT OF TITLE 10.—Section 7433(b) of title 10, United States Code is amended by inserting before the period the following: "and paid out in the manner provided in section 35 of the Mineral Leasing Act".

Mr. CRANSTON. Mr. President, I am delighted to join my colleague from California, Mr. WILSON, in introducing legislation today which will resolve a long-standing controversy between the State of California and the Federal Government over the Elk Hills Naval Petroleum Reserve located in Kern County, CA.

The history on this matter is a long one; it goes back to 1853 when California, as part of its statehood entitlement, was granted by Congress two sections of Federal land in each township in the State to support the State's public schools. This school land grant was similar to those given virtually every public land State since 1804, a grant which the Supreme Court in 1980 characterized as a "solemn agreement" by the United States to give lands to the State the revenues of which were to be used by the State to educate its citizens.

The two school sections in question are located in what was later to become the Elk Hills Naval Petroleum Reserve. These sections comprise about 6 percent of the total reserve. California did not assert its claim to the school land sections while production at Elk Hills was used for naval purposes. However, since 1977, production at Elk Hills has been sold on the open market and the proceeds have gone exclusively into Federal coffers. Nearly 1 billion barrels of oil, or well over half the recoverable oil estimated to exist in Elk Hills, has already been extracted without California receiving a penny. The remainder will be largely depleted in a few years at current production levels.

In 1986, the Reagan administration first proposed the sale of Elk Hills, including the two school sections, as an emergency budget-balancing measure. President Bush remains committed to the sale of the Elk Hills Naval Petroleum Reserve without addressing California's claims.

The bill I am cosponsoring today does not address the question of the sale of Elk Hills in any way. I, myself, am opposed to the sale of Elk Hills. What this bill does is address the claim of the State of California to its two school land sections and a portion of the Federal revenues from Elk Hills oil and gas production. The bill specifically provides that first, title be recognized and conveyed to California and, second, that money received by the United States from naval petroleum reserves be disbursed as provided in the Mineral Leasing Act.

The United States has been treating Elk Hills like other tracts of public land held by the Bureau of Land Management, with two major exceptions. It does not yet recognize that this changed status requires the administration to acknowledge the State's title to the school lands within that tract, as with the school grants on public lands in other States. It also does not yet acknowledge that mineral revenues from the remainder of these public lands should be shared with the State under the Mineral Leasing Act.

Furthermore, the bill provides prospective relief only. It does not seek to collect California's portion of the revenues generated since 1977. Instead, it merely seeks its share of future revenues as would be provided to any other oilfield on Federal lands under the Mineral Leasing Act. California's share of the production, while substantial, would depend on the current price of oil and gas. A Department of Energy consultant estimates that the net present value of revenues from the two school land sections to be about $300 million for the period of mid-1988 through the remainder of the field's production.

By State law, any revenues from land California may receive in satisfaction of its Elk Hills grant will be used to support the teachers' retirement system, a function essential to attracting quality teachers to the public schools of California, and a system that is currently substantially underfunded.

Many retired teachers in California receive no health benefits upon retirement, their pensions have lagged behind inflation, and the California State Teacher's Retirement System does not have the ability to augment its retirees' pensions. With this piece of legislation, we provide further opportunity for the teachers to remedy their situation.

Mr. President, this legislation does not seek to provide retribution for past inequities; it merely would recognize the rights of the State of California to lands that were promised to it over 130 years ago.

I ask my colleagues for their support of this legislation.

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By Mr. ARMSTRONG (for himself, Mr. BENTSEN, Mr. BINGAMAN, Mr. BOND, Mr. BOREN, Mr. COATS, Mr. COHEN, Mr. DASCHLE, Mr. DECONCINI, Mr. DOLE, Mr. EXON, Mr. GLENN, Mr. GRAMM, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mr. HUMPHREY, Mr. INOUYE, Mr. MATSUNAGA, Ms. MIKULSKI, Mr. MITCHELL, Mr. MURKOWSKI, Mr. PELL, Mr. PRESSLER, Mr. WIRTH, Mr. RUDMAN, Mr. SASSER, Mr. WARNER, Mr. WILSON, and Mr. HEFLIN):

S. 670. A bill to recognize the organization known as the Retired Enlisted Association, Inc.; to the Committee on the Judiciary.

RETIRED ENLISTED ASSOCIATION, INC.

● Mr. ARMSTRONG. Mr. President, I am again introducing legislation which

would grant a Federal charter to the Retired Enlisted Association. TREA was chartered by my home State of Colorado in 1963. It is a nonprofit corporation which is open to membership to any enlisted person retired from the armed services of the United States for length of service or permanently medically retired.

The organization has over 40 chapters nationwide with approximately 50,000 members representing all 50 States, Guam, Puerto Rico, the Virgin Islands, and overseas. In a practical sense TREA serves its members by lobbying Congress to protect the rights and benefits of retired military personnel and to alert members to legislation that affects them. TREA also promotes national security objectives, runs a scholarship program, and veterans assistance programs.

The members of TREA are those brave men and women who answered the call of their country when they were needed, and who served with honor, dedication, and personal sacrifice. It is most appropriate that the Congress of the United States recognize this organization, and gratefully acknowledges the service its members gave to our country.

I urge my colleagues to join me in cosponsoring this legislation so that TREA may further its work on behalf of enlisted retirees.●

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By Mr. HEINZ (for himself and Mr. SPECTER):

S. 671. A bill to provide for the inclusion of the Washington Square area within Independence National Park, and for other purposes; to the Committee on Energy and Natural Resources.

ADDITION TO INDEPENDENCE NATIONAL PARK

Mr. HEINZ. Mr. President, I rise today to introduce legislation to protect an important part of America's heritage. My bill would include Washington Square within the Independence National Historic Park in Philadelphia, PA.

Conditions at the square have been disgraceful, and, if not for the volunteer efforts of the crew of the U.S.S. *Kitty Hawk*, would remain so today.

The square was planned in 1683 as one of the four central areas around which Philadelphia would be built, and is one of the first examples of renaissance city planning in America.

During the Revolutionary War, Washington Square was a burial ground for soldiers of the Continental Army. As many as 2,000 colonial volunteers were laid to rest there in paupers' graves.

The Tomb of the Unknown Soldier of the Revolutionary War stands in Washington Square today to commemorate the sacrifice made by these nameless, faceless heroes who were among the first to die so that freedom could live.

Members of this body, our veterans and the American public would be incensed if the Tomb of the Unknown Soldier at Arlington Cemetery was allowed to be desecrated because our Park Service didn't care enough to make room for honoring those who died for this country. Yet that is what has transpired at Washington Square.

For the benefit of my colleagues, let me explain the condition of Washington Square only last year. The eternal flame which guards the Tomb of the Unknown Revolutionary War Soldier was constantly extinguished by people who cooked over it, threw trash on it, and even urinated on it. The American flag, raised above the tomb of those who died so that it might wave, must now be locked because others have been stolen, ripped, and torched. Bottles, cans, and paper littered the area.

The situation was intolerable and disgraceful. But the honor to our Nation's first military men has been restored by our newest. The crew of the U.S.S. *Kitty Hawk*, under the direction of Capt. F. Lee Tillotson, has singlehandedly gone about the restoration of the square. Every morning, the crew of the *Kitty Hawk* cleans up the square and raises the American flag over the Tomb of the Unknown Revolutionary War Soldier.

On behalf of the people of my State, I want to publicly express our gratitude. Because of those young men and women, Washington Square is once again a beautiful park.

But valuable parkland should not depend upon the generosity of our service men and women. The *Kitty Hawk* should not have to shoulder this burden alone, and there is no guarantee that Philadelphia will host another carrier crew as dedicated as this one when the *Kitty Hawk* sails away to rejoin the fleet.

I urge my colleagues to join me in supporting this legislation so that when the *Kitty Hawk* weighs anchor in early 1990, Washington Square does not fall victim once again to vandalism and disrespect.

Mr. President, I ask unanimous consent that the text of the legislation appear in the RECORD at the conclusion of my remarks. The legislation would authorize the Secretary of the Interior to enter into a cooperative agreement with the city of Philadelphia to provide technical assistance in the preservation and interpretation of Washington Square.

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

S. 671

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act of June 28, 1948 (62 Stat. 1061; 16 U.S.C. 407m et seq.), is amended by adding the following new section at the end thereof:

"SEC. 8. (a) The area known as Washington Square (bounded generally by Walnut Street on the north, Sixth Street on the east, and the intersecting streets named 'Washington Square' on the west and south) is hereby included within the Independence National Historical Park.

"(b) The Secretary of the Interior is authorized to enter into a cooperative agreement with the city of Philadelphia (acting through its designated agency, the Fairmount Park Commission) to provide technical assistance in the preservation and interpretation of the property known as Washington Square. Such agreement shall contain, but shall not be limited to, provisions that the Secretary, through the National Park Service, shall have right of access at all reasonable times to all public portions of the property for the purpose of conducting visitors through the grounds and interpreting them to the public, and that no major changes or alterations shall be made in the property, including its buildings and grounds, except by mutual agreement between the Secretary and the city.".

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By Mr. HEINZ:

S. 672. A bill to increase and extend the authorization of appropriations for highway replacement and rehabilitation, and for other purposes; to the Committee on Environment and Public Works.

BRIDGE IMPROVEMENT ACT

Mr. HEINZ. Mr. President, I rise today to introduce critically needed legislation to improve and repair our Nation's troubled bridges.

Last year, the National Journal reported, "One out of four bridges is considered unsafe. Every two days, a bridge collapses. More than 4,125 bridges are closed because of dangerous conditions." To twist the title of a famous song by Simon and Garfunkel, Mr. President, we are confronted with troubled bridges over water.

In my own State of Pennsylvania, the southwestern Pennsylvania region has 4,789 bridges; most are long, major structures. The Southwestern Regional Planning Commission recently reported that 1,866 of this region's bridges are deficient, nearly 39 percent—up from 37 percent in 1986. This is in spite of the State's approximately $2 billion investment in bridge repair and replacement since 1982. Recognizing this problem, Pennsylvania has slated an additional 765 bridge rehabilitation and replacement projects statewide over the next 4 years, at a cost of $720 million over and above the $2 billion already invested. Even with this commendable effort, the planning commission estimates that an additional $829 million will be needed to address southwestern Pennsylvania's bridge problem.

For example, the Smithfield Bridge, which crosses the Monongahela River, linking downtown Pittsburgh and the city's Southside, Side, has been identified as needing rehabilitation work for over a decade. It is in danger of being permanently closed. This bridge, and thousands like it across our Nation, should not have to wait so long for

repair, or wait so long that they become closed to vehicular or any traffic. They are catastrophies waiting to happen.

Our roads and bridges, waterways and railroads, streets and sidewalks, are the economic lifelines that provide raw materials for manufacturers, carry goods to markets, and enable consumers to meet their needs. America's economic future depends on a reliable and structurally sound infrastructure.

I have taken a long hard look at our Nation's bridge needs and have been successful in the past in expanding the Federal bridge program. In 1977, I introduced the Bridge Safety Act, which authorized an expansion of the Federal bridge program. this act was included in modified form into the 1978 Highway Act, which increased the Federal commitment to bridge repair and replacement from $200 to $300 million per year prior to 1978 to $1 billion per year from 1978 to 1982. Subsequent Highway Acts in 1982 and 1987 increased bridge funding to its present authorized level of $1.63 billion.

Mr. President, given the bridge crisis our Nation now faces, I think it is time that Congress again expand these efforts and do so in an innovative way.

For this reason, I am introducing the Bridge Improvement Act of 1989. This legislation would increase authorizations for bridge replacement and rehabilitation by $2.5 billion over 5 years. This would raise the annual Federal commitment by $500 million, from the present $1.63 billion to $2.13 billion.

Mr. President, this is a modest proposal when one considers that even if the trust fund were to cease receiving receipts today, there would be an approximate $10 billion balance for use. Moreover, my legislation would only bring total program spending up to slightly below the Highway Act levels. And, given the surplus in the highway trust fund, we can certainly sustain this level of spending—for which motorists pay with the 9 cents per gallon Federal gas tax. Eight cents of that tax goes for highways and bridge repair. The tax is expected to generate $13.6 billion this year alone.

My legislation is also designed to help those States which help themselves. It requires the Department of Transportation to conduct a study of the efforts made by each State to fund bridge replacement and rehabilitation in the State. DOT would study the percentage of non-Federal money a State spends on bridge repairs, as well as the rate at which each State is reducing its number of deficient bridges. The latter would be measured as the number of bridges improved less the number of bridges deteriorating on an annual basis. I have already asked DOT to begin this work.

Based on this study, the Department would be required to make recommendations for a new allocation formula which could be used to allocate the additional funds that are authorized to be appropriated under this legislation. Until and unless Congress develops an allocation formula based on DOT's recommendations, the additional funding would be spent under the existing formula.

Mr. President, this legislation will provide the resources needed to protect public safety and promote commerce. We cannot continue to identify deteriorating bridges and do nothing for lack of resources. The resources are there. My legislation will help ensure that we will actually be able to cross the bridge when we come to it. I urge my colleagues to support this effort.

I ask unanimous consent to have the bill printed in the RECORD.

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

S. 672

*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 "Bridge Improvement Act of 1988".

SEC. 2. INCREASE AND EXTENSION OF THE AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Paragraph (5) of section 106(a) of the Federal-Aid Highway Act of 1987 (101 Stat. 145) is amended—

(1) by striking out "$1,630,000,000" and inserting in lieu thereof "$2,130,000,000", and

(2) by striking out "and 1991" and inserting in lieu thereof "1991, 1992, and 1993".

(b) CONFORMING AMENDMENTS.—Section 144 of title 23, United States Code, is amended by striking out "and 1991" in paragraphs (1) and (3) of subsection (g) and inserting in lieu thereof "1991, 1992, and 1993".

SEC. 3. STUDY OF STATE FUNDING EFFORT.

(a) IN GENERAL.—The Secretary of Transportation shall conduct a study of the efforts made by each State to fund bridge replacement and rehabilitation in the State.

(b) REPORT.—By no later than April 1, 1990, the Secretary of Transportation shall submit to the Congress a report on the study conducted under subsection (a). The report shall include—

(1) recommendations for a formula which—

(A) could be used to allocate the additional funds that are authorized to be appropriated by reason of the amendments made by section 2 of this Act, and

(B) is based on the efforts made by the States to fund bridge replacement and rehabilitation in the State;

(2) the percentage of the total expenditures of each State for bridge replacement and rehabilitation that is funded from non-Federal sources;

(3) the total amount expended by each State for bridge replacement and rehabilitation;

(4) the rate at which each State is reducing its inventory of deficient bridges (as defined in the Secretary's Annual Report on the Highway Bridge Replacement and Rehabilitation pursuant to section 144(i) of title 23, United States Code) which includes the number of bridges removed from the inventory through improvements and the number of bridges being added to the inventory because of deterioration; and

(5) such other factors as the Secretary of Transportation may deem appropriate.

SEC. 4. FORMULA USED IN ALLOCATION.

The additional funds that are authorized to be appropriated by reason of the amendments made by section 2 of this Act shall be allocated among the States in accordance with the formula provided on the date of enactment of this Act under subsection (e) of section 144 of title 23, United States Code, until such time as the Congress enacts a law to change such formula on the basis of the report submitted to the Congress under section 3(b) to reflect the efforts made by the States to fund bridge replacement and rehabilitation.

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By Mr. BRYAN (for himself, Mr. HOLLINGS, Mr. DANFORTH, Mr. GORTON, Mr. GORE, Mr. KERRY, and Mr. MCCAIN):

S. 673. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicles Information and Cost Savings Act to authorize appropriations for fiscal years 1990 and 1991, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AUTHORIZATION ACT

● Mr. BRYAN. Mr. President, today I am introducing legislation to provide authorization for the National Highway Traffic Safety Administration [NHTSA] through 1991. Authorization legislation for this agency was passed by the Senate early in the first session of the last Congress, but was not considered by the House of Representatives. I am hopeful that by getting an early start again in this Congress we can begin a meaningful dialog with our House colleagues that will lead to enactment of this important legislation.

NHTSA was created in 1966 with the purpose of reducing the number of deaths and serious injuries on our highways. The agency has many important responsibilities, including the establishment of vehicle safety standards, investigation of vehicles for safety-related defects, preparation of safety-related consumer information, and administration of fuel efficiency standards. NHTSA's activities constitute one of the most important and effective public safety programs at the national level. Motor vehicle fatalities for every 100,000 licensed drivers has decreased from 50.3 in 1966 to 28.6 in 1987. NHTSA studies have estimated that over a 10-year period NHTSA safety standards have saved over 90,000 lives and prevented many more injuries.

Unfortunately, the agency's work is far from complete. In 1987, the most recent year for which full data is available, 46,386 people were killed in

motor vehicle accidents, an increase of 0.6 percent from the year before. While there was a slight decrease in the deaths per vehicle miles traveled, the loss of over 46,000 people in highway travel is simply unacceptable. We must continue to assist NHTSA in it efforts in every way possible, and to guarantee that safety issues are promptly addressed.

In the past year, we have seen increased evidence of the continued commitment to highway safety in many different sectors—from the automakers' announcing intentions to install significant numbers of airbags, to the forming of a coalition of consumers and insurers to work toward the common goal of reducing injuries. Those of us who legislate in this area, like those who work in the area of auto safety both inside and outside of NHTSA, have an opportunity to save lives. It is as simple as that. And we must work diligently toward that end. This bill is an effort to do just that.

The legislation includes most of the issues addressed by the authorization legislation—S. 853—passed by the Senate in the 100th Congress. I am pleased to note that, since Senate passage of S. 853, NHTSA and the auto manufacturers have both taken action on their own to address some of the matters the Senate had indicated were top priorities. This bill recognizes the actions that have begun voluntarily, and mandates completion of those actions.

For example, one prominent feature of this legislation is a requirement that NHTSA complete a rule improving the ability of vehicles to withstand side impact crashes. NHTSA estimates that almost one-third of occupant fatalities occur in side impacts. The bill would require completion of a rule for passenger cars within 1 year of enactment, and for multipurpose vehicles, within 2 years of enactment. Everyone involved in this issue, including the automakers, agrees that the current side impact standard, written in the 1970's, must be upgraded. There is disagreement over the proper method of upgrading and over the time it will take. But NHTSA has been studying this issue for over a decade. After the passage of the Senate's 1987 bill, NHTSA initiated a rulemaking, and this legislation will require its timely completion

This legislation also addresses the important issue of safety standards for vehicles referred to as multipurpose vehicles [MPV's] such as light trucks and minivans. These vehicles, once used primarily for carrying cargo, have replaced passenger cars in many households. While many of the safety standards applicable to passenger cars currently apply to these MPV's, some important additional standards remain to be considered. This bill would require NHTSA to complete rulemaking to consider application of roof crush standards, requirements for head restraints, passive restraints, and high-mounted stoplamps, and standards to protect against rollover of these vehicles. The bill also requires NHTSA to consider its vehicle classification system to ensure that it accurately reflects the current status of vehicles. Since 1987, NHTSA has begun consideration of some of these issues on its own. I hope that this legislation will ensure timely completion of those efforts.

Another area in which NHTSA has begun to work since 1987 involves rear seatbelts. Current requirements mandate only lapbelts in the rear seats, despite the accepted fact that combination lap and shoulder belts are more effective in preventing injuries. This legislation would require amendment of the current rule to provide rear seat lap/shoulder belts in all passenger vehicles except convertibles manufactured after September 1, 1989, and in all multipurpose vehicles and convertibles manufactured after September 1, 1990.

Finally, as in the 1987 legislation, this bill would, among other things, require NHTSA to study the feasibility of providing the consumer with accurate information about comparative crashworthiness of vehicles, and would require labeling of vehicles with information about the bumper capacity to withstand impact. It would provide for use of certain unexpended trust fund moneys for community programs of airbag and drunk driving prevention education. The bill would further provide NHTSA with additional authority to ensure that recalls of defective vehicles are more effectively carried out.

This legislation also contains several additional measures which we have recognized as necessary since the passage of the 1987 bill. It would require a rulemaking to ensure the safety of child booster seats, which allow toddlers and older children to use a safety belt. While a rule exists to regulate child safety seats for infants, nothing has been done to ensure that the protection systems for older children are adequate and effective.

This bill also would encourage manufacturers to equip greater numbers of moderately priced vehicles with airbags as opposed to other passive restraint systems by requiring that, to the extent it is economically feasible, passenger cars purchased for the Federal fleet be equipped with airbags as of the effective date of the current passive restraint requirement, beginning with driver's side passive restraints in model year 1991.

Additionally, an incentive grant program to encourage the States to improve the rate of safety belt usage by their citizens and provide education about the proper use of child restraint systems is established. Both of these activities save lives and can be effectively implemented only in partnership with the States.

In order to ensure a careful and accurate consideration of the appropriate fuel efficiency standards, the bill would require that all petitions for rulemaking filed to request NHTSA to reduce corporate average fuel economy standards be filed 24 months in advance of the vehicle model year to which they apply. The statute required such leadtime for petitions applicable to model years 1978-80, but there has been no such time requirement for subsequent model years. In order to permit orderly consideration of the issues and to provide automakers with time to exercise various options for improving fuel efficiency, the 24-month time limit would be reinstituted. This time limit would apply to any petition filed, and no subsequent petitions could be filed after the expiration of that time limit.

Two additional measures serve important ends, but are not without complexity. There are differences of opinion about the facts relevant to consideration of these provisions and the wisdom of their enactment. Because of the important issues they raise, they have been included in the bill for purposes of discussion at our subcommittee's hearing and otherwise. I expect that the subcommittee will receive a complete hearing record on these issues, and will review that record with an open mind to determine whether these two measures should be retained in the final version of this bill.

The first provision would address the process in current law which permits any interested party to petition NHTSA to begin an investigation to consider whether a particular vehicle has a safety defect. If the petition is granted, it does not mean that the vehicle is defective or that a recall will be ordered, but only that an investigation will begin. If a recall ultimately is ordered, the automakers may obtain review in court of that decision. However, if the petition is denied, the ability of the petitioner to obtain court review of that denial has been called into question by a recent decision of the Court of Appeals for the District of Columbia circuit. Since Congress already has created access to the agency's investigation process for petitioners, it appears unfair to preclude their access to the courts to review the agency's decision, particularly when automakers have such review should their vehicles be found to be defective.

Additionally, since the petition process was created in 1977, only 1 case has been filed seeking judicial review of a denial, even though between 20 and 30 petitions per year are filed and only about one-fourth of those are granted. Thus, it would not appear that clarifying the availability of judicial review

would have a dramatic effect on the agency's workload. However, I am aware that some believe such judicial review would permit unwarranted interference with the agency's functions, and I will consider further information on that issue.

Finally, a provision is included that would require a return to the 5 miles per hour bumper standard that was rescinded in 1982. Prior to that time, bumpers had to be constructed to withstand an impact at 5 miles per hour without sustaining damage to the safety-related features of the car such as the lights and fuel system, or to the exterior of the vehicle. Additionally, the bumper had to withstand that impact with only minimal damage to the bumper itself. In 1982, NHTSA revised its rule to a 2.5 miles per hour standard. While it appears obvious that a return to the 5 miles per hour standard will save consumers some repair costs, the subcommittee does not have current information on the increased cost to consumers of purchasing the upgraded bumpers. I understand that many vehicles manufactured today withstand at least damage to safety features and vehicle exteriors at 5 miles per hour. I expect to receive further information on the arguments for and against a return to the full 5 miles per hour standard during our hearing.

Last, but certainly not least, this bill authorizes the expenditure of funds for fiscal year 1990 at the level requested by the Bush administration. This amount is increased by the inflation factor recommended by the Congressional Budget Office for 1991.

This bill is the product of considerable effort on the part of many interested parties, including consumer groups, insurance industry representatives, automakers, and NHTSA itself. I would particularly note the longstanding efforts in the area of highway safety of the ranking Republican member of the Commerce Committee, Senator DANFORTH. I am hopeful that this bill can be quickly enacted into law and become a part of the most important undertaking of all—the effort to save human life.

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

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

S. 673

*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 "National Highway traffic Safety Administration Authorization Act of 1989".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "multipurpose passenger vehicle" and "passenger automobile" shall have the meaning given such terms by the Secretary; and

(2) "Secretary" means the Secretary of Transportation.

TITLE I—AUTHORIZATION OF APPROPRIATIONS GENERAL AUTHORIZATIONS

SEC. 101. (a) Section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended—

(1) by striking "and"; and

(2) by striking the period and inserting in lieu thereof", $65,424,000 for fiscal year 1990 and $68,433,000 for fiscal year 1991.".

(b) Section 111 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1921) is amended—

(1) by striking "and"; and

(2) by striking the period and inserting in lieu thereof", $336,000 for fiscal year 1990, and $351,000 for fiscal year 1991.".

(c) Section 209 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1949) is amended—

(1) by striking "and"; and

(2) by striking the period and inserting in lieu thereof ", $2,384,000 for fiscal year 1990, and $2,493,000 for fiscal year 1991.".

(d) Section 417 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1990g) is amended—

(1) by striking "and"; and

(2) by striking the period and inserting in lieu thereof", $640,000 for fiscal year 1990, and $669,000 for fiscal year 1991.".

(e) Section 211(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended—

(1) by striking "and" the second time it appears; and

(2) by inserting immediately before the period at the end the following: "not to exceed $5,315,000 for fiscal year 1990, and not to exceed $5,559,000 for fiscal year 1991"."

COMMUNITY EDUCATION PROGRAM

SEC. 102. In order to carry out a national program of community education regarding (1) drunk driving prevention and (2) the use and effectiveness of airbag technology, the Secretary may derive an additional amount not to exceed $10,000,000 from unobligated balances of funds made available for highway safety programs under section 408 of title 23, United States Code. Of the funds allocated to such efforts, not less than one-half shall be used for educational efforts related to airbags. Such amounts shall remain available until expended.

TITLE II—SIDE IMPACT PROTECTION AND CRASHWORTHINESS DATA SIDE IMPACT PROTECTION

SEC. 201. (a) The Secretary shall, not later than twelve months after the date of enactment of this Act, issue a final rule amendment Federal Motor Vehicle Safety Standard 214, published as section 571.214 of title 49, Code of Federal Regualtions. The rule shall establish performance criteria for improved protection for occupants of passenger automobiles in side impact accidents.

(b) Not later than sixty days after the date of enactment of this Act, the Secretary shall issue a notice of propsed rulemakig to extend the applicability of such Standard 214 to multipurpose passenger vehicles. The Secretary shall, not later than two years after such date of enactment, issue a final rule on such extension, taking into account the performance criteria established by the final rule issued in accordance with subsection (a).

AUTOMOBILE CRASHWORTHINESS DATA

SEC. 202. (a)(1) The Secretary shall, within thirty days after the date of enactment of this Act, enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation regarding means of establishing a method for calculating a uniform numerical rating which will enable consumers to compare meaningfully the crashworthiness of different passenger automobile and multipurpose passenger vehicle makes and models.

(2) Such study shall include examination of current and proposed crashworthiness tests and testing procedures and shall be directed to determining whether additional objective, accurate, and relevant information regarding the comparative crashworthiness of different passenger automobile and multipurpose passenger vehicle makes and models reasonably can be provided to consumers by means of a crashworthiness rating rule. Such study shall include examination of at least the following proposed elements of a crashworthiness rating rule:

(A) information on the degree to which different passenger automobile and multipurpose passenger vehicle makes and models will protect occupants across the range of motor vehicle crash types when in use on public roads;

(B) a repeatable and objective test which is capable of identifying meaningful differences in the degree of crash protection provided occupants by the vehicles tested, with respect to such aspects of crashworthiness as occupant crash protection with and without use of manual seatbelts, fuel system integrity, and other relevant aspects;

(C) ratings which are accurate, simple in form, readily understandable, and of benefit to consumers in making informed decisions in the purchase of automobiles;

(D) dissemination of comparative crashworthiness ratings to consumers either at the time of introduction of a new passenger automobile or multipurpose passenger vehicle make or model or very soon after such time of introduction; and

(E) the development and dissemination of crashworthiness data at a cost which is reasonably balanced with the benefits of such data to consumers in making informed purchase decisions.

(3) Any such arrangement shall require the National Academy of Sciences to report to the Secretary and the Congress not later than nineteen months after the date of enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall, to the extent permitted by law, furnish to the Academy upon its request any information which the Academy considers necessary to conduct the investigation and study required by this subsection.

(4) Within sixty days after transmittal of the report of the National Academy of Sciences to the Secretary and the Congress under paragraph (3) of this subsection, the Secretary shall initiate a period (not longer than ninety days) for public comment on implementation of the recommendations of the National Academy of Sciences with respect to a rule promulgated under title II of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger automobiles and multipurpose passenger vehicles.

(5) Not later than one hundred and eighty days after the close of the public comment period provided for in paragraph (4) of this subsection, the Secretary shall determine,

on the basis of the report of the National Academy of Sciences and the public comments on such report, whether an objectively based system can be established by means of which accurate and relevant information can be derived that reasonably predicts the degree to which different makes and models of passenger automobiles and multipurpose passenger vehicles provide protection to occupants against the risk of personal injury or death as a result of motor vehicle accidents. The Secretary shall promptly publish the basis of such determination, and shall transmit such determination to the Congress.

(b)(1) If the Secretary determines that the system described in subsection (a)(5) of this section can be established, the Secretary shall, subject to the exception provided in paragraph (2) of this subsection, not later than three years after the date of enactment of this Act, promulgate a final rule under section 201 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1941) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger automobiles and multipurpose passenger vehicles. The rule promulgated under such section 201 shall be practicable and shall provide to the public relevant objective information in a simple and readily understandable form in order to facilitate comparison among the various makes and models of passenger automobiles and multipurpose passenger vehicles so as to contribute meaningfully to informed purchase decisions.

(2) The Secretary shall not promulgate such rule unless (A) a period of sixty calendar days has passed after the Secretary has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a summary of the comments received during the period for public comment specified in subsection (a)(4) of this section, or (B) each such committee before the expiration of such sixty-day period has transmitted to the Secretary written notice to the effect that such committee has no objection to the promulgation of such rule.

(c) If the Secretary promulgates a rule under subsection (b) of this section, not later than six months after such promulgation, the Secretary shall by rule establish procedures requiring passenger automobile and multipurpose passenger vehicle dealers to make available to prospective passenger automobile and multipurpose passenger vehicle purchasers information developed by the Secretary and provided to the dealer which contains data comparing the crashworthiness of passenger automobiles and multipurpose passenger vehicles.

## TITLE II—MISCELLANEOUS PROVISIONS

### STANDARDS COMPLIANCE

SEC. 301. Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end the following new subsection:

"(j)(1) The Secretary shall establish a schedule for use in ensuring compliance with each Federal motor vehicle safety standard established under this Act which the Secretary determines is capable of being tested. Such schedule shall ensure that each such standard is the subject of testing and evaluation on a regular, rotating basis.

"(2) The Secretary shall, not later than six months after the date of enactment of this subsection, conduct a review of the method for the collection of data regarding accidents related to Federal motor vehicle safety standards established under this Act. The Secretary shall consider the desirability of collecting data in addition to that information collected as of the date of enactment of this subsection, and shall estimate the costs involved in the collection of such additional data, as well as the benefits to safety likely to be derived from such collection. If the Secretary determines that such benefits outweigh the costs of such collection, the Secretary shall collect such additional data and utilize it in determining which motor vehicles should be the subject of testing for compliance with Federal motor vehicle safety standards established under this Act.".

### INVESTIGATION AND PENALTY PROCEDURES

SEC. 302. (a) Section 112(a)(1) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1401(A)(1)) is amended by adding at the end the following: "The Secretary shall establish written guidelines and procedures for conducting any inspection or investigation regarding noncompliance with this title or any rules, regulations, or orders issued under this title. Such guidelines and procedures shall indicate timetables for processing of such inspections and investigations to ensure that such processing occurs in an expeditious and thorough manner. In addition, the Secretary shall develop criteria and procedures for use in determining when the results of such an investigation should be considered by the Secretary to be the subject of a civil penalty under section 109 of this title. Nothing in this paragraph shall be construed to limit the ability of the Secretary to exceed any time limitation specified in such timetables where the Secretary determines that additional time is necessary for the processing of any such inspection or investigation.".

(b) Section 109(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1398(a)) is amended by adding at the end thereof the following: "The Secretary shall establish procedures for determining the manner in which, and the time within which, a determination should be made regarding whether a civil penalty should be imposed under this section. Nothing in this subsection shall be construed to limit the ability of the Secretary to exceed any time limitation specified for making any such determination where the Secretary determines that additional time is necessary for making a determination regarding whether a civil penalty should be imposed under this section.".

### TRAFFIC SAFETY FOR HANDICAPPED INDIVIDUALS

SEC. 303. (a) The Congress finds that—

(1) a number of States fail to recognize the symbols of other States for the identification of motor vehicles transporting individuals with handicaps that limit or impair the ability to walk; and

(2) the failure to recognize such symbols increases the likelihood that such individuals will be involved in traffic accident incidents resulting in injury or death, posing a threat to the safety of such individuals as well as the safety of the operators of motor vehicles and others.

(b)(1) Section 402(b) of title 23, United States Code, is amended by adding at the end the following:

"(3)(A) After the date that is eighteen months following the date of enactment of the National Highway Traffic Safety Administration Authorization Act of 1989, the Secretary shall not approve any State highway safety program under this section unless the program provides for the implementation of a uniform system for handicapped parking designed to enhance the safety of handicapped and nonhandicapped individuals.

"(B) For purposes of this paragraph, a uniform system or handicapped parking designed to enhance the safety of handicapped and nonhandicapped individuals is a system which—

"(i) adopts the International Symbol of Access (as adopted by Rehabilitation International in 1969 at its 11th World Congress on Rehabilitation of the Disabled) as the only recognized symbol for the identification of vehicles used for transporting individuals with handicaps which limit or impair the ability to walk;

"(ii) provides for the issuance of license plates displaying the International Symbol of Access for vehicles which will be used to transport individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

"(iii) provides for the issuance of removal windshield placards (displaying the International Symbol of Access) to individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

"(iv) provides that fees charged for the licensing or registration of a vehicle used to transport such individuals with handicaps do not exceed fees charged for the licensing or registration of other similar vehicles operated in the State; and

"(v) for purposes of easy access parking, recognizes licenses and placards displaying the International Symbol of Access which have been issued by other States and countries.".

(2) Section 402(c) of title 23, United States Code, is amended by inserting immediately after, "as appropriate" the first place it appears the following: "; except that in the case of a failure to obtain approval of or implement a highway safety program because of noncompliance with subsection (b)(3), such funds shall be reduced by amounts equal to 2 per centum of the amounts that would otherwise be apportioned to the State under this section, until such time as the Secretary approves such program or determines that the State is implementing an approved program, as appropriate".

(c) Beginning not later than twenty-four months after the date of enactment of this Act, the Secretary shall annually evaluate compliance by the States with the amendments made by this section. The Secretary shall submit to Congress an annual report regarding such evaluation.

### MULTIPURPOSE PASSENGER VEHICLE SAFETY

SEC. 304. (a) The Congress finds that—

(1) multipurpose passenger vehicles have become increasingly popular during this decade and are being used increasingly for the transportation of passengers, not property; and

(2) the safety of passengers in multipurpose passenger vehicles has been compromised by the failure to apply to them the Federal motor vehicle safety standards applicable to passenger automobiles.

(b) In addition to the rulemaking requirements applicable to multipurpose passenger vehicles under other provisions of this Act, the Secretary shall initiate (not later than sixty days after the date of enactment of this Act) and complete not later than twelve months after such date of enactment) a

rulemaking to revise, where appropriate, in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms—

(1) Federal Motor Vehicle Safety Standard 216, published as section 571.216 of title 49, Code of Federal Regulations, to provide minimum roof crush resistance standards for multipurpose passenger vehicles;

(2) Federal Motor Vehicle Safety Standard 108, published as section 571.108 of title 49, Code of Federal Regulations, to provide for a single, high-mounted stoplamp on multipurpose passenger vehicles; and

(3) Federal Motor Vehicle Safety Standard 208, published as section 571.208 of title 49, Code of Federal Regulations, to extend the requirements of outboard front seat passive restraint occupant protection systems to multipurpose passenger vehicles.

(c) In accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Secretary shall, not later than twelve months after the date of enactment of this Act, complete a rulemaking—

(1) to review the system of classification of vehicles with a gross vehicles weight under ten thousand pounds to determine if such vehicles should be reclassified;

(2) to revise Federal Motor Safety Standard 202, published as section 571.202 of title 49, Code of Federal Regulations, to provide for head restraints for multipurpose passenger vehicles; and

(3) to establish a Federal Motor Vehicle Safety Standard to protect against unreasonable risk of rollover of multipurpose passenger vehicles.

REAR SEATBELTS

SEC. 305. (a) In accordance with applicable provisions of the National Traffic and Motor Vehicles Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Secretary shall complete, within twelve months after the date of enactment of this Act, a rulemaking to amend Federal Motor Vehicle Safety Standard 208, published as section 571.208 of title 49, Code of Federal Regulations, to provide that the outboard rear seat passengers of all passenger automobiles, except convertibles, manufactured after September 1, 1989, shall have lap and shoulder seatbelt protection, and that the outboard rear seat passengers of all multipurpose passenger vehicles and all convertible passenger automobiles manufactured after September 1, 1990, shall have lap and shoulder seatbelt protection.

(b) Notwithstanding any other provision of law, not less than 10 percent of the funds authorized to be appropriated under section 209 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1949) in fiscal year 1990 and 1991 shall be utilized to disseminate information for consumers regarding the manner in which passenger automobiles may be retrofitted with lap and shoulder rear seatbelts.

CERTIFICATION OF BUMPERS

SEC. 306. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by inserting after section 102 the following new subsection:

"DISCLOSURE OF BUMPER IMPACT CAPABILITY

"SEC. 102A. (a) The Secretary shall promulgate, in accordance with the provisions of this section, a regulation establishing passenger motor vehicle bumper system labeling requirements. Such regulation shall apply to passenger motor vehicles manufactured for model years beginning more than one hundred and eighty days after the date such regulation is promulgated, as provided in subsection (c)(2) of this section.

"(b)(1) The regulation required to be promulgated in subsection (a) of this section shall provide that, before any passenger motor vehicle is offered for sale, the manufacturer shall affix a label to such vehicle, in a format prescribed in such regulation, disclosing an impact speed at which the manufacturer represents that the vehicle meets the applicable damage criteria.

"(2) For purposes of this subsection, the term 'applicable damage criteria' means the damage criteria applicable under section 581.5(c) of title 49, Code of Federal Regulations (as in effect on the date of enactment of this section).

"(c)(1) Not later than ninety days after the date of enactment of this section, the Secretary shall publish in the Federal Register a proposed initial regulation under this section.

"(2) Not later than one hundred and fifty days after such date of enactment, the Secretary shall promulgate a final initial regulation under this section.

"(d) The Secretary may allow a manufacturer to comply with the labeling requirements of subsection (b) of this section by permitting such manufacturer to make the bumper system impact speed disclosure required in subsection (b) of this section on the label required by section 506 of this Act or section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

"(e) The regulation promulgated under subsection (a) of this section shall provide that the information disclosed under this section be provided to the Secretary at the beginning of the model year for the model involved. As soon as practicable after receiving such information, the Secretary shall furnish and distribute to the public such information in a simple and readily understandable form in order to facilitate comparison among the various types of passenger motor vehicles. The Secretary may by rule require automobile dealers to distribute to prospective purchasers any information compiled pursuant to this subsection.

"(f) For purposes of this section, the term 'passenger motor vehicle' means any motor vehicle to which the standard under part 581 of title 49, Code of Federal Regulations, is applicable.".

CHILD BOOSTER SEATS

SEC. 307. (a) In accordance with applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Secretary shall conduct a rulemaking to amend Federal Motor Vehicle Safety Standard 213, published as section 571.213 of title 49, Code of Federal Regulations, to increase the safety of child booster seats used in passenger automobiles. The rulemaking shall be initiated not later than thirty days after the date of enactment of this Act and completed not later than twelve months after such date of enactment.

(b) As used in this section, the term "child booster seat" has the meaning given the term "booster seat" in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

AIRBAG REQUIREMENT FOR FEDERAL PASSENGER VEHICLES

SEC. 308. The Secretary, in cooperation with the Administrator of General Services and the heads of other appropriate Federal agencies, shall establish a program requiring that all passenger automobiles acquired after September 30, 1990, for use by the Federal Government be equipped, to the maximum extent practicable, with driver-side airbags and that all passenger automobiles acquired after September 30, 1993, for use by the Federal Government be equipped, to the maximum extent practicable, with airbags for both the driver and front seat outboard passenger seating positions.

STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

SEC. 309. Part A of title III of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1961 et seq.) is amended by adding at the end the following new section:

"STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

"SEC. 304. (a) The Secretary shall, within thirty days after the date of enactment of this section, enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the effectiveness of State motor vehicle safety inspection programs in—

"(1) reducing motor vehicle accidents that result in injuries and deaths; and

"(2) limiting the number of defective or unsafe motor vehicles on the highways.

"(b)(1) The study shall include an evaluation of the implementation, inspection criteria, personnel, budgeting, and enforcement of all types of State motor vehicle inspection programs or periodic motor vehicle inspection programs, including inspections of motor vehicle brakes, glass, steering, suspension, and tires.

"(2) If warranted by the study, the National Academy of Sciences shall develop and submit to the Congress recommendations for an effective and efficient State motor vehicle safety inspection program.

"(c) The study shall also consider the feasibility of use by States of private organizations to conduct motor vehicle safety inspection programs and of combining safety and emission inspection programs.

"(d) Appropriate public and private agencies and organizations, including the Secretary, the Administrator of the Environmental Protection Agency, affected industries and consumer organizations, State and local officials, and the motor vehicle insurance industry should be consulted in conducting the study required under this section.

"(e) The study required by subsection (a) shall be completed and transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives within nineteen months after the date of enactment of this section.".

RECALL OF CERTAIN MOTOR VEHICLES

SEC. 310. (a) Section 153 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1413) is amended by adding at the end the following new subsections:

"(d) If the Secretary determines that a notification sent by a manufacturer pursuant to subsection (c) of this section has not resulted in an adequate number of vehicles or items of equipment being returned for remedy, the Secretary may direct the manufacturer to send a second notification in such manner as the Secretary may by regulation prescribe.

"(e)(1) Any lessor who receives a notification required by section 151 or 152 pertain-

ing to any leased motor vehicle shall send a copy of such notice to the lessee in such manner as the Secretary may by regulation prescribe.

"(2) For purposes of this subsection, the term 'leased motor vehicle' means any motor vehicle which is leased to a person for a term of at least four months by a lessor who has leased five or more vehicles in the twelve months preceding the date of the notification.".

(b) Section 154 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1414) is amended by adding at the end the following:

"(d) If notification is required under section 151 or by an order under section 152(b) and has been furnished by the manufacturer to a dealer of motor vehicles with respect to any new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification which fails to comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety, such dealer may sell or lease such motor vehicle or item of replacement equipment only if—

"(1) the defect or failure to comply has been remedied in accordance with this section before delivery under such sale or lease; or

"(2) in the case of notification required by an order under section 152(b), enforcement of the order has been restrained in an action to which section 155(a) applies or such order has been set aside in such an action.

Nothing in this subsection shall be construed to prohibit any dealer from offering for sale or lease such vehicle or item of equipment.".

STUDY OF DARKENED WINDOWS

SEC. 311. The Administrator of the National Highway Traffic Safety Administration shall conduct a study of the use of darkened windshields and window glass in passenger automobiles. In particular, the study shall consider the effects of such use on the safe operation of passenger automobiles, as well as on the hazards from such use to the safety of law enforcement personnel. In conducting such study, the Administrator shall consult with appropriate industry representatives, officials of law enforcement departments and agencies, and consumer representatives. The Administrator shall submit the results of such study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives not later than six months after the date of enactment of this Act.

PETITIONS REGARDING CORPORATE AVERAGE FUEL ECONOMY STANDARDS

SEC. 312. Section 502(d)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(d)(1)) is amended by striking "1980. Such application" and inserting in lieu thereof the following: "1980, or for any model year after model year 1991. Any application seeking such modification".

JUDICIAL REVIEW OF ACTIONS ON CERTAIN PETITIONS

SEC. 313. Section 124(d) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1410a(d)) is amended by adding at the end the following: "The denial of such petition is final agency action subject to judicial review as provided in section 706 of title 5, United States Code.".

BUMPER STANDARD

SEC. 314. (a) Not later than one year after the date of enactment of this Act, the Secretary shall, in accordance with section 102 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1912), amend the bumper standard published as part 581 of title 49, Code of Federal Regulations, to ensure that such standard is identical to the bumper standard under such part 581 which was in effect on January 1, 1982. The amended standard shall apply to all passenger automobiles manufactured after September 1, 1990.

(b) Nothing in this section shall be construed to prohibit the Secretary from requiring under such part 581 that passenger automobile bumpers be capable of resisting impact speeds higher than those specified in the bumper standard in effect under such part 581 on January 1, 1982.

GRANT PROGRAM CONCERNING USE OF SEATBELTS AND CHILD RESTRAINT SYSTEMS

SEC. 315. (a) Chapter 4 of title 23, United States Code, is amended by adding at the end of the following new section: "§ 411. Seatbelt and child restraint programs

"(a) Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement seatbelt and child restraint programs which include measures described in this section to foster the increased use of seatbelts and the correct use of child restraint systems. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for seatbelt and child restraint programs at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this section.

"(c) No State may receive grants under this section in more than three fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the seatbelt and child restraint program adopted by the State pursuant to subsection (a) of this section;

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) Subject to subsection (c), the amount of a grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) of this section shall equal 20 percent of the amount apportioned to such State for fiscal year 1990 under section 402.

"(e) A State is eligible for a grant under this section if such State—

"(1) has in force and effect a law requiring all occupants of a passenger automobile to use seatbelts;

"(2) has achieved—

"(A) in the year immediately preceding a first-year grant, the lesser of either (i) 70 percent seatbelt use by occupants of passenger automobiles in the State or (ii) an increase of at least 20 percent over the rate of seatbelt use by such occupants achieved in 1989;

"(B) in the year immediately preceding a second-year grant, the lesser of either (i) 80 percent seatbelt use by such occupants or (ii) an increase of at least 35 percent over the rate of seatbelt use by such occupants achieved in 1989; and

"(C) in the year immediately preceding a third-year grant, the lesser of either (i) 90 percent seatbelt use by such occupants or (ii) an increase of at least 45 percent over the rate of seatbelt use by such occupants achieved in 1989; and

"(3) has in force and effect an effective program, as determined by the Secretary, for encouraging the correct use of child restraint systems.

"(f) As used in this section, the term 'child restraint system' has the meaning given such term in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

"(g) There are authorized to be appropriated, from any funds in the Treasury not otherwise appropriated, to carry out this section, $10,000,000 for the fiscal year 1990, and $20,000,000 for each of the fiscal years 1991 and 1992.".

(b) The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following: "411. Seatbelt and child restraint programs.".●

● Mr. HOLLINGS. Mr. President, I am pleased to join with my Commerce Committee colleagues Senator BRYAN, Chairman of the Consumer Subcommittee, Senator GORTON, ranking Republican member of the subcommittee, and others in cosponsoring this important safety legislation [NHTSA]. In the 100th Congress I was a cosponsor of S. 853, which addressed many of the safety issues covered in this bill. I was disappointed that, despite the Senate's passage of NHTSA authorization legislation very early in the 100th Congress, the House of Representatives did not take up this matter in the last Congress. However, these are important matters, and we will try again to complete our work in the Senate in a timely fashion with the hope that the House also will consider these issues.

There is no question that NHTSA's work remains a vital part of our efforts to protect the public safety. Nearly 900 Americans die each week as a result of automobile accidents, and many of these deaths could be prevented by efforts in which NHTSA can assist. Availability of lap/shoulder seat belts in both the front and rear seats of cars, and efforts to make sure that people use them, would save many lives. Prevention of drunk driving and education of the public vehicle safety features would also save many lives. This bill addresses those and other issues.

Equally as important, this bill continues efforts, underway for too many years, to ensure that vehicles provide adequate protection in side impact crashes, and that multipurpose vehicles contain as many safety features as possible. Several Commerce Commit-

tee measures over the years have attempted to resolve these issues.

I am convinced that, by creating and supporting NHTSA, Congress has gone a long way in preventing needless deaths and injuries. We must continue to be vigiliant and to improve highway safety. This bill is an important part of that effort, and I urge my colleagues to support it.●

● Mr. DANFORTH. Mr. President, improving highway safety does not get the attention it deserves. More than 94 percent of all transportation-related fatalities occur on our highways. Last year nearly 47,000 Americans were killed in highway accidents, and increase of more than 500 fatalities from 1987. The toll would have been worse if the Congress, with the support of local governments, industry, and the safety community, had not toughened drunk driving laws and enforcement and made improvements in heavy truck and bus safety.

The Congress has done little in recent years to improve the safety of passenger cars, small trucks, minivans, and sport utility vehicles. For this reason, I am pleased to cosponsor the National Highway Traffic Safety Administration Authorization Act of 1989. This bill contains a number of long overdue safety measures. For example, it requires improved side impact protection. It has been known for 10 years that the existing standards does little to protect occupants in car-to-car side crashes. Our bill also requires that light trucks and minivans have basic safety protections such as minimum roof crush resistance, head restraints, high center-mounted brake lights, passive restraints and minimum stability. Several of these standards have been required for passenger cars for 20 years. Moreover, our bill requires shoulder/lap belt combinations for rear seat passengers. For 21 years these combination belts have been required for front seat occupants because they are safer than lap only belts. Mr. President, this is not a list of luxury options. These are basic safety protections that every family deserves.

Highway safety has long been a bipartisan issue in the Senate. I am glad to be joining Senator BRYAN, the new chairman of the Consumer Subcommittee; Senator HOLLINGS, the chairman of the Commerce Committee; Senator GORTON, the ranking Republican on the Consumer Subcommittee, and others in introducing this important legislation.

Mr. President, let me summarize some of the long overdue safety measures in this legislation.

SIDE IMPACT

Mr. President, each year 9,000 Americans are killed in side impact crashes. In 1979, the National Highway Traffic Safety Administration [NHTSA] recognized that the current passenger car side impact standard, which requires a door beam, is inadequate. NHTSA closed its side impact rulemaking in 1982 and did not reopen it until 1988. Our bill would require NHTSA to write an improved side impact standard.

CRASHWORTHINESS RATINGS

Crashworthiness ratings would provide valuable information to the American family buying a vehicle and needing to know how its safety compares with that of other vehicles. Our bill instructs NHTSA and the National Academy of Sciences to work together to develop such a rating system.

MULTIPURPOSE VEHICLES

Multipurpose vehicles [MPV's], which include pickups, minivans, and four-wheel drive vehicles, are among the hottest items in dealer showrooms. Between 1971 and 1987, the MVP share of light-duty vehicle market jumped from 15 to 32 percent. MPV sales 4.6 million in 1987. MPV sales have mushroomed because these relatively inexpensive vehicles are being used as pleasure cars. The pickup is used more in the city and suburbs than on the farm, and the minivan is the station wagon of the 1980's.

Unfortunately, the family that takes a pickup or minivan to get groceries or pick up the kids is using a vehicle that lacks many basic safety features. Although MPV's compete directly with passenger cars, NHTSA has exempted them from many of the passenger car safety standards. These exemptions have contributed to the annual toll of more than 7,200 MPV fatalities.

Today's bill requires NHTSA to take six steps to improve MPV safety. Five of these steps were in NHTSA legislation previously passed by the Senate.

The first step NHTSA must take is to require head restraints for MPV's. These devices, which prevent head and neck injuries, have been required in passenger cars since 1968. Head restraints in MPV's are not required, even though, for example, a small truck passenger's head is only inches from the rear window.

The second step would be to require high center mounted rear brake lights. These lights might prevent some of the 270,000 annual MPV rear-end collisions.

The third step would apply the passive retraint rule to MPV's. According to an Insurance Institute for Highway Safety [IIHS] study, a major cause of death in MPV crashes is passenger ejection during rollover. IIHS found passenger ejection was the cause of death in 46 percent of single vehicle crashes involving small utility vehicles. In contrast, 16 percent of small car single vehicle accidents involve ejection. Applying the passive restraint rule's requirement of either automatic seat belts or airbags would help prevent these ejections.

A fourth safety improvement, which is new in this year's NHTSA bill, is a MPV rollover prevention standard. Many MPV's, particularly sport utility vehicles, have high centers of gravity, which can cause them to roll over. For example, NHTSA reports that 64 percent of all single-vehicle Suzuki Samurai accidents involve rollover. The rollover rate for full-sized sedans is only 8 percent. The problems with the Samurai were highlighted in tests conducted by the Consumers Union, publishers of Consumer Reports. Consumers Union had "never before come across a vehicle so vulnerable to rolling over" in its 25 years of vehicle testing. In addition, this week NHTSA announced that it is opening an investigation into rollover accidents involving Ford Bronco II's. Our legislation would require NHTSA to establish a standard for MPV stability in order to prevent rollover problems.

A fifth safety need, which is related to the MPV rollover standard, is minimum roof crush resistance. Passenger cars have had this standard since 1971. MPV's should have this standard because when rollover occurs, MPV passengers need assurance that the vehicle's roof will not collapse.

Finally, NHTSA would be required to conduct a rulemaking to review its system of classification of vehicles under 10,000 pounds. The changing use pattern of MPV's and the recent controversy surrounding tariff treatment of sport utility vehicles both demonstrate the need for a clearer definition of what is an MPV and what is a passenger car.

REAR SEAT SHOULDER BELTS

For 21 years, front seat passengers have had the protection of lap/shoulder belt combinations. Seat belts in the rear seat do not have to have shoulder straps. In August 1986, the National Transportation Safety Board [NTSB] issued a report stating that, in some instances, persons using rear seat lap belts may be inadequately protected against injury and may sustain severe abdominal injuries from the belt itself. Following NTSB's report, NHTSA wrote a concerned parents' group in August 1986, saying it would open a rulemaking on this matter. NHTSA finally opened a rulemaking in November 1988, but still there is no requirement of rear seat shoulder belts.

Today's legislation would direct NHTSA to complete a rulemaking requiring clearly superior rear seat lap/shoulder belts in all newly manufactured cars. It also would require NHTSA to use some of its consumer information program money to inform owners of older cars about retrofitting their cars with these belts.

CHILD BOOSTER SEATS

A booster seat is a small car seat without a back or sides that is used for a child too big to fit into a toddler safety seat. Generally, booster seats

are recommended for children between 30 and 60 pounds.

Booster seats are designed to elevate children so that they are in the proper position to use lap and shoulder belts. Until 1984, these seats were designed with an upper body harness and tether strap to protect children in seating positions without shoulder belts. Many parents used these seats without installing the tether. Seats installed this way often failed during crashes. As a result, all but one booster seat manufacturer discontinued production of boosters using the tether.

When the upper body restraint was discontinued, manufacturers supplemented the seat with an abdominal shield that is supposed to hold a child in the seat during a crash. A study conducted for NHTSA shows that many of these shields place extreme pressure on the abdomen during a crash.

Our bill requires a solution to this problem. First it requires that rear seat belts have shoulder harnesses that can be used with booster seats. Moreover, it requires NHTSA to modify its child safety seat standard to ensure the effectiveness of booster seats.

BUMPER IMPROVEMENTS

Mr. President, our bill requires DOT to raise the bumper collision standard to 5 miles per hour [mph]. In 1982, NHTSA lowered its standards for bumpers from 5 mph to a 2.5 mph standard. Since this change, car bumpers have become so weak as to be useless. A recent study conducted by the IIHS tested the bumper strength of 34 different cars in a 5 mph crash test. Twenty-eight of those vehicles incurred damages of over $1,000. In the worst case, the Isuzu Impulse sustained damages totaling just under $3,500. Before the bumper standard was lowered, the 1981 Ford Escort sustained no damages from the same test.

Our bill also requires NHTSA to write a rule under which automakers would label the bumpers of their vehicles to indicate the maximum speed at which they could prevent the vehicle from withstanding structural damage. NHTSA promised to establish such a bumper information system 7 years ago, and has still failed to do so.

AIRBAGS IN FEDERALLY PURCHASED VEHICLES

Mr. President, airbags are the most effective technology for preventing injuries and fatalities in frontal crashes. When used with a seat belt, an airbag can prevent serious injury in all but the most severe accidents.

Under DOT's passive restraint rule, 10 percent of model year 1987 cars, 25 percent of model year 1988 cars, 40 percent of model year 1989 cars and 100 percent of all cars manufactured in model year 1990 and beyond must be equipped with passive restraints. To comply with the passive restraint rule, manufacturers have the choice of equipping their cars with either airbags, automatic seat belts or specially padded interiors.

Mr. President, I am pleased that many automakers have chosen airbags to comply with the passive restraint rule. Chrysler has made driver side airbags standard on all its models. Ford has announced plans to put driver side airbags in 1 million cars in model year 1990. Ford's installation will cover 11 model lines, including models in the lower price ranges. Finally, General Motors has announced plans to install 3 million driver side airbags by model year 1992. All these manufacturers also have plans to install passenger side airbags as well.

Mr. President, the Federal Government has had great success with the 6,500 driver side equipped Ford Tempos it has purchased; 126 of these vehicles have been involved in crashes severe enough to deploy the airbag. None of these deployment crashes have resulted in death and only three of these crashes have seriously injured the car's driver. Airbags have not only prevented death and injury, they have saved the Government payments for medical treatment, hospitalization and survivors' and disability benefits.

Mr. President, beginning with model year 1991, our bill would require Federal Government, to the extent practicable, to purchase vehicles with driver side airbags. Beginning with model year 1994 vehicles, federally purchased vehicles would have both driver and passenger side airbags.

SEAT BELT AND CHILD SAFETY SEAT INCENTIVES

Mr. President, increasing seat belt use is critical to better highway safety. A recent University of Illinois-Chicago study of 1,304 traffic crash victims found that, when victims wore seat belts, their hospital admissions decreased 65 percent. Similarly, another recent study found that North Carolina's mandatory seat belt law will annually prevent 1,100 severe and fatal injuries in that State.

Currently, 31 States have mandatory seat belt laws, but belt use ranges between 27 and 68 percent in these States. States without mandatory belt laws have use rates as low as 15 percent.

Experience demonstrates that there are several key factors to increasing belt use. First, a State must have a belt use law that can be effectively enforced. Laws that provide a minimal fine or only permit citations of drivers guilty of additional traffic violations are less effective. Second, there must be vigorous enforcement and extensive public education about the belt use law. For example, according to a 1986 NHTSA survey, Dallas and Houston both achieved over 70 percent belt use. This success was attributed to extensive publicity, effective organizing by community groups, and a strong enforcement program.

Child care seats are another area needing improvement. All 50 States have laws requiring the use of child cars seats, and between 1981 and 1988 their use rose from 23 to 83 percent. Unfortunately, about 30 percent of safety seats are grossly or partially misused. This greatly reduces their value in reducing death and injury.

Mr. President, our bill would provide States incentives to achieve high belt use rates and encourage proper child safety seat use. To qualify for an initial grant a State would have to: First, establish a child safety seat education program; and second, achieve either 70-percent belt use or a 20-percent increase in belt use from the previous year. Additional grants would require further increases in belt use.

CONCLUSION

Mr. President, our bill contains a number of other worthy provisions on issues such as airbag education, and the development of grassroots efforts to fight drunk driving. These provisions are also important to this comprehensive attack on highway death and injury. I urge my colleagues to support this important legislation.●

● Mr. GORTON. Mr. President, I am pleased to cosponsor the National Highway Traffic Safety Authorization Act of 1989. The National Highway Traffic Safety Administration [NHTSA] is an agency with several important missions—improving highway safety, providing information to those purchasing vehicles and establishing fuel economy standards for motor vehicles.

Despite the importance of NHTSA, no legislation authorizing this agency has been enacted since 1982. In the last 7 years, the Senate Commerce Committee has reported three NHTSA related bills and the full Senate has approved, without opposition, two of these bills. We have not been able to reach agreement with the House on this legislation, however.

Our bill would require NHTSA action on a number of important safety, consumer, and fuel economy issues that have been ignored during this legislative stalemate. Let me summarize some of its more important provisions.

Improving highway safety is NHTSA's most important mission and rightly so. Last year, 47,000 Americans died in highway crashes. That is, on average, almost 130 people killed every day.

This is a record on which we can improve. Our bill would establish a schedule for improving safety. It would require NHTSA to finish the improved side impact protection standard that has been pending for 10 years. Our bill would improve the safety of small trucks and minivans by

making sure that they have basic safety protections such as minimum roof crush resistance, head restraints, high center mounted brake lights, and passive restraints. Our bill would also ensure that vehicles have sufficient stability so that they are not prone to roll over. Finally, it would require shoulder straps for rear seat safety belts just as they have been required for front seat safety belts since 1968.

NHTSA also has a mandate to help those who purchase vehicles under the Motor Vehicle Information and Cost Savings Act. One of NHTSA's responsibilities under this act is the establishment of minimum standards for bumpers. In 1982, NHTSA lowered its bumper standard from 5 to 2.5 miles per hour [mph]. At the time, it promised to develop a rating system to inform consumers about the strength of automobile bumpers, but it never developed such a system.

We never should have allowed the bumper standard to be lowered. Each year the Insurance Institute for Highway Safety [IIHS] conducts crash tests with bumpers. More than 80 percent of the 1989 models IIHS tested had damages of over $1,000 in the 5 mph test. The 2.5 mph standard is unacceptable. With the ever-increasing cost of automobile insurance and higher deductible levels, carowners cannot afford to drive vehicles equipped with tissue paper bumpers that offer no protection from low speed collisions.

Our bill would address the bumper issue in two ways. First, it would require NHTSA to return to its 1982 5 mph bumper standard. Second, it would require automakers to inform consumers of the maximum speed at which a vehicle's bumper can prevent damage to the vehicle.

NHTSA also administers the corporate average fuel economy [CAFE] standards. These standards are important for energy conservation. CAFE also has positive environmental consequences because it encourages the development of vehicles that burn fuel efficiently. Our bill recognizes the need for better planning in the CAFE area. It requires that any automaker's request that NHTSA lower the CAFE standard be filed 24 months in advance of the model year for which the decrease is sought. This will provide NHTSA time to weigh the economic benefit of a lower CAFE standard for an automaker against the energy and environmental consequences of the requested decrease.

In conclusion, I urge my colleagues to support this important legislation, and I will push for its early consideration by the Commerce Committee and the Senate.●

● Mr. KERRY. Mr. President, I am pleased be a cosponsor of the National Traffic and Safety Administration Authorization Act of 1989. Similar legislation passed the Senate in the 100th Congress but, unfortunately, was not enacted. I sincerely hope that disagreements will be worked out so that this important legislation will be signed by the President as soon as possible.

This reauthorization legislation incorporates some provisions not included in S. 853. It would restore the 5 mile per hour bumper standard and the requirement that petitions to reduce CAFE standards be filed 24 months in advance of the model year to which they apply. In addition, there are provisions intended to improve the safety of children's booster seats and to encourage seatbelt use.

It concerns me that we are forced to include in this legislation a handicapped parking provision that was enacted last year but which the Department of Transportation has refused to enforce.

Recent correspondence from the Department stated:

> The handicapped parking legislation to which you refer directed the Secretary of Transportation to adopt regulations to provide a uniform system of handicapped parking and to encourage adoption of such system by all States. A highway funding penalty for failure to adopt the uniform handicapped parking regulation was included in an earlier version of the bill that led to this legislation, but the final legislation does not include such a provision. Under these circumstances, it would not be reasonable to conclude that Congress intended the regulations to be binding on the States or that the Department mandate that the States comply with the rules.

Mr. President, I am disappointed at the Department of Transportation's interpretation of congressional intent. It is clear that the Department should issue strict regulations to force the States to adopt a uniform system of parking for individuals who are disabled. In discussions with former Secretary Burnley, I had made it clear why it was necessary for DOT to step in and force the States to comply and what the intent of the Congress was. Furthermore, upon final passage of the enacting legislation, I again reiterated my intent as well as concern.

Because the Department has chosen not to implement the enacted provision, it is again included in this legislation in its original form with the high, way funding penalty.

There is an overwhelming need for Federal legislation. Over 6.5 million disabled Americans use automobiles and require special parking permits. States often do not honor other States' permits. States have dragged their feet in accommodating the problems the disabled have in traveling. Even if a State does offer reciprocity, enforcement officials often do not recognize a handicapped plate because a uniform plate does not exist.

Because of the lack of enforcement by the Department and because of the need for enforcement, it is imperative that we act on the handicapped parking provision again this year.●

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By Mr. HEINZ:

S. 674. A bill to regulate above ground storage tanks having the capacity to store at least 1 million gallons of petroleum, and for other purposes; to the Committee on Environment and Public Works.

REGULATING ABOVE GROUND STORAGE TANKS

Mr. HEINZ. Mr. President, the bill I am introducing today, the Above Ground Storage Tank Spill Prevention Act of 1989, will require EPA to promulgate national requirements concerning large holding tanks that pose a risk of catastrophic failure.

My bill comes too late to prevent the property damage, water contamination, and hardships caused by an oil tank collapse outside my hometown last year. But I am proposing it in order to ensure that our Pennsylvania experience is not repeated anywhere else in this country.

The incident I refer to took place on January 2, 1988. At the town of Floreffe in Allegheny County, a fully loaded, 4 million gallon above ground storage tank owned by the Ashland Oil Co. burst. Inside of 10 seconds, nearly 1 million gallons of No. 2 diesel fuel spilled into the Monongahela River.

The spill contaminated the Monongehala and Ohio Rivers, both of which provide drinking water to hundreds of cities and towns. As the oil made its way downriver, many public water systems in Pennsylvania, West Virginia, and Ohio communities—Robinson, North Fayette, West View, Midland, Toronto, Wheeling, and Sisterville, to name a few—were forced to close or heavily restrict their water intakes.

Mr. President, during the course of this emergency, many of our local leaders had to improvise to ensure an adequate supply of water for emergency as well as normal daily needs. In the back of everyone's minds was the fear that a major fire would erupt before the water mains could be reopened.

Clean up efforts were prompt, comprehensive and strenuous, yet only marginally successful—only 20 percent of the spilled fuel was isolated and recovered.

More than 830,000 people went completely without or with considerably curtailed drinking water until the black slime dissipated a number of weeks later. During these weeks, the contamination killed thousands of birds and fish indigenous to the rivers.

Mr. President, in reviewing how the disaster happened, there are certain conclusions to be drawn.

First, there has been little regulation, and less coordination among gov-

ernments, to ensure environmental safeguards are met.

There is a conspicuous lack of Federal and State requirements to monitor the use and operation of aboveground storage tanks that contain large volumes of liquid petroleum products.

Federal regulation applies only to containment plans and does not directly address tank integrity.

State and local law may require an owner or operator of an aboveground storage tank to obtain a permit for construction of the tank and to have the tank inspected after construction is complete. However, these regulations vary widely from locale to locale: they are often difficult to enforce; the technical expertise to do so may be lacking especially at the local level; and there is not a regular means of monitoring these tanks after permits have been issued.

Experience has made us all too aware that large capacity aboveground storage tanks that have been operating for a long time or that have been altered through reconstruction or relocation are most likely to have structural integrity problems.

The larger the tank, the more likely the environmental damage will be severe.

My legislation requires EPA to develop regulations. It requires either EPA or an EPA-approved State program to implement and enforce these regulations; it requires owners or operators of tanks that experience a failure and spill their petroleum contents into the environment to take corrective action, and it requires States to compile an inventory of aboveground storage tanks.

And given our limited resources, we must direct our efforts at the large capacity tanks. My bill would focus on tanks with the capacity to store up to 1 million gallons of petroleum and are at least 30 years old or have been relocated or reconstructed.

New inspection and permitting requirements contained in the bill are aimed directly at preventing environmental contamination. Inspections by trained experts, periodic reinspections, permitting, and permit renewals will reduce the risk that a tank will fail. Requiring that a tank be properly dismantled at the end of its useful life will prevent spills from a tank that is no longer required to be monitored and inspected.

This legislation requires tank owners or operators to report a spill to the relevant regulatory agency, either EPA or its State-level equivalent. In such a scenario, corrective actions required of owners or operators would include cleaning up surface and ground water, surface and subsurface soils, the air, and, if necessary, as in the tragedy in Pennsylvania in January 1988, supplying alternative drinking water sources.

Owners and operators will be required to demonstrate beforehand that they have the financial ability to take all required corrective actions without delay. After a spill has occurred, it an owner or operator cannot or does not take corrective actions as required, the EPA or EPA-approved State agency would be required to take corrective actions and impose penalties.

In order to ensure that EPA or a State agency has access to sufficient funds to clean up a spill and to assist injured communities and people where there is not a responsible party, this bill allows the leaking underground storage tank trust fund to be used. In this way if a spill takes place, and there is no financially responsible party—an absolutely worst-case scenario—the so-called LUST trust fund, financed by a tax on gasoline, will be sufficient to pay for cleanup and compensation for spills.

These requirements will ensure that the tanks are properly maintained and are used for the purpose for which they were designed. As introduced, the act will ensure that the party responsible for a spill follow EPA procedures for proper cleanup.

I urge my colleagues to support this legislation so that we might avoid another catastrophe like the Ashland spill.

I ask unanimous consent that the bill and a section-by-section summary be printed in the RECORD at this point.

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

S. 674

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Solid Waste Disposal Act is amended by adding the following new subtitle after subtitle I:

"SUBTITLE J—REGULATION OF ABOVE GROUND STORAGE TANKS

"DEFINITIONS AND EXEMPTIONS

"SEC. 9020. For purposes of this subtitle—

"(1) The term 'above ground storage tank' means any one or combination of tanks located above ground (including underground pipes connected thereto) which has or have the capacity to hold, and is or are used to contain an accumulation of, at least one million gallons of petroleum. Such term does not include any—

"(A) pipeline facility to the extent (including gathering lines) regulated under—

"(i) the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671, et seq.),

"(ii) the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001, et seq.), or

"(iii) which is an intrastate pipeline facility regulated under State laws comparable to the provisions of law referred to in clause (i) or (ii) of this subparagraph,

"(B) surface impoundment, pit, pond, or lagoon,

"(C) liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.

The term 'above ground storage tank' shall not include any pipes connected to any tank which is described in subparagraphs (A) through (C).

"(2) The term 'petroleum' means petroleum, including crude oil and refined products thereof (including fuel oil) or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 per square inch absolute).

"(3) The term 'regulated substance' means any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under subtitle (C)).

"(4) The term 'owner' means—

"(A) in the case of an above ground storage tank in use on the date of enactment of this section, or brought into use after that date, any person who owns an above ground storage tank used for the storage, use, or dispensing of petroleum, and

"(B) in the case of any above ground storage tank in use before the date of enactment of this section, but no longer in use after such date of enactment, any person who owned such tank immediately before the discontinuation of its use.

"(5) The term 'operator' means any person in control of, or having responsibility for, the daily operation of the above ground storage tank.

"(6) The term 'release' means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an above ground storage tank into ground water, surface water, surface or subsurface soils.

"(7) The term 'person' has the same meaning as provided in section 1004(15), except that such term includes a consortium, a joint venture, a commercial entity, and the United States Government.

"(8) The term 'nonoperational storage tank' means any above ground storage tank in which petroleum will not be deposited or from which petroleum will not be dispensed after the date of the enactment of this section.

"NOTIFICATION

"SEC. 9021. (a) REQUIREMENTS.—(1) Within 18 months after the date of enactment of this section, each owner of a storage tank located above ground, with a capacity of at least 25,000 gallons, shall notify the State or local agency or department designated pursuant to subsection (b)(1) of the existence of such tank, specifying the age, size, type, location, assembly history, and uses of such tank.

"(2) Any owner which brings into use a storage tank located above ground, with a capacity of at least 25,000 gallons, after the initial notification period specified under paragraph (1), shall notify the designated State or local agency or department within 30 days of the existence of such tank, specifying the age, size, type, location, assembly history, and uses of such tank.

"(3) Paragraphs (1) and (2) of this subsection shall not apply to tanks for which notice was given pursuant to section 103(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or section 9002 of this Act.

"(4) Beginning 30 days after the Administrator prescribes the form of notice pursuant to subsection (b)(2) and for 18 months thereafter, any person who deposits petroleum in an above ground storage tank shall reasonably notify the owner or operator of such tank of the owner's notification requirements pursuant to this subsection.

"(b) AGENCY DESIGNATION.—(1) Within 180 days after the enactment of this section, the Governor of each State shall designate the appropriate State agency or department or local agencies or departments to receive the notifications under subsection (a) (1) or (2).

"(2) Within 12 months after the date of enactment of this section, the Administrator, in consultation with State and local officials designated pursuant to paragraph (1), and after notice and opportunity for public comment, shall prescribe the form of the notice and the information to be included in the notifications under subsection (a) (1) or (2).

"(c) STATE INVENTORIES.— Each State shall make an inventory of all above ground storage tanks in such State. In making such an inventory, the State shall utilize and aggregate the data in the notification forms submitted pursuant to subsection (a) of this section. Each State shall submit such aggregated data to the Administrator not later than 24 months after the date of enactment of this subsection.

"RELEASE PREVENTION, CORRECTION, AND FINANCIAL RESPONSIBILITY REGULATIONS

"SEC. 9022. (a) REGULATIONS.—The Administrator, after notice and opportunity for public comment, and at least 3 months before the effective dates specified in subsection (f), shall promulgate prevention, correction, and financial responsibility regulations applicable to owners and operators of above ground storage tanks, as may be necessary to protect human health and the environment.

"(b) APPLICABILITY.—The regulations issued under this section shall apply to above ground storage tanks that—

"(1) are 30 or more years old;

"(2) have been reassembled in whole or in part; or

"(3) have been relocated from their site of original placement.

"(c)(1) REQUIREMENTS.—The regulations promulgated pursuant to this section shall include, but need not be limited to, the following requirements respecting above ground storage tanks—

"(A) requirements for inspection of the structural integrity of regulated above ground storage tanks;

"(B) requirements for the granting of operating permits pursuant to an inspection by the regulatory authority to ensure the integrity of the tank structure in order to prevent a release of petroleum into the environment;

"(C) requirements for subsequent periodic inspections of the above ground storage tanks and renewal of the operating permit;

"(D) requirements for immediate reporting of any releases and corrective action taken in response to a release from an above ground storage tank;

"(E) requirements for taking corrective action in response to a release from an above ground storage tank;

"(F) requirements for closure of above ground storage tanks to prevent future releases of petroleum into the environment; and

"(G) requirements for maintaining evidence of financial responsibility for the estimated costs of closure and for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden accidental releases arising from operating an above ground storage tank.

"(2) In promulgating regulations under this section, the Administrator may take into consideration factors, including, but not limited to: location of the tanks, proximity of the tanks to drinking water supplies; age of tanks; condition of the tanks; history of maintenance; sizes of the tanks; any reassembling or altering of the tanks; type of petroleum contained in the tanks; existence of secondary containment designed and constructed to contain any release, including a release caused by a sudden and complete rupture of the tank; existing State programs regulating above ground storage tanks; and current industry recommended practices.

"(d) FINANCIAL RESPONSIBILITY.—

"(1)(A) The Administrator, in promulgating financial responsibility regulations under this section, shall conduct a study to determine the appropriate amounts of coverage, both per occurrence and aggregate. The factors to be evaluated by the Administrator in conducting the study to determine the appropriate amounts of coverage shall include, but not be limited to: the estimated costs of cleaning up navigable waters, groundwater, and surface and subsurface soils; the costs of correcting any other environmental damage; the costs of mitigating harm to wildlife; the costs incurred by Federal, State, and local government entities resulting from actions to protect public health and the environment; the costs incurred by private third parties due to the release; the availability of insurance and other methods of financial responsibility; and the ability of owners or operators to self-insure and to establish risk retention groups.

"(B) On the basis of the results of the study conducted under this subsection, the Administrator shall require owners or operators to demonstrate financial responsibility for the costs of cleaning up a release and compensating third parties injured by a release.

"(C) The Administrator, in promulgating financial responsibility requirements under this section, shall require owners or operators to demonstrate financial responsibility in an amount adequate to cover the costs of closure.

"(2) Financial responsibility required by this subsection may be established in accordance with regulations promulgated by the Administrator by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, qualification as a self-insurer, or any other method satisfactory to the Administrator. In promulgating requirements under this subsection, the Administrator is authorized to specify policy or other contractual terms, conditions, or defenses, which are necessary or are unacceptable in establishing such evidence of financial responsibility in order to effectuate the purposes of this subtitle.

"(3) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement, pursuant to the Federal Bankruptcy Code or where with reasonable diligence jurisdiction in any State court of the Federal courts cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this subsection may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this paragraph such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

"(4) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.

"(5) For the purpose of this subsection, the term 'guarantor' means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this subsection.

"(6) The Administrator may waive the financial responsibility requirements under this section upon the determination that the owner or operator has demonstrated that secondary containment designed and constructed to be adequate to hold any release, including a release caused by a sudden and complete rupture of the above ground storage tank, exists at the tank site.

"(e) EFFECTIVE DATE.—Regulations issued pursuant to this section shall be effective not later than 30 months after the date of enactment of this section.

"(f) EPA RESPONSE PROGRAM FOR PETROLEUM.—

"(1) BEFORE REGULATIONS.—Before the effective date of regulations under this section, the Administrator (or a State pursuant to paragraph (6) of this subsection) is authorized to—

"(A) require the owner or operator of an above ground storage tank to undertake corrective action with respect to any release of petroleum when the Administrator (or the State) determines that such corrective action will be done properly and promptly by the owner or operator of the above ground storage tank from which the release occurs; or

"(B) undertake corrective action with respect to any release of petroleum into the environment from an above ground storage tank if such action is necessary, in the judgment of the Administrator (or the State), to protect human health and the environment. The corrective action undertaken or required under this paragraph shall be such as may be necessary to protect human health and the environment.

"(2) AFTER REGULATIONS.—Following the effective date of regulations under subsection (c), all actions or orders of the Administrator (or a State pursuant to paragraph (6)) described in paragraph (1) of this subsection shall be in conformity with such regulations. Following such effective date, the Administrator (or the State) may undertake corrective action with respect to any release of petroleum into the environment from an above ground storage tank only if such action is necessary, in the judgment of the Administrator (or the State), to protect human health and the environment and one or more of the following situations exists:

"(A) A situation which requires prompt action by the Administrator (or the State) under this paragraph to protect human health and the environment.

"(B) The owner or operator of the tank has failed or refused to comply with an order of the Administrator under this subsection or section 9025 or with the order of a State under this subsection to comply with the corrective action regulations.

"(3) CORRECTIVE ACTION ORDERS.—The Administrator is authorized to issue orders to the owner or operator of an above ground storage tank to carry out subparagraph (A) of paragraph (1) or to carry out regulations issued under subsection (c)(1)(E). A State acting pursuant to paragraph (6) of this subsection is authorized to carry out subparagraph (A) of paragraph (1) only until the State's program is approved by the Administrator under section 9023 of this subtitle. Such orders shall be issued and enforced in the same manner and subject to the same requirements as orders under section 9025.

"(4) ALLOWABLE CORRECTIVE ACTIONS.—The corrective actions undertaken by the Administrator (or a State pursuant to paragraph (6)) may include temporary or permanent relocation of residents and alternative household water supplies. In connection with the performance of any corrective action under paragraph (1) or (3), the Administrator may undertake an exposure assessment as defined in paragraph (9) of this subsection or provide for such an assessment in a cooperative agreement with a State pursuant to paragraph (6) of this subsection. The costs of any such assessment may be treated as corrective action for purposes of paragraph (5), relating to cost recovery.

"(5) RECOVERY OF COSTS.—

"(A) IN GENERAL.—Whenever costs have been incurred by the Administrator, or by a State pursuant to paragraph (6), for undertaking corrective action or enforcement action with respect to the release of petroleum from an above ground storage tank, the owner or operator of such tank shall be liable to the Administrator or the State for such costs. The liability under this paragraph shall be construed to be the standard of liability applicable under section 311 of the Federal Water Pollution Control Act.

"(B) RECOVERY.—In determining the equities for seeking the recovery of costs under subparagraph (A), the Administrator (or a State pursuant to paragraph (6) of this subsection) may consider the amount of financial responsibility required to be maintained under subsections (c) and (d) of this section and the factors considered in establishing such amount.

"(C) EFFECT ON LIABILITY.—

"(i) NO TRANSFERS OF LIABILITY.—No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from the owner or operator of any above ground storage tank or from any person who may be liable for a release or threat of release under this subsection. Nothing in this subsection shall bar any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under this section.

"(ii) NO BAR TO CAUSE OF ACTION.—Nothing in this subsection, including the provisions of clause (i) of this subparagraph, shall bar a cause of action that an owner or operator or any other person subject to liability under this section, or a guarantor, has or would have, by reason of subrogation or otherwise against any person.

"(D) FACILITY.—For purposes of this paragraph, the term 'facility' means, with respect to any owner or operator, all above ground storage tanks used for the storage of petroleum which are owned or operated by such owner or operator and located on a single parcel of property (or on any contiguous or adjacent property).

"(6) STATE AUTHORITIES.—

"(A) GENERAL.—A State may exercise the authorities in paragraphs (1) and (2) of this subsection, subject to the terms and conditions of paragraphs (4), (8), (9), and (10), if—

"(i) the Administrator determines that the State has the capabilities to carry out effective corrective actions and enforcement activities; and

"(ii) the Administrator enters into a cooperative agreement with the State setting out the actions to be undertaken by the State.

"(B) COST SHARE.—Following the effective date of the regulations under this section, the State shall pay 10 per centum of the cost of corrective actions undertaken either by the Administrator or by the State under a cooperative agreement, except that the Administrator may take corrective action at a facility where immediate action is necessary to respond to an imminent and substantial endangerment to human health or the environment if the State fails to pay the cost share.

"(7) EMERGENCY PROCUREMENT POWERS.—Notwithstanding any other provision of law, the Administrator may authorize the use of such emergency procurement powers as he deems necessary.

"(8) DEFINITION OF OWNER.—As used in this subsection, the term 'owner' does not include any person who, without participating in the management of an above ground storage tank and otherwise not engaged in petroleum production, refining, and marketing, holds indicia of ownership primarily to protect the owner's security interest in the tank.

"(9) DEFINITION OF EXPOSURE ASSESSMENT.—As used in this subsection, the term 'exposure assessment' means an assessment to determine the extent of exposure of, or potential for exposure of, individuals to petroleum from a release from an above ground storage tank based on such factors as the nature and extent of contamination and the existence of or potential for pathways of human exposure (including ground or surface water contamination, air emissions, and food chain contamination), the size of the community within the likely pathways of exposure, and the comparison of expected human exposure levels to the short-term and long-term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for such contaminants. Such assessment shall not delay corrective action to abate immediate hazards or reduce exposure.

"(10) FACILITIES WITHOUT FINANCIAL RESPONSIBILITY.—At any facility where the owner or operator has failed to maintain evidence of financial responsibility in amounts at least equal to the amounts established by subsection (d)(1)(B) of this section for whatever reason, the Administrator shall use the authorities provided in subparagraph (A) of paragraph (1) and paragraph (3) of this subsection and section 9025 of this subtitle to order corrective action to clean up such releases. States acting pursuant to paragraph (6) of this subsection shall use the authorities provided in subparagraph (A) of paragraph (1) and paragraph (3) of this subsection to order corrective action to clean up such releases. Notwithstanding the provisions of this paragraph, the Administrator may take the corrective actions authorized by paragraph (4) of this subsection to protect human health at such facilities and shall seek full recovery of the costs of all such actions pursuant to the provisions of paragraph (5)(A) of this subsection and without consideration of the factors in paragraph (5)(B) of this subsection. Nothing in this paragraph shall prevent the Administrator (or a State pursuant to paragraph (6) of this subsection) from taking corrective action at a facility where there is no solvent owner or operator or where immediate action is necessary to respond to an imminent and substantial endangerment of human health or the environment.

"APPROVAL OF STATE PROGRAMS

"SEC. 9023. (a) ELEMENTS OF STATE PROGRAM.—Beginning 30 months after the date of enactment of this section, any State may, submit an above ground storage tank release prevention, correction, and financial responsibility program for review and approval by the Administrator. A State program may be approved by the Administrator under this section only if the State demonstrates that the State program includes the following requirements and provides for adequate enforcement of compliance with such requirements—

"(1) requirements for inspection of the structural integrity of regulated above ground storage tanks;

"(2) requirements for the granting of operating permits pursuant to an inspection by the regular authority to ensure the integrity of the tank structure in order to prevent a release of petroleum into the environment;

"(3) requirements for subsequent periodic inspections of the above ground storage tanks and renewal of the operating permit;

"(4) requirements for immediate reporting of any releases and corrective action taken in response to a release from an above ground storage tank;

"(5) requirements for taking corrective action in response to a release from an above ground storage tank;

"(6) requirements for closure of above ground storage tanks to prevent future releases of petroleum into the environment;

"(7) requirements for maintaining evidence of financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden accidental releases arising from operating above ground storage tank; and

"(8) requirements—

"(A) for notifying the appropriate State agency or department (or local agency or department) designated according to section 9021(b)(1) of the existence of any operational or nonoperational storage tank; and

"(B) for providing the information required on the form issued pursuant to section 9021(b)(2).

"(b) FEDERAL STANDARDS.—(1) A State program submitted under this section may be approved only if the requirements under paragraphs (1) through (7) of subsection (a) are no less stringent than the corresponding requirements standards promulgated by the Administrator pursuant to section 9022(a).

"(c) EPA DETERMINATION.—(1) Within 180 days of the date of receipt of a proposed State program, the Administrator shall, after notice and opportunity for public comment, make a determination whether the State's program complies with the provisions of this section and provides for adequate enforcement of compliance with the

requirements adopted pursuant to this section.

"(2) If the Administrator determines that a State program complies with the provisions of this section and provides for adequate enforcement of compliance with the requirements adopted pursuant to this section, he shall approve the State program in lieu of the Federal program and the State shall have primary enforcement responsibility with respect to requirements of its program.

"(d) WITHDRAWAL OF AUTHORIZATION.—Whenever the Administrator determines after a public hearing that a State is not administering and enforcing a program authorized under this subtitle in accordance with the provisions of this section, he shall so notify the State. If appropriate action is not taken within a reasonable time, not to exceed 120 days after such notification, the Administrator shall withdraw approval of such program and reestablish the Federal program pursuant to this subtitle.

"INSPECTIONS, MONITORING, TESTING, AND CORRECTIVE ACTION

"SEC. 9024. (a) FURNISHING INFORMATION.—For the purposes of issuing and renewing operating permits, developing or assisting in the development of any regulation, conducting any study, taking any corrective action, or enforcing the provisions of this subtitle, any owner or operator of an above ground storage tank shall, upon request of any officer, employee, or representative of the Environmental Protection Agency, duly designated by the Administrator, or upon request of any duly designated officer, employee, or representative of a State, with an approved program, acting pursuant to subsection (f)(6) of section 9022, furnish information relating to such tanks, their associated equipment, their contents, conduct monitoring or testing, permit such officer at all reasonable times to have access to, and to copy, all records relating to such tanks, and to have access for corrective action. For the purposes of issuing and renewing operating permits, developing or assisting in the development of any regulation, conducting any study, taking corrective action, or enforcing the provisions of this subtitle, such officers, employees, or representatives are authorized—

"(1) to enter at reasonable times any establishment or other place where an above ground storage tank is located;

"(2) to inspect and obtain samples from any person of any substance contained in such tank;

"(3) to conduct monitoring or testing of the tanks, associated equipment, contents, or surrounding soils, air, surface water or ground water; and

"(4) to take corrective action.

Each such inspection shall be commenced and completed with reasonable promptness.

"(b) CONFIDENTIALITY.—(1) Any records, reports, or information obtained from any persons under this section shall be available to the public, except that upon a showing satisfactory to the Administrator (or the State, as the case may be) by any person that records, reports, or information, or a particular part thereof, to which the Administrator (or the State, as the case may be) or any officer, employee, or representative thereof has access under this section if made public, would divulge information entitled to protection under section 1905 of title 18 of the United States Code, such information or particular portion thereof shall be considered confidential in accordance with the purposes of that section, except that such record, report, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this subtitle, or when relevant in any proceeding under this subtitle.

"(2) Any person not subject to the provisions of section 1905 of title 18 of the United States Code who knowingly and willfully divulges or discloses any information entitled to protection under this subsection shall, upon conviction, be subject to a fine of not more than $5,000 or to imprisonment not to exceed 1 year, or both.

"(3) In submitting data under this subtitle, a person required to provide such data may—

"(A) designate the data which such person believes is entitled to protection under this subsection, and

"(B) submit such designated data separately from other data submitted under this subtitle.

A designation under this paragraph shall be made in writing and in such manner as the Administrator may prescribe.

"(4) Notwithstanding any limitation contained in this section or any other provision of law, all information reported to, or otherwise obtained, by the Administrator (or any representative of the Administrator) under this Act shall be made available, upon written request of any duly authorized committee of the Congress, to such committee (including records, reports, or information obtained by representatives of the Environmental Protection Agency).

"FEDERAL ENFORCEMENT

"SEC. 9025. (a) COMPLIANCE ORDERS.—(1) Except as provided in paragraph (2), whenever on the basis of any information, the Administrator determines that any person is in violation of any requirement of this subtitle, the Administrator may issue an order requiring compliance within a reasonable specified time period or the Administrator may commence a civil action in the United States district court in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

"(2) In the case of a violation of any requirement of this subtitle where such violation occurs in a State with a program approved under section 9023, the Administrator shall give notice to the State in which such violation has occurred prior to issuing an order or commencing a civil action under this section.

"(3) If a violator fails to comply with an order under this subsection within the time specified in the order, he shall be liable for a civil penalty of not more than $25,000 for each day of continued noncompliance.

"(b) PROCEDURE.—Any order issued under this section shall become final unless, no later than 30 days after the order is served, the person or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

"(c) CONTENTS OF ORDER.—Any order issued under this section shall state with reasonable specificity the nature of the violation, specify a reasonable time for compliance, and assess a penalty, if any, which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements.

"(d) CIVIL PENALTIES.—(1) Any owner who knowingly fails to notify or submits false information pursuant to section 9021(a) shall be subject to a civil penalty not to exceed $10,000 for each tank for which notification is not given or false information is submitted.

"(2) Any owner or operator of an above ground storage tank who fails to comply with—

"(A) any requirement promulgated by the Administrator under section 9022; or

"(B) any requirement of a State program approved pursuant to section 9023;

shall be subject to a civil penalty not to exceed $10,000 for each tank for each day of violation.

"FEDERAL FACILITIES

"SEC. 9026. (a) APPLICATION OF SUBTITLE.—Each department, agency, and instrumentality of the Federal Government having jurisdiction over any above ground storage tank shall be subject to and comply with all Federal, State, interstate, and local requirements, applicable to such tank, both substantive and procedural, in the same manner, and to the same extent, as any other person is subject to such requirements, including payment of reasonable service charges. Neither the United States, nor any agent, employee, or officer thereof shall be immune or exempt from any process or sanction of any State or Federal court with respect to the enforcement of any such injunctive relief.

"(b) PRESIDENTIAL EXEMPTION.—The President may exempt any above ground storage tanks of any department, agency, or instrumentality in the Executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriations unless the President shall have specifically requested such appropriations as a part of the budgetary process and the Congress shall have failed to make available such requested appropriations. Any exemption shall be for a period not in excess of 1 year, but additional exemptions may be granted for periods not to exceed 1 year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

"JUDICIAL REVIEW

"SEC. 9027. Section 7006(b) is amended by adding "and section 9022" after "section 3005" and adding "and section 9028" after "section 3006".

"STATE AUTHORITY

"SEC. 9028. Nothing in this subtitle shall preclude or deny any right of any State or political subdivision thereof to adopt or enforce any regulation or requirement respecting above ground storage tanks that is more stringent than a regulation requirement in effect under this subtitle or to impose any additional liability with respect to the release of regulated substances within such State or political subdivision.

"STUDY OF ABOVE GROUND STORAGE TANKS

"SEC. 9029. (a)(1) DEADLINE.—Not later than 12 months after the date of enactment of this section, the Administrator shall com-

plete a study of above ground storage tanks used for the storage of petroleum.

"(2) ELEMENTS OF STUDIES.—The studies under paragraph (1) shall include an assessment of the ages, sizes, types (including methods of manufacture, coatings, protection systems, the compatibility of the construction materials and the installation methods) and locations (including the climate of the locations and proximity to drinking water sources) of such tanks; soil conditions, water tables, and the hydrogeology of tank locations; the relationship between the foregoing factors and the likelihood of releases from above ground storage tanks; the effectiveness and costs of secondary containment; the effectiveness and costs of inventory systems and tank testing systems; and such other factors as the Administrator deems appropriate.

"(3) REPORTS.—Upon completion of the studies authorized by this section, the Administrator shall submit reports to the President and to the Congress containing the results of the studies and recommendations respecting whether or not such tanks should be subject to the preceding provisions of this subtitle and whether the capacity level of 1,000,000 gallons should be revised to a more appropriate level in order to protect human health and the environment.

"(b)(1) DEADLINE.—Not later than 12 months after the date of enactment of this section, the Administrator shall complete a study of above ground storage tanks used for the storage of regulated substances.

"(2) ELEMENTS OF STUDIES.—The studies under paragraph (1) shall include an assessment of the ages, sizes, types (including methods of manufacture, coatings, protection systems, the compatibility of the construction materials and the installation methods) and locations (including the climate of the locations and proximity to drinking water sources) of such tanks; soil conditions, water tables, and the hydrogeology of tank locations; the relationship between the foregoing factors and the likelihood of releases from above ground storage tanks; the effectiveness and costs of secondary containment; the effectiveness and costs of inventory systems and tank testing systems; and such other factors as the Administrator deems appropriate.

"(3) REPORTS.—Upon completion of the studies authorized by this section, the Administrator shall submit reports to the President and to the Congress containing the results of the studies and recommendations respecting whether above ground storage tanks containing regulated substances should be subject to the preceding provisions of this subtitle.

"(c) STUDY AND REPORT.—The Administrator shall conduct a study and submit a report to the Congress regarding the cause and environmental effects of the petroleum spill into the Monongahela River on January 2, 1988.

"INSPECTOR TRAINING PROGRAM

"SEC. 9030. (a) PROGRAM.—The Administrator shall, by regulation, establish and carry out inspector training programs in all the regional offices of the Environmental Protection Agency.

"(b) INSPECTOR TRAINING PROGRAMS.—Inspector training programs under this section shall be available to all inspectors carrying out responsibilities pursuant to this Act. Such programs shall include, among others, classroom based programs, review of regulations of the Environmental Protection Agency, apprenticeship programs for prospective inspectors, and the development of a nationwide training manual.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 9031. For fiscal year 1990, and each of the next following 4 fiscal years, there are authorized to be appropriated, out of the Leaking Underground Storage Tank Fund established by section 9508 of the Internal Revenue Code of 1986, such sums as may be necessary to carry out the provisions of this subtitle.".

SEC. 2. The table of contents of the Solid Waste Disposal Act is amended by inserting the following after the items relating to subtitle I:

"Subtitle J—Regulation of Above Ground Storage Tanks

"Sec. 9020. Definitions and exemptions.
"Sec. 9021. Notification.
"Sec. 9022. Release prevention, correction, and financial responsibility regulations.
"Sec. 9023. Approval of State programs.
"Sec. 9024. Inspections, monitoring, testing, and corrective action.
"Sec. 9025. Federal enforcement.
"Sec. 9026. Federal facilities.
"Sec. 9027. Judicial review.
"Sec. 9028. State authority.
"Sec. 9029. Study of above ground storage tanks.
"Sec. 9030. Inspector training program.
"Sec. 9031. Authorization of appropriations.".

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SECTION-BY-SECTION SUMMARY

The Solid Waste Disposal Act is amended by adding the following new Subtitle J, Regulation of Above Ground Storage Tanks.

SECTION 9020. DEFINITIONS AND EXEMPTIONS

This section defines above ground storage tank, petroleum, regulated substance, owner, operator, release, person, and nonoperational storage tank. Included in the tanks exempt from the regulations are above ground storage tanks that are regulated by other safety laws.

SECTION 9021. NOTIFICATION

This section requires owners of above ground storage tanks that can contain at least 25,000 gallons to notify a designated state or local agency of the existence of their tank. The tank owners must specify the age, size, type, location, assembly history, and uses of each tank. The information reported will be used for a state inventory.

SECTION 9022. RELEASE PREVENTION, CORRECTION, AND FINANCIAL RESPONSIBILITY REGULATIONS

This section requires the Environmental Protection Agency (EPA) to develop regulations, as may be necessary to protect human health and the environment, applicable to above ground storage tanks that have the capacity to contain at least one million gallons of petroleum and that are at least 30 years old or have been relocated or reassembled.

The regulations must include requirements for: inspection of the structual integrity of the tanks (EPA may set procedures for certified self-inspections); permitting of tanks that pass inspection; periodic reinspections and permit renewals; reporting of releases and corrective actions taken in response to a release; proper corrective action; sound tank closure practices; and financial responsibility for closure, corrective action, and compensable damages. These regulations must be effective no later than 30 months after the enactment of this section.

EPA is required to conduct a study to determine the appropriate amount of per occurrence and aggregate coverage for the costs of cleanup and damage claims. Factors EPA may consider in establishing amounts of coverage include estimated costs cleaning up the spill and restoring all natural resources, both public and private parties' damages, and the availability of financial assurance mechanisms. The amount of financial assurance for closure costs are to be based on estimated costs.

This section also mandates EPA to establish a response program to ensure prompt and effective cleanup of a petroleum spill from an above ground storage tank. A state program that has been approved by EPA may also direct a response program to satisfy the requirements of this section. Under the response program, EPA must require an owner or operator of a tank that experienced a spill to cleanup the spill according to the corrective action requirements, which should address mitigating threats to human health (e.g., temporary or permanent relocation of residents and supply of alternative drinking water), restoring the environment, and compensating damaged parties. EPA is authorized under the section to issue orders to owners or operators to take corrective actions.

In the event that EPA determines that an ower or operator fails to take a corrective action, EPA is required to take the necessary corrective action and recover the costs from the owner or operator.

SECTION 9023. APPROVAL OF STATE PROGRAMS

As previously noted, a state agency may implement the requirements of this bill. A state program is required under this section to submit to EPA an application demonstrating that the state has promulgated comprehensive requirements that are at least as stringent as the corresponding federal requirements. A state must also demonstrate that its enforcement procedures are adequate to bring about maximum compliance. EPA is encouraged to develop their regulations and approval requirements to enable states to operate their own programs.

SECTION 9024. INSPECTIONS, MONITORING, TESTING, AND CORRECTIVE ACTION

This section requires owners and operators to allow federal and state officials to have access, upon request and at reasonable times, to their tanks and records. Tank owners and operators may request that any information to which an EPA or state official may have access be considered confidential and not available to the public. Otherwise, all information is available to the public.

SECTION 9025. FEDERAL ENFORCEMENT

This section empowers EPA to issue orders requiring compliance with any requirement of this subtitle. EPA is authorized to levy administrative penalties in the amount of $25,000 for each day of continued noncompliance. In addition, this section grants EPA the authority to seek civil penalties of $10,000 for each failure to submit proper notification and of $10,000 for each day of continued noncompliance with any of the requirements of this subtitle.

SECTION 9026. FEDERAL FACILITIES

The federal government is subject to the requirements of this subtitle except where the President grants annual exemptions.

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SECTION 9027. JUDICIAL REVIEW

This section amends section 7006 of the Solid Waste Disposal Act to provide that an owner or operator may appeal an EPA permit decision and a state may appeal an EPA authorization decision to the Circuit Court of Appeals for the federal district in which the person resides or transacts business.

SECTION 9028. STATE AUTHORITY

This section clarifies that nothing in this subtitle precludes a state or political subdivision of a state to adopt or enforce requirements stricter that those of this subtitle.

SECTION 9029. STUDY OF ABOVE GROUND STORAGE TANKS

This section requires EPA to conduct several studies and submit corresponding reports to the President and the Congress. The first study required is to assess various factors related to above ground storage tanks that contain petroleum. This study is intended to assist EPA in the development of the requirements of this subtitle. Upon completion of this study, EPA shall submit a report to the President and Congress presenting the study results and EPA recommendations regarding whether or not the above ground storage tanks covered by subtitle should be subject to the requirements of this subtitle and whether defining the tank population to be regulated by this subtitle as those with a capacity of at least one million gallons is appropriate.

The second study required by this section concerns above ground storage tanks that contain regulated substances. EPA must study and recommend whether or not chemical tanks should be subject to the same requirements as petroleum tanks.

The final study and report required under this section is required to analyze the cause and effects of the one million gallons diesel fuel spill into the Monongahela River on January 2, 1988.

SECTION 9030. AUTHORIZATION OF APPROPRIATIONS

This section authorizes the appropriation of such sums as may be necessary to carry out the provisions of this subtitle.

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By Mr. CRANSTON (for himself, Mr. KENNEDY, Mr. SIMON, Mr. SPECTER, Mr. ADAMS, and Mr. JEFFORDS):

S. 675. A bill to eliminate discriminatory barriers to voter registration, and for other purposes; to the Committee on the Judiciary.

EQUAL ACCESS TO VOTING ACT

Mr. CRANSTON. Mr. President, I am today introducing legislation, the proposed Equal Access to Voting Act of 1989, aimed at eliminating barriers to voter registration. I am pleased to be joined in introducing this measure by the distinguished Senator from Massachusetts [Mr. KENNEDY], the Senator from Illinois [Mr. SIMON] who serves as the chairman of the Judiciary Committee's Subcommittee on the Constitution, the Senator from Pennsylvania [Mr. SPECTER] who is the ranking Republican member of that Subcommittee, the Senator from Washington [Mr. ADAMS], and the Senator from Vermont [Mr. JEFFORDS].

Mr. President, the right to vote is the most fundamental and important right of citizens of a democracy. It is through the electoral process in a democracy that the people express their will. The Democratic institutions cannot function effectively unless citizens participate in the electoral process. Tragically, the United States is increasingly becoming a nonparticipatory democracy. Fewer and fewer of our citizens reach the voting booth on election day. If this decline is not halted, the legitimacy of the decisions reached by our Government will come into question. And those who don't like the decisions could be tempted to turn to nondemocratic means to change them.

Our most recent Presidential election produced the lowest voter turnout in 64 years. Barely 50 percent of the eligible voting age population voted in last November's election. The 1986 congressional election had an even more dismal turnout. Barely one-third of the eligible voters voted in that election.

The reasons why many Americans fail to exercise their right to vote are diverse and complex. But one factor stands out—restrictions on voter registration prevent many Americans from voting. A poll done by the New York Times and CBS News last year revealed that the major reason given by individuals who did not vote was registration. Nearly 40 percernt of those surveyed who failed to vote could not because they were not registered. Two-thirds of those said that they would have voted but for the fact that they were not registered.

In many States, the burden is on the potential voter to figure out the complex path to registration.

In many States, limitations and restrictions on the registration process are obstacles a voter must overcome to get to the ballot box.

In many States, the impact of these restrictions and limitations falls most heavily upon minority, low-income, or disabled citizens.

Mr. President, in this country voting is a fundamental right of our citizens, not a privilege to be granted begrudgingly to a select few. We must make sure that restrictions on the voter registration process do not disenfranchise otherwise eligible voters.

We need to bring about reforms in voter registration laws—reforms that will eliminate the barriers that keep our citizens from registering to vote and reforms that will eliminate the discriminatory effects of our current registration procedures. The legislation that I am introducing today is designed to achieve that end—elimination of barriers to registration.

REGISTRATION REQUIREMENTS—ROOTED IN DISCRIMINATION

Mr. President, to understand fully the adverse impact that restrictive registration requirements have on the exercise of the right to vote, it is important to recognize why many of these restrictions were first established.

Registration requirements, like the poll tax and literacy tests, were developed and refined after the Civil War, when the 15th amendment extended the franchise to blacks. Like the poll tax and literacy tests, registration requirements were often designed to be deliberate barriers to prevent black citizens from voting. Lengthy residency and registration requirements were also developed in the later part of the 19th century to prevent immigrants and other "undesirables" from voting. And they worked. Turnout in Presidential elections declined dramatically from a high of almost 88 percent in 1880 to 67 percent in 1928.

Mr. President, poll taxes and literacy tests were abolished during the civil rights struggles of the 1960's. But registration restrictions remained and continue to keep citizens from the polling place, sometimes inadvertently, but often deliberately.

The discriminatory impact of many restrictions on voter registration requirements has been well documented over the years. In 1959, the U.S. commission on Civil Rights reported on how registration practices operated to deny citizens the right to vote. Those findings were instrumental in bringing about passage of the Voting Rights Act of 1965.

Unfortunately, Mr. President, although we have made great strides as a nation in eliminating discrimination at the ballot box, minority voters continue to be disenfranchised by registration barriers. In 1981, the U.S. Commission on Civil Rights found that registration rates for minorities continued to lag well behind the rates for whites in States covered by the Voting Rights Act. The 1981 Commission found this disparity resulted from such factors as openly hostile local registrars, refusals to allow representations of minority organizations to act as deputy registrars or to establish satellite sites in minority communities, and selective purges or preregistration requirements.

In 1984, the Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee, chaired by my good friend and colleague from California, Representative DON EDWARDS, held hearings on registration barriers to the exercise of the right to vote. The subcommittee in a report entitled, "After the Voting Rights Act: Registration Barriers," found that there remained a notable discrepancy between white and minority registration in a number of States covered by the 1965 act. The report noted that barriers to registration—nationwide, not just in the South—effectively prevented many minority citizens from registering. The report listed the types

of barriers described during the hearings.

A number of States were reported to have limited registration to a single central location in a county, usually the county courthouse. This created a series of problems. Often these sites are open only on weekdays and during normal business hours. Many closed during lunch hours, making it very difficult for working people to get registered.

In one instance described, the registrar's office was located in the basement of the county jail.

The location of the county courthouse itself often caused problems since they are rarely located in minority communities. Particularly in rural communities, getting into town without public transportation can be exceedingly difficult. The subcommittee cited one example where the courthouse was a 60-mile trip for many black residents.

Another problem encountered was intimidation. Witnesses testified that in one county the white sheriff "makes a point of stationing himself outside the door of the voter registration office in the courthouse when blacks come to register."

The House subcommittee report also highlighted the problems associated with the use of deputy registrars. Over half the States allow local registrars to deputize volunteers to participate in registration efforts, but the local registrars often exercise broad discretion over who to deputize and where and when deputies may register voters. The subcommittee's record indicated numerous instances of discrimination in the exercise of that discretion—for example, registrars refusing to deputize volunteers from low-income neighborhoods. Other types of restrictions on time, place, and manner in which deputy registrars are allowed to function severely limited their ability to help citizens register. For example, restrictive rules in some communities prohibit door-to-door registration or limit registration to permanent satellite registration sites.

In other instances, the subcommittee report noted resistance in a number of States to allowing volunteer registrars to register citizens at social services agencies. Such prohibitions have been successfully challenged in court litigation, but the practice is still widespread.

The 1984 report cites other barriers such as limited access to mail-in registration forms and overly complex forms. One State required mail-in forms to be notarized, thus requiring a potential voter to find and pay for a notary service. In effect, this served as a kind of poll tax. Lengthy deadlines for registration prior to election day also contribute to the problem. Potential voters' attention frequently only turns to an election shortly before its date, too often too late to get registered. Some States require dual registration—separate registration for both city and county elections.

Finally, purging policies in many States operate to disenfranchise potential voters. The subcommittee noted that purge laws, while not on their face objectionable, can operate unfairly, citing States where purging was done selectively, resulting in purging primarily predominately black communities.

DISCRIMINATORY IMPACT CONTINUES

Mr. President, there is overwhelming evidence that voter registration restrictions continue to have a discriminatory impact. In the testimony presented to Congress last year on the voter registration legislation which Representative JOHN CONYERS and I introduced in the 100th Congress, the continuing incidence of discriminatory barriers to registration was repeatedly documented.

Arthur Flemming, chairman of the Citizen's Commission on Civil Rights and former Chairman of the U.S. Commission on Civil Rights described in his testimony before both the House and Senate committees the results of 6 days of field hearings which the Citizens' Commission on Civil Rights held on barriers to voter registration in connection with its 1988 report, "Barriers to Registration and Voting: An Agenda for Reform." The Commission, based upon its investigation, concluded that "substantial barriers to registration and voting continued to exist in many areas of the country and that now, as in the 1960's, discriminatory practices continue to inhibit the participation of citizens in the electoral process on account of race, age, income level, and physical disability."

The Commission observed in its 1988 report that although the restrictive practices of State and local officials affect the voting rights of all citizens, they have a disproportionately adverse effect on minority, low-income, and disabled citizens. It found that while the enactment and enforcement of the Voting Rights Act of 1965 eliminated many blatantly discriminatory practices, remnants of the old systems of disenfranchisement persist.

For example, the Commission found that where State laws permitted the use of satellite registration locations, local officials sometimes refused to designate sites in black communities. There was testimony regarding the refusal of such officials to allow members of black community groups to serve as deputy registrars. Registrars were also reported to require excessive identification for black applicants or subjected Hispanic or Asian voters to undue scrutiny. In one State, white churches were allowed to register voters on Sundays while registrars in communities with large black populations forbid any registration activities on Sundays.

Other witnesses presented similar findings of discrimination. Laughlin McDonald, director of the Southern Regional Office of the American Civil Liberties Union Foundation, testified about recent litigation involving minority citizens who had been denied the right to register and vote. He described a case brought in a county where 60 percent of the age eligible white residents were registered but only 48 percent of the black residents. The pastor of a black church submitted a request to the county board of registrars that his church be allowed to conduct voter registration, something explicitly authorized under State law. The local registrar refused. Subsequent litigation, in which the State attorney general sided with the black petitioners, was thrown out of court on the grounds the designation of registration was a matter of discretion for the local authorities. The State supreme court affirmed the dismissal on the grounds that the plaintiffs had not established that they had an "actual controversy." Local registrars were determined to have "absolute and unreviewable discretion in designating additional sites for voter registration and local citizens had no enforceable legal rights" to challenge discriminatory decisions.

In another case described, an advocacy organization for low-income and minority citizens was forced to bring suit against a State which announced a new policy prohibiting voter registration at any food stamp distribution center. Subsequently, the State assessed the new policy and agreed to rescind it. Similar policies, unfortunately, persist in other States.

Another disturbing example presented in last year's hearings involved barriers to registration for native Americans. Incidents of blatant discrimination against native Americans seeking to vote or register were documented in a Federal district court case where it was found that native Americans had been denied access to voter registration cards, subjected to discrimination, and had their names removed from voter registration lists without justification.

Other examples cited in the testimony included registrars permitting satellite registration in white, but not black communities, cancellation of neighborhood registration drives after the NAACP and the League of Women Voters requested permission to conduct registration campaigns, and purging of the names of large numbers of voters from registration lists for failure to comply with stringent registration requirements.

Mr. President, the discriminatory impact of restrictive voter registration procedures does not fall only upon mi-

nority individuals. There is also ample evidence indicating that young voters and disabled citizens are also unduly impacted by limited access to registration. Philip Calkin, national coordinator of Disabled but Able to Vote, reiterated in his congressional testimony last year that procedures that inhibit voter registration generally inhibit the registration of persons with disabilities even more. Similarly, young, first-time voters are more likely to be deterred from the election process when they have difficulties finding out how to get registered. However, once young people succeed in getting registered, they do vote in proportions similar to the general population.

Indeed, that is true of all segments of the voting age population. Once individuals are registered, the percentage of those who actually vote is high. The problem is getting people registered.

PROCEDURES TO ELIMINATE BARRIERS AND INCREASE REGISTRATION

Mr. President, in the last Congress, I introduced legislation in the Senate, S. 2061, which would have established uniform national standards for Federal elections. All States would be required to provide for registration by mail, at agencies which serve the public, and on election day. Identical legislation was introduced in the House of Representatives by Representative JOHN CONYERS, who has long been a leader in the effort to bring about reform in the voter registration area.

The bill that I am introducing today takes a somewhat different approach, although the purpose and the goal of eliminating barriers to registration remain the same. The new legislation focuses more upon achieving the desired result—increase in voter registration and elimination of disparities in registration between minority and nonminority votes—than on selecting specified procedures to achieve those results.

There is clear evidence that certain procedures can be effective in increasing voter registration rates among all citizens.

Election day registration is by far the most effective. Three States—Minnesota, Wisconsin, and Maine—currently have election day registration and a fourth, North Dakota, has no registration. Voter turnout in these States is among the highest in the United States. When election day registration was introduced in Minnesota, the State went from being 12th in the Nation to 1st in the percentage of citizens who turned out to vote. When election day registration was introduced in Wisconsin, Wisconsin went from 33d in the country to 4th in turnout. Similarly, Maine's ranking went from 21st to 8th in turnout. These four States rated in the top five for voter turnout in the 1988 election. Minnesota had the highest turnout in the Nation (66.3 percent) with Maine (62.2 percent), Wisconsin (62 percent), and North Dakota (61.5 percent) following in 3d, 4th, and 5th place respectively.

Mail registration can also increase voter registration. Twenty-seven States currently provide mail-in registration. With mail registration, a form can be filled out at a citizen's convenience. With mail registration, inconvenient registration sites and registration hours cease to hinder registration.

Agency-based registration can also result in increased registration. Nineteen States currently permit some type of registration activity in public agencies. Private agencies can also make an important contribution. In 1984, 1,500 private agencies offered voter registration services, registering thousands of individuals.

Motor voter registration programs are another particularly effective technique. A number of States provide voter registration programs at motor vehicle agencies. In several, the motor vehicle registration and voter registration forms are one form. Representative AL SWIFT, chairman of the Subcommittee on Elections of the House Committee on House Administration, has proposed very innovative legislation, H.R. 15, which would, among other things, require simultaneous drivers licenses and voter registration applications for Federal election registration. It is estimated this approach would reach close to 90 percent of potential voters.

Mr. President, there are a number of States which are able to maintain high percentages of their voting age population on the voter registration rolls. Generally, States which have adopted the procedures described above, or done things like shorten the registration time period, have been able to maintain significantly high percentages of registered voters.

For example, we know that each of the States with the highest rates of voter registration and voter turnout utilizes one or more of the preceding techniques or something similar.

Colorado, with 1988 registration of 82-percent provides for simultaneous voter registration with motor vehicle licensing.

Idaho, also with an 82-percent registration rate, has shortened its registration deadline to 10 days before an election.

Iowa, with an 80-percent registration rate, uses mail-in, motor vehicle, and agency-based registration and has only a 10 day-prior-to-election deadline.

Michigan, with an 88-percent registration rate, utilizes agency-based registration.

Montana, which ranks 2d in the Nation in voter turn-out and among the top 10 in registration—uses both mail-in and agency registration.

Mr. President, the list goes on. States with high registration rates have done something to achieve those rates. And although election-day registration is clearly the most effective way to remove registration barriers to voting, States can achieve high rates of registration with a determined effort along a variety of lines.

At the same time, however, it is also clear that simply adopting a procedure—such as mail-in registration—is not likely to produce the desired result unless it is done effectively. If the mail-in forms are not widely distributed, if they are too complex and invite errors that will disqualify the potential voter, a mail-in registration program will not result in increased voter registration.

APPROACH OF NEW LEGISLATION

The bill we are introducing today focuses on requiring reforms in those States which have restrictions or limitations in their voter registration procedures which prevent otherwise eligible voters from registering. The States determined to have barriers to voter registration are given flexibility in determining what reforms they make in their registration procedures—so long as the reforms bring about the desired result. In other words, the legislation focuses more on results than on how a State achieves those results. It thus encourages States to devise reforms that suit their individual needs. There are different procedures which, if implemented effectively, can increase registration rates. The bill sets forth the results States must achieve, but lets States determine how to reach those results—as long as the method chosen actually works.

SECTION-BY-SECTION SUMMARY

Mr. President, let me briefly describe the basic provisions of the proposed Equal Access to Voting act of 1989.

SECTION 2—FINDINGS AND PURPOSE

Mr. President, section 2 of the proposed legislation sets forth the congressional findings and purpose of the legislation.

Section 2(a) provides that Congress finds that restrictions on voter registration have had a discriminatory impact on the basis of race, color, national origin, age, and disability and have operated to deprive persons of the equal protection of the law by denying them the opportunity to exercise their fundamental right to vote.

Section 2(b) provides that Congress finds it is necessary to eliminate barriers to voter registration in order to secure the constitutional right of citizens to enjoy equal access to the right to vote.

Section 2(c) sets forth the purpose of the act which is to ensure that all citizens, regardless of race, color, national origin, sex, age, or disability, enjoy full and equal access to the vote.

SECTION 3.—REVIEW OF STATE VOTER REGISTRATION PROGRAMS

Section 3 provides that the Attorney General of the United States shall establish and carry out a program to review and assess the voter registration requirements of such State and require such reforms as shall be necessary to increase voter registration where barriers to registration have had a discriminatory impact or operated to deny individuals the opportunity to exercise their fundamental right to vote.

SECTION 4.—DETERMINATION OF STATES REQUIRED TO IMPLEMENT REFORMS

Section 4 requires the chief State election official of each State which the Attorney General determines has barriers to registration which have a discriminatory impact or deny individuals the opportunity to exericse their fundamental right to vote to develop and submit to the Attorney General a plan to eliminate such barriers.

Section 4 defines "barriers to registration" as limitations on the availability of opportunities to register, inadequate facilities or procedures to assure that any individual who is eligible to vote is afforded the opportunity to register, restrictions on the time, place, and manner provided for voter registration, and such other restrictions or limitations which the Attorney General shall, by regulations, specify.

Section 4 further provides that a State shall be deemed to have barriers to registration if the per centum of minority registration to nonminority registration is less than the per centum established by the Attorney General by regulation. In other words, a showing that there is a disparity between the registration rates of minority residents compared to nonminority is prima facia evidence that barriers needed to be eliminated. Other evidence of barriers—for example, overall registration rates falling below a certain level—might also be a basis for a State being obligated to develop a plan to remove barriers. The Attorney General is charged, under the bill, with establishing, by regulation, the criteria for determining which States would be required to develop and submit a voter registration plan.

Section 4 provides that once a State plan has been submitted and approved by the Attorney General, it shall apply to the first general election following approval, and to all elections thereafter except that the provisions of the act shall not be applicable to any State which for two successive general elections maintains the minority registration to nonminority registration at levels established by the Attorney General. However, if the disparity between minority and nonminority registration rates continue after two successive general elections, the Attorney General is required to require the States to develop a modification of its plan for the purpose of eliminating such disparity.

Any change to a State's voter registration plan must be submitted to the Attorney General for approval.

Section 4 provides that none of its provisions shall be construed to affect any other procedures which a State may be subject to under the Voting Rights Act of 1965.

Finally, Mr. President, section 4(f) provides that the determinations of the Attorney General shall be based upon statistics compiled by the Director of the Census pursuant to the provisions of the Voting Rights Act. It also requires the Attorney General, in conjunction with the Director of the Census, to devise a reliable system for compiling statistics on registration rates. This provision was explicitly included in the legislation because of concerns about the accuracy and reliability of some of the registration statistics now available through the Census Bureau. Currently, the data compiled is based upon interviews with individuals, and it is widely believed that the figures provided by the Census Bureau overstate registration rates, particularly of minority individuals. The legislation thus requires the Attorney General and the Director of the Census to work together to develop a more accurate and reliable system than presently available.

SECTION 5.—REQUIREMENTS OF STATE PLANS

Mr. President, section 5 contains some of the most critical elements of the proposed legislation.

First, section 5(a) requires a State to allow an individual to register to vote in the manner provided by a State plan which has been approved under the act.

Second, section 5(b) requires that the State plan include provisions that eliminate barriers to registration and disparities between minority and nonminority registration rates, insure accurate, inclusive and uniform voter registration lists, insure that all eligible voters are permitted to exercise their right to vote, and such other provisions as the Attorney General determines necessary to carry out the purposes of the act. The focus of the State plan must be on achieving these results.

Section 5(b) authorizes the Attorney General to promulgate through regulations the criteria for determining whether a State plan satisfies the purposes of the act, taking into account the need to provide adequate safeguards to establish the identity, place of residence, and qualifications of individuals seeking to vote and the need to remove unnecessary barriers to the exercise of the right to vote. The legislation does not require that the State adopt any particular procedures for achieving the mandated results, but it does require the Attorney General to evaluate the provisions of proposed State plans in terms of whether provisions of such plans are as apt or more apt to result in elimination of barriers to registration than certain specified procedures—mail-in registration, agency-based registration, simultaneous voter registration with applications to State motor vehicle agencies, and election day registration—which have already been demonstrated, as I discussed earlier, to increase voter registration and eliminate barriers to voter registration.

Again, the States are not required to adopt any specific procedures as long as they can demonstrate that the provisions of their State plan will achieve the mandated results regarding registration. Any State plan must first satisfy the requirements of sections 5(b) and (c) regarding elimination of barriers. In determining whether to approve a particular plan, the Attorney General may consider whether it provides for implementation of the procedures described in section 5(d). As indicated earlier, if a State plan satisfies the requirements of section 5(b) and (c) by some other procedures not listed in section 5(d), it can be approved so long as the Attorney General determines it will achieve the desired results. For example, Mr. President, a State might elect to establish a universal enrollment system such as utilized in Canada where government officials undertake to register all eligible voters. It might provide for simultaneous voter registration with other contacts with State officials, such as through a combination of contacts through the Postal Service, public utility services, social service agencies, or educational agencies. The determination of whether such a plan satisfied the requirements of the act would be based upon the results it produces. If it fails to achieve the results required, the Attorney General must require revisions to achieve those results.

Again, Mr. President, the focus of these provisions is on eliminating barriers to citizens exercising their fundamental right to vote, not the specific mechanism a State chooses to use so long as it achieves the result of eliminating disparities in registration rates and eliminates barriers confronting citizens seeking to vote.

SECTION 6.—FURTHER PROVISIONS

Mr. President, section 6 provides that a State plan must provide satisfactory assurances that voters will not be purged from the voter registration lists unless the voter has died, changed voting residence, been convicted of a criminal offense or adjudicated mentally incapacitated which, under State law, results in a denial of the right to vote, or the voters requested their name be removed. It also requires assurances that challenges to voters or registrants be made in writing by per-

sons designated by State law, that voters with sufficient documentation as to eligibility to vote be permitted to vote, and challenged individuals who do not have sufficient documentation be permitted to vote by affidavit ballot and be informed of that right. The act sets forth in section 13 the requirements for affidavit ballots.

Mr. President, it is not sufficient to allow individuals to register to vote if they can be capriciously removed from the voter registration lists or subjected to unjustifiable challenges on election day. The proposed legislation addresses these problems in section 6.

SECTIONS 7-8.—RESPONSIBILITIES OF THE ATTORNEY GENERAL AND ENFORCEMENT PROVISIONS

Sections 7 and 8 charge the Attorney General of the United States with the authority to administer the act and to make such rules, regulations and orders as necessary to carry out the act and provide advice and technical assistance to States in developing and maintaining voter registration systems. The Attorney General is also directed to conduct a study of the effectiveness of certain voter registration procedures and to report to Congress every 2 years on the effectiveness of voter registration activities under the act. The Attorney General is also authorized to take action if a State fails to comply with the provisions of the act, including commencing civil action against any person, State or governmental agency in violation of the requirements of the act or a plan submitted under the act.

A private right of action by an aggrieved person is also authorized. Attorneys fees are recoverable by a prevailing plaintiff.

SECTION 9.—PROHIBITIONS AND PENALTIES

Section 9 establishes criminal penalties for fraudulent registration or interference with an individual's efforts to vote or register.

SECTION 10.—SAVINGS PROVISION

Section 10 provides that no provision of this act shall be construed to restrict any other right relating to voter registration an individual may have under any other law.

SECTION 11.—YEAR-ROUND REGISTRATION

Section 11 provides that notwithstanding any other provision of law, all public agencies that serve the public and any private agency that volunteers to do so, shall offer nonpartisan voter registration services.

Mr. President, this provision is intended to supersede any other provision which prevents such agencies from engaging in these important activities.

SECTION 12.—ASSISTANCE TO STATES

Section 12 authorizes the Attorney General to make grants to States to help carry out voter registration programs approved under this act. It also authorizes the Attorney General to establish an advisory council of State and local election officials to advise States on carrying out the purposes of the act. In light of the fact that it is impossible to estimate the number of States required to submit plans, the bill simply authorizes such sums as may be necessary to carry out the provisions of this section. The actual amount of funding made available under this section would thus be established through the appropriations process.

SECTION 13.—DEFINITIONS

Section 13 sets forth the pertinent definitions for terms used under the act.

SECTION 14.—REPORT ON OTHER SIMULTANEOUS APPLICATIONS

Section 14 requires the Attorney General, in consultation with the heads of other Federal agencies, to identify and develop additional simultaneous applications for voter registration and report back to Congress within 18 months on the implementation of this provision.

Mr. President, motor vehicle registration forms have already been identified as excellent opportunities for simultaneous voter registration applications. There are numerous other forms submitted to public officials which could also be used for simultaneous voter registration. This provision is designed to require the Attorney General, with the heads of other agencies, to begin work in this direction.

CONCLUSION

Mr. President, we must find a way to increase the participation of our citizens in our electoral process. The strength of our democracy depends, to a great extent, upon the participation of our citizens. Alex de Tocqueville warned 150 years ago that unless individual citizens were regularly involved in governing themselves, self-government would gradually pass away. We must take steps to revitalize citizen participation in our electoral process. The United States is the only Western democracy which places the responsibility for registering to vote entirely upon its citizenry. No other Western democracy tolerates a registration system as difficult as ours. We have an obligation at least to remove the barriers that prevent our citizens from registering and voting. And above all, we have an obligation to make sure that all citizens, regardless of race, color, national origin, sex, age, or disability, have equal access to voting. The proposed Equal Access to Voting Act of 1989 is aimed at moving forward in that direction. I look forward to working closely with the members of the Judiciary Committee and other Members of the Senate along with the many organizations concerned with removing barriers to registration in perfecting and refining this legislation so that these goals can be effectively achieved.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 675

*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 "Equal Access to Voting Act of 1989".

FINDING AND PURPOSE

SEC. 2. (a) The Congress finds that restrictions on voter registration have had a discriminatory impact on the basis of race, color, national origin, age, and disability, and have operated to deprive persons of the equal protection of the laws by denying them the opportunity to exercise their fundamental right to vote.

(b) The Congress hereby declares that in order to secure the constitutional right of citizens to enjoy equal access to the right to vote, it is necessary to eliminate barriers to voter registration.

(c) The purpose of this Act is to ensure that all citizens enjoy full and equal access to the vote, regardless of race, color, national origin, sex, age, or disability.

REVIEW OF STATE VOTER REGISTRATION PROGRAMS

SEC. 3. In order to assure that the right of citizens of the United States to vote is not denied or abridged on account of voter registration requirements which have a discriminatory impact upon individuals on the basis of race, color, national origin, sex, age, disability, or other factors, the Attorney General shall establish and carry out an ongoing program to review and assess the voter registration requirements of each State not less than once every four years and to require the implementation of such programs as may be necessary to increase voter registration where barriers to registration have had a discriminatory impact on the basis of race, color, national origin, sex, age, disability, or other factors, or have operated to deprive persons of the equal protection of the laws by denying them the opportunity to exercise their fundamental right to vote. Each State shall make available to the Attorney General such information as the Attorney General determines is necessary to carry out the provisions of this Act.

SUBMISSION OF STATE PLAN

SEC. 4. (a) Within one year after the date of a determination by the Attorney General made pursuant to the provisions of this section, the chief State election official of each State which the Attorney General determines has barriers to registration which have had a discriminatory impact on the basis of race, color, national origin, sex, age, disability or other factors or have operated to deprive persons of the equal protection of the law by denying them the opportunity to exercise their fundamental right to vote, shall submit to the Attorney General, for approval by such Attorney General, a State plan designed to eliminate such barriers. For the purposes of this Act, "barriers to registration" means limitations on the availability of opportunities to register, inadequate facilities or procedures to assure that any individual who is eligible to vote is afforded the opportunity to register, restrictions on the time, place, and manner provided for voter registration, and such other restrictions or limitations which the Attorney

General shall, by regulations, specify. A State shall be deemed to have barriers to registration if the per centum of minority registration to nonminority registration is less than the per centum established by the Attorney General by regulation. The Attorney General shall issue the regulations provided for under this section not later than 180 days after the date of enactment of this Act and shall make the determinations provided for under this section not later than 180 days after issuance of such regulations.

(b) The Attorney General shall, within 120 days after the date required for submission of a plan under subsection (a), approve or disapprove such plan or any portion thereof. The Attorney General shall approve such plan if the Attorney General determines that it was adopted after reasonable notice and hearing and includes all provisions necessary to satisfy the requirements of this Act.

(c) Once the State plan has been approved by the Attorney General, such plan shall be implemented by the State and shall apply to the first general election following approval, and to all elections thereafter, except that in the case of any State which has maintained, for two successive general elections, the per centum of minority registration to nonminority registration at or above levels which the Attorney General has established the provisions of this Act shall not be applicable for so long as such State maintains or exceeds such per centum of minority registration to nonminority registration. If a disparity between minority and nonminority registration rates continues after two successive general elections, the Attorney General shall require modifications of the plan for the purpose of eliminating such disparity.

(d) Any change to a State's voter registration plan after the plan has been approved by the Attorney General shall be submitted to the Attorney General for approval.

(e) Nothing in this Act shall be construed to affect any procedures required by the Voting Rights Act of 1965 (42 U.S.C. 1973aa et seq.).

(f) The determination of the Attorney General under this section shall be based upon statistics compiled by the Director of the Census pursuant to the provisions of the Voting Rights Act of 1965 (42 U.S.C. 1973aa). The Attorney General, in conjunction with the Director of the Census, shall devise a reliable system for compiling statistics on registration rates of voters based on race, color, national origin, age, and disability.

STATE PLAN PROVISIONS

SEC. 5. (a) In the case of any State which the Attorney General has determined pursuant to section 4(a) is required to submit a State plan, the State shall allow an individual to register to vote in the manner provided by a State plan which has been approved under this Act.

(b) The State plan shall include provisions that eliminate barriers to registration and disparities between minority and nonminority registration rates, insure accurate, inclusive and uniform voter registration lists, insure that all eligible voters are permitted to exercise their right to vote, and such other provisions as the Attorney General determines necessary to carry out the purposes of this Act.

(c) The Attorney General shall establish, through regulations, criteria for determination of whether a State plan submitted under section 4 satisfies the requirements of this Act. In establishing such criteria, the Attorney General shall take into account the need to provide for adequate safeguards to establish the identity, place of residence, and qualifications of individuals seeking to vote and the need to remove unnecessary barriers to the exercise of the right to vote. In determining whether a State plan satisfies the requirements of this Act, the Attorney General shall evaluate whether the provisions of such plan are apt or more apt to result in elimination of barriers to registration than the procedures described in subsection (d).

(d) The Attorney General may certify that a State plan is in compliance if it meets the criteria set forth in subsections (b) and (c). In determining whether a State plan is in compliance the Attorney General shall consider the extent to which the State plan provides for the establishment of the following procedures—

(1) registration by mail,

(2) registration at any Federal, State, county or municipal agency that serves the public directly and at any private agency that voluntarily agrees to register voters,

(3) simultaneous voter registration with applications submitted to the State motor vehicle agency, or

(4) permits any individual who is eligible to register to vote to register and vote on the date of the election involved.

REMOVAL AND CHALLENGES

SEC. 6. The regulations promulgated by the Attorney General pursuant to section 5(c) shall—

(1) require satisfactory assurances that no voter will be removed from the list of eligible registered voters unless such voter has—

(A) died;

(B) changed voting residence, more than 30 days previously, from the voting jurisdiction which maintains the voter registration list for the place in which the voter was previously registered;

(C) been convicted of a criminal offense which, under State law, results in the denial of the right to vote, and no appeals remain;

(D) been adjudicated mentally incapacitated which, under State law, results in the denial of the right to vote; or

(E) requested that their name be removed from the voter registration list; and

(2) require that the State plan sets forth the basis for challenges to voters or registrants and provide assurances that—

(A) challenges will only be made in writing by persons designated by State law,

(B) any challenged individual who has sufficient documentation as to eligibility to vote be permitted to vote, and

(C) challenged individuals who do not have sufficient documentation be permitted to vote by affidavit ballot and be informed of such right.

The State plan shall provide that the validity of challenges shall be determined within a fixed period of time after the polls close.

RESPONSIBILITY OF THE ATTORNEY GENERAL

SEC. 7. (a) The Attorney General is authorized to administer this Act and to make such rules, regulations, and orders as the Attorney General deems necessary or appropriate for the efficient and expeditious administration of this Act.

(b) The Attorney General shall provide advice and technical assistance to States in developing voter registration plans and in establishing and maintaining voter registration systems in accordance with this Act.

(c)(1) The Attorney General shall provide for the conduct of a study to determine the impact on voter registration of the various procedures set forth in section 4(d) on achieving the purposes of this Act.

(2) The Attorney General shall report to the Congress every 2 years on the effectiveness of efforts to establish and maintain voter registration procedures that eliminate barriers to exercise of the right to vote.

ENFORCEMENT

SEC. 8(a). The Attorney General shall prepare and publish proposed regulations within 120 days, setting forth an implementation plan, or portion thereof, for a State if—

(1) the State fails to submit a State plan for voter registration, pursuant to section 4(a), which meets the requirements of this Act; or

(2) the plan, or any portion thereof, submitted for such State is determined by the Attorney General not to be in accordance with the requirements of this Act or any rules or regulations prescribed by the Attorney General and such State fails, within 90 days after notification by the Attorney General, to revise a State plan for voter registration as required by the Attorney General.

FEDERAL ENFORCEMENT PROCEDURES

(b) Whenever, on the basis of any information available to the Attorney General, the Attorney General determines that any person, State, or other governmental body is in substantial violation of any requirement of a voter registration plan submitted under this Act, the Attorney General shall notify such person, State, or governmental body, and the State in which the plan applies, of such finding. If such violation extends beyond the 30th day after the date of the notification, the Attorney General shall—

(1) issue an order requiring such person, State, or governmental body to comply with the requirements of such plan; or

(2) bring a civil action in accordance with subsection (b).

(c) The Attorney General may commence a civil action for a permanent or temporary injunction against any person, State, or other governmental body that—

(1) violates or fails or refuses to comply with any order issued under subsection (a) of this section; or

(2) violates any requirement of a voter registration plan submitted under the provisions of this Act more than 60 days after being notified by the Attorney General under subsection (a)(1) of a finding that such person, State, or body is violating such requirement.

Any action under this subsection may be brought in the district court of the United States for the district in which the violation occurred or in which the defendant resides, and such court shall have jurisdiction to restrain such violation, to require compliance, and to assess a civil penalty. In the case of any State which the Attorney General has issued an order based upon section 8(a), the court shall order immediate implementation of the State plan developed pursuant to section 8(a) during the pendancy of any action brought under this section.

(d) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by this Act, the Attorney General or any aggrieved person may institute an action for preventive relief, including an application for a temporary or permanent injunction, or a restraining order.

(e) An aggrieved person may commence a civil action against any person, including

the United States or any State, or other governmental instrumentality, who is alleged to be in violation of a voter registration plan submitted pursuant to section 4(a) after giving notice of the violation (i) to the Attorney General, (ii) to the State in which the violation occurs, and (iii) to any alleged violator of the plan.

(f) The district courts shall have jurisdiction, without regard to the amount in controversy, to enforce such an approved State plan, or to order any person to perform such act or duty, as the case may be.

(g) If the Attorney General or State has commenced a civil action to require compliance with the plan but is delinquent in prosecuting such action, an aggrieved person may intervene as a matter of right.

(h) Notice under this section shall be given in such manner as the Attorney General shall prescribe by regulation.

(i) Any order of the Attorney General under this Act shall be reviewable, by the United States Court of Appeals for the circuit in which the State involved is located, on the filing of a petition by any aggrieved person. The appellee shall not be liable for costs in such court.

(j) In any action under this section, the Attorney General, if not a party, may intervene as a matter of right.

(k)(1) In any action or proceeding under this Act, the court shall allow any prevailing plaintiff (including an intervening plaintiff), other than the United States, a reasonable attorney fee, together with reasonable costs of litigation.

(2) Fees incurred in complying with the notice requirements of this section or in pursuing the vindication of rights protected under this Act through administrative proceedings, shall be recoverable by a prevailing plaintiff.

PROHIBITIONS AND PENALTIES

SEC. 9. (a) Any person, including any election official, who knowingly and willfully—

(1) registers, or attempts to register to vote under this Act for the purpose of voting more than once in any election;

(2) conspires with any person for the purpose of enabling such person to make false registration to vote or for the purpose of enabling or encouraging any individual to make such false registration to vote;

(3) falsifies any information for the purpose of establishing eligibility to register to vote under this Act;

(4) takes action which results in the improper removal of any voter from the list of eligible voters based on race, color, membership in a language minority, sex, religion, political affiliation, or for nonvoting; or

(5) intimidates, threatens, or coerces any person for (A) voting or attempting to vote, (B) urging or aiding any person to vote or to attempt to vote, or (C) exercising any right under this Act, or attempts to do so;

shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

(b) In the case of any second or subsequent conviction under this section, the person convicted shall be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both.

SAVINGS PROVISION

SEC. 10. Nothing in this Act shall be construed to restrict any right which any person may have under any statute, the common law, or the Constitution, to seek enforcement of any voter registration requirement or to challenge any voter registration requirement or plan, or to seek any other relief.

PERMITTING YEAR-ROUND REGISTRATION

SEC. 11. Notwithstanding any other provision of law, Federal, State, county, and municipal agencies that serve the public directly, and any private agency that voluntarily agrees to register voters, shall, during the entire year, offer nonpartisan voter registration services, including distributing voter registration forms, answering questions, assisting in completing such forms, and collecting and forwarding completed registration forms to the proper local election officials.

ASSISTANCE TO STATES

SEC. 12. (a) The Attorney General is authorized to make grants to the chief State election official of any State which has a State plan approved by the Attorney General under this Act in order to carry out the provisions of such plan.

(b) The Attorney General may establish an advisory council of State and local election officials to advise States about eliminating barriers to registration which have a discriminatory impact on the basis of race, color, national origin, sex, age, disability, or other factors, or have operated to deprive persons of the equal protection of the laws by denying them the opportunity to exercise their fundamental right to vote.

(c) Except as provided in subsection (d), in submitting voter registration programs to the Attorney General, each State desiring funds also shall submit a request for funds to implement such programs, including a description of the intended uses of such funds. The Attorney General shall develop a formula for the allocation of funds to the States and shall allocate funds to the States. In allocating funds, the Attorney General shall take into account the voting age population of the State as established by the current population survey of the Bureau of the Census, the percentage of registered voters in the State, and the current voter registration programs in the State.

(d) If the Attorney General determines that any amount made available to a State will not be required by that State or that a program proposed by a State does not qualify under this Act, the amount not used shall be available for reallocation as determined by the Attorney General, except that the Attorney General shall deposit in the Treasury, as miscellaneous receipts, any amount that is unused at the end of the fiscal year for which such amount was appropriated.

(e)(1) The chief State election official of each State shall administer grants made to that State under this section and shall make such reports with respect to grants as the Attorney General may prescribe by regulation.

(2) Each State may allocate any part of a grant under this Act to a city, county, or other political subdivision of such State if such subdivision conducts voter registration.

(f) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

DEFINITIONS

SEC. 13. As used in this Act, the terms—

(1) "approved State plan" means a State plan for voter registration which has been approved by the Attorney General as in accordance with the provisions of this Act;

(2) "local election official" means the individual who exercises primary responsibility with respect to the registration of qualified voters in a unit of local government;

(3) "chief State election official" means the official, agency, or board of a State who exercises primary responsibility with respect to the registration of qualified voters or with respect to the conduct or supervision of any election for Federal office, or any election to a statewide office in such State, as certified to the Attorney General by such State;

(4) "election" has the meaning given that term in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431);

(5) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States;

(6) "unit of general local government" means a city, county, town, parish, village, or other general-purpose political subdivision of a State;

(7) "voter registration list" means the list of all voters registered and eligible to vote in an election; and

(8) "affidavit ballot" means a document or set of documents including—

(A) a statement, made under penalty of perjury as provided by the applicable State or Federal law, signed by the affiant—

(i) certifying that the affiant is qualified to vote in that election;

(ii) providing the address for which the affiant was most recently registered to vote; and

(iii) providing the affiant's current residence address; and

(B) a ballot for the appropriate election—

(i) which will be separated from the statement described in subparagraph (A) once the voter qualifications have been determined as prescribed in subsection (d);

(ii) which contains no information by which the identity of the voter may be determined; and

(iii) which is designed and handled in such a way as to preserve the complete security of the ballot;

(9) "minority" and "nonminority" have the meaning given these terms under the Voting Rights Act of 1965 (42 U.S.C. 1973aa et seq.).

SEC. 14. The Attorney General, in consultation with the heads of other Federal agencies, shall undertake to identify and develop such additional simultaneous applications for voter registration as may be feasible and appropriate to increase voter participation where barriers to registration have had a discriminatory impact on the basis of race, color, national origin, sex, age, disability, or other factors, or have operated to deprive persons of the equal protection of the laws by denying them the opportunity to exercise their fundamental right to vote. Within 18 months after the date of enactment of this Act, the Attorney General shall provide to the appropriate committees of Congress a report on implementation of this provision.

Mr. KENNEDY. Mr. President, I am pleased today to be joining with Senator CRANSTON, Senator SPECTER, Senator SIMON, Senator JEFFORDS, and Senator ADAMS in introducing the Equal Access to Voting Act of 1989.

The right to vote is the cornerstone of our democracy. Without it, all our other rights are in danger. We are proud of our democracy, and our history has been marked by a continuing

struggle to extend the franchise to all Americans.

In the past century, a number of key amendments to the Constitution have enlarged the right to vote:

The 15th amendment in 1870 prohibited voting discrimination because of race.

The 17th amendment in 1913 provided for direct popular election of Senators.

The 19th amendment in 1920 prohibited voting discrimination because of sex.

The 23d amendment in 1961 granted citizens of the District of Columbia the right to vote.

The 24th amendment in 1964 prohibited the use of poll taxes to restrict the right to vote.

And the 26th amendment in 1971 granted the right to vote of citizens 18 years of age or older.

These are impressive achievements, but the words of the Constitution are not always self-enforcing, and in many cases, it has been left to Congress to enact statutes to carry out the intent of the Constitution.

This is one such time. We adopted the 15th amendment to prohibit race discrimination in voting. But following its ratification, restrictive voter registration procedures were adopted to discourage the freed slaves from exercising their right to vote. For nearly a century, the promise of democracy was effectively denied to generations of black Americans.

In 1959, the first report on voting rights by the U.S. Commission on Civil Rights revealed a disturbing gap between democratic principles and actual practice with respect to voter registration.

In March 1963, President Kennedy created the President's Commission on Registration and Voting Participation to study the reasons for low voter turnout and recommend solutions. Concerning registration, the Commission found:

> Restrictive legal and administrative procedures in registration and voting are disfranchising millions.

With the enactment of the Voting Rights Act of 1965, we made a national commitment to fulfill the proud promise of the 15th amendment. But 13 years after passage of the act, the Citizens' Commission on Civil Rights, in its 1988 report "Barriers to Registration and Voting: An Agenda for Reform," found that—

> Substantial barriers to registration and voting continue to exist in many areas of the country. * * * it appears that discriminatory practices inhibit the participation of citizens in the electoral process on account of race, sex, age, income level and physical disability.

Although we have written the right to vote into our national law, we have not done enough to ensure that it can be exercised in practice. For millions of Americans, particularly in minority communities, cumbersome and inefficient registration procedures have posed insurmountable barriers to the exercise of this fundamental right.

The bill we are introducing today is intended to remove barriers to registration which have a discriminatory impact on minorities and which have deprived persons of the equal protection of the laws by denying them the fundamental right to vote. Our measure will require the Attorney General to review the voter registration requirements of each State. Those States with barriers to registration which have a discriminatory impact or which deny persons the opportunity to vote must develop plans to eliminate these barriers and increase registration.

Barriers to registration are defined as: First, limitations on the availability of opportunities to register; second, inadequate facilities or procedures to assure that any eligible person has the opportunity to register; third, restrictions on the time, place, and manner of registration; and fourth, other limitations or restrictions as determined by the Attorney General.

A State is automatically deemed to have barriers to registration if minority registration rates fall below nonminority registration rates. The bill requires that the Attorney General and the Census Bureau develop accurate measures of minority and nonminority registration rates.

The State plan required in such cases must include provisions to eliminate barriers to registration and disparities between minority and nonminority registration, provide for accurate and inclusive voter registration lists, and ensure that all eligible persons are able to exercise their right to vote.

The Attorney General is authorized, through regulations, to establish criteria for evaluating the adequacy of State plans, which must take into account the need to provide adequate safeguards to establish the identity, place of residence, and qualifications of individuals seeking to register and the need to eliminate unnecessary barriers to registration.

In evaluating any State plan, the Attorney General must determine whether its provisions are as well suited or better suited to result in elimination of barriers to registration as four alternative techniques—mail registration, agency-based registration, motor-voter registration, and election-day registration.

The Attorney General may certify that a State plan is in compliance if it meets these criteria. He must also consider the extent to which the State plan provides for the establishment of these procedures.

By focusing primarily on registration procedures that have a discriminatory impact on minorities, we do not intend to acquiesce in registration procedures that discourage others from voting. But in light of our country's long history of voting discrimination, barriers in such cases are especially objectionable, and it is long past time for Congress to remove them.

I am looking forward to working with my colleagues on this measure, and I urge the Judiciary Committee to act promptly, so that all Americans will finally be able to exercise their right to vote, free of discrimination.

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By Mr. BAUCUS (for himself, Mr. DURENBERGER, and Mr. LIEBERMAN):

S. 676. A bill relating to global atmospheric and environmental preservation; to the Committee on Environment and Public Works.

GLOBAL ENVIRONMENTAL PROTECTION ACT OF 1989

● Mr. BAUCUS. Mr. President, there is probably no greater problem facing the Earth today than that posed by the spectre of global warming. The gases that our modern industrial society spews into the atmosphere—by burning fossil fuels and cooling our buildings—are trapping heat in the Earth's atmosphere and warming the planet.

How much warming will these greenhouse gases cause? What will be the effect of this warming? The future impact of global warming is very difficult to predict. But left unchecked, global warming will leave us in a world different from the world that exists today.

We can project a raised sea level. We can project that areas will get drier and some areas will get wetter. We can project the reoccurrence of drought—like last summer's devastation.

But we don't really understand the environmental consequences of these changes. We don't know what this means in terms of human suffering. We are moving into a future we cannot predict and for which no analog exists from the past.

This bill focuses on global air polution. But in considering this legislation, we must also address the larger question of whether or not the United States can assume a leadership position in addressing what must be considered a global problem of catastrophic proportions.

In short, the time has come to develop a plan for action.

A recent report provided Congress by the EPA makes a compelling argument for action now. The question confronting us, is will we heed this warning?

Some will ignore it—as warnings concerning CFC's were ignored and policymakers were lulled into inaction under the guise of "truth" and "facts."

The price of waiting has been high. Our delay in phasing out CFC's has exposed current and future generations to increased exposure to ultraviolet radiation.

For naysayers who ask for more data to measure just how much the global climate is changing, the Policy Options report holds a simple promise: If we wait for proof beyond any doubt, it will be too late to take preventive steps.

Without action now, the Earth will experience a 40-percent increase in warming by the year 2050 over what it otherwise would have been.

The United States is the largest single source of greenhouse gases in the world. This amount is significant, but it only represents about 20 percent of greenhouse emissions globally. We cannot solve the problem alone. But we must act, if we want other countries to act. Our domestic initiatives must demonstrate our commitment to respond to global climatic change.

The challenge that all of us must face as we confront global warming is how to move the United States toward less wasteful ways and lead the world to environmentally safe growth.

Eliminating all CFC's must be a first step.

But we cannot stop there. Carbon dioxide is a pollutant and we must control its emission into the atmosphere. We must consider methane a pollutant and control its emission as well.

We need to aggressively pursue measures to make our cars, trucks, homes, and factories more efficient. And we must direct the scientific and technological capabilities of our Nation toward finding new and environmentally safe methods to produce energy.

If we fail in this task, we cannot expect the rest of the world to follow. We have an opportunity. In the recent Policy Options report, the administration has, in effect, provided us with a blueprint for future actions. This legislation will ensure that this opportunity is not missed, that this warning is not ignored.

The legislation I am introducing today sets forth a comprehensive program treating greenhouse gases as pollutants. Chlorofluorocarbons account for approximately 20 percent of all greenhouse gas emissions globally. The United States alone is responsible for approximately a third of all CFC emissions. This legislation will prohibit the use of CFC's in newly manufactured goods after 1994. Foam legislation will be allowed an additional 24 months to allow time for substitutes to be developed. All uses of these chemicals must cease by the year 2000. The use, and disposal of these substances is regulated to insure that emissions are held to the lowest achievable level.

Standards to control emissions of carbon dioxide from automobiles, trucks, residential furnaces, and air-conditioners are established. Four high carbon dioxide emitting industries, cement, iron and steel, pulp and paper, and synthetic fiber manufacturers are required to reduce carbon dioxide emission, 25 and 35 percent by the year 2000.

Senator WIRTH and others have proposed revitalizing national energy planning to achieve increases in the efficiency of the U.S. electricity utilities. I believe that this approach is a step in the right direction. In considering this legislation, I plan to carefully evaluate how best to regulate carbon dioxide as a pollutant.

A national energy plan approach provides maximum flexibility and freedom of choice. This is positive if we are to insure the marketplace is utilized to the maximum extent.

I am concerned that this degree of flexibility will also have a negative impact. It may result in promising but high risk long-term technology development to cease.

For over a decade, the Federal Government and private industry has cooperatively worked together to develop magnetohydrodynamic technology [MHD] as a means to burn fossil fuels both more efficiently and with lower air pollution emissions. This technology is now ready to be tested on a full-scale boiler. In the near term it is estimated that 42-percent efficiency can be achieved. Over the longer term efficiency of 60 percent may be achievable.

The question I plan to explore is what types of policies are needed to ensure that technologies to allow for the safer use of fossil fuels continue to be developed. It is unlikely that in the short term we can move away from fossil fuels. In the case of the undeveloped countries of the world, they may have no options except to use fossil fuels.

The legislation I am introducing does not include any proposal to address oxides of nitrogen or hydrocarbons. Both of these pollutants cause tropospheric ozone, a potent greenhouse gas. These pollutants need to be addressed.

The committee is currently developing legislation to address the serious problem of ozone nonattainment. Protecting public health by reducing these pollutants will have the added benefit of reducing the threat of global climate change. When Congress reauthorizes the Clean Air Act this year, an important step in the control of greenhouse gases will be taken.

The final greenhouse gas addressed by this legislation is methane. Methane is the fastest growing greenhouse gas emission. It is both a direct anthropocentric emission and a biological feedback of a warming climate. It is a pollutant that requires much more attention and focus by the scientific community. The legislation being introduced today would begin to control these emissions through controls on gas production and methane escaping from landfills. More is needed, but until we have a better understanding of its sources and sinks, these additional steps cannot be taken.

The National Environmental Policy Act [NEPA] is amended to ensure that environmental impact statements adequately consider global climate change.

The proposal by Mr. SYMMS to require that the U.S. directors to the development banks consider environmental impacts of proposed developments prior to approving loans to developing countries, is incorporated into this legislation.

The threat of global climate change is similar to the threat of global warfare. If it is to be addressed, new international institutional mechanisms are required. The President is required to petition the United Nations to establish a new agency to develop these new institutional mechanisms.

Similarly, if the threat posed by greenhouse gases is to be minimized, a new cooperative effort in which the private and public sector can work cooperatively will be required. A national organization on energy production standards and practices to encourage and promote the use of energy efficient technologies is proposed. This institute will allow us as a Nation to meet the environment challenge posed by greenhouse emissions and to ensure that American industry is prepared to compete in a world where these types of technologies are mandated.

Mr. President, I request unanimous consent that the text of the bill be printed in the RECORD.●

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

S. 676

*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 "Global Environmental Protection Act of 1989".

SEC. 2. FINDINGS.

The Congress, recognizing the profound, irreversible and potentially catastrophic impacts of humanity's activities on the global atmosphere and the world's environment, and the inability of science to predict with certainty the consequences for humanity of any such changes, hereby declares that each person has a responsibility and obligation to avoid contamination of the atmosphere.

TITLE I—ELIMINATION AND REGULATION OF GLOBAL CHANGE POLLUTANTS

PART A—CHLOROFLUOROCARBONS AND RELATED CHEMICALS

SEC. 101. SHORT TITLE.

This title may be cited as the "Global Stratospheric Ozone and Climate Preservation Act of 1989".

SEC. 102. FINDINGS.

The Congress finds that—

(1) the best available scientific evidence shows that manufactured substances, including chlorofluorocarbons, are polluting the atmosphere and destroying stratospheric ozone, as well as contributing to global climate change, and other atmospheric modifications;

(2) no level of stratospheric ozone depletion or global climate change caused by human activities can be deemed safe;

(3) stratospheric ozone depletion will lead to increased incidence of solar ultraviolet radiation at the surface of the Earth;

(4) increased incidence of solar ultraviolet radiation will cause increased rates of disease in humans (including skin cancer), threaten food crops, and otherwise damage the natural environment;

(5) stratospheric ozone depletion and global climate change from continued emissions of chlorofluorocarbons and other halogenated carbons with ozone depleting potential, and emissions of other gases, imperil human health and the environment worldwide;

(6) in order to stabilize and eventually reduce concentrations of chlorine and bromine in the stratosphere, to conserve the stratospheric ozone layer (an exhaustible natural resource), and to reduce the extent of global climate change—

(A) emissions of chlorofluorocarbons and other substances covered by this title, including halogenated carbons with ozone depleting potential, should be terminated rapidly, and

(B) it is necessary to control international trade in substances covered by this title and products containing or made with processes that use such substances;

(7) the highest priority must be given to developing and deploying safe substitutes to replace ozone depleting substances within 4 years; and

(8) the United States needs to develop and deploy safe substitutes to replace ozone depleting substances in order to demonstrate to the world its commitment to protect the stratosphere.

SEC. 103. OBJECTIVES AND NATIONAL GOAL.

(a) The objectives of this title are to restore and maintain the chemical and physical integrity of the Earth's atmosphere and to protect human health and the global environment from all known and potential dangers due to atmospheric or climatic modification, including stratospheric ozone depletion, that is or may be related to the chlorofluorocarbons or other substances covered by this title by—

(1) reducing significantly the production and emission into the atmosphere of pollutants caused by human activities;

(2) promoting the rapid development and deployment of alternatives to the use of the chlorofluorocarbons and other substances covered by this title; and

(3) promoting additional scientific research on atmospheric or climatic modification, including stratospheric ozone depletion, and on the known and potential adverse effects therefrom on human health and the global environment.

(b) In order to achieve the objectives of this title, it is the national goal to eliminate atmospheric emissions of manufactured substances with ozone depleting potential, including chlorofluorocarbons and other halogenated carbons with ozone depleting potential, and to reduce significantly emissions of other gases caused by human activities that are likely to affect adversely the global climate.

SEC. 104. DEFINITIONS.

As used in this title, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "household appliances" means noncommercial personal effects, including air conditioners, refrigerators, and motor vehicles;

(3) "import" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States;

(4) "manufactured substances" means any organic or inorganic chemical substances of a particular molecular identity, or any mixture, that has been manufactured for commercial purposes;

(5) "medical purposes" means medical devices and diagnostic products (A) for which no safe substitute has been developed and (B) which, after notice an opportunity for public comment, has been approved and determined to be essential by the Commissioner of the Food and Drug Administration, in consultation with the Administrator;

(6) "person" means an individual, corporation (including a government corporation), partnership, firm, joint stock company, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof (including any interstate body), or of any foreign government (including any international instrumentality); and

(7) "substances covered by this title" means those substances which are known or may reasonably be anticipated to cause or contribute to atmospheric or climatic modification, including stratospheric ozone depletion, and are listed under subsections (a) or (b) of section 105.

SEC. 105. LISTING OR REGULATED SUBSTANCES.

(a) Within 60 days after the date of the enactment of this title into law, the Administrator shall publish a priority list, to be designated as number 1, of manufactured substances which are known or may reasonably be anticipated to cause or contribute to atmospheric or climatic modification, including stratospheric ozone depletion. The initial list shall include chlorofluorocarbon-11, chlorofluorocarbon-12, chlorofluorocarbon-113, chlorofluorocarbon-114, chlorofluorocarbon-115, halon-1211, and halon-1301.

(b) Simultaneously with publication of such priority lists, the Administrator shall create a list of other manufactured substances which, in the judgment of the Administrator, meet the criteria set forth in the first sentence of subsection (a). The list of other substances shall be subject to the limitations on ozone depletion potential under section 109 of this title and shall include chlorofluorocarbon-22, carbon tetrachloride, methyl chloroform, and methylene chloride. At least annually thereafter, the Administrator shall publish a proposal to add to such list each other manufactured substance which, in the judgment of the Administrator, meets the criteria set forth in the first sentence of subsection (a). Within 180 days of any such proposal, after allowing an opportunity for public comment, the Administrator shall promulgate a regulation adding each such substance to the list, unless the Administrator determines that such substance clearly does not meet the criteria set forth in the first sentence of subsection (a).

(c) Simultaneously with publication of the list or additions thereto under this section, and at least annually thereafter, the Administrator shall assign to each listed substance a numerical value representing the ozone depletion potential of such substance, on a mass (per kilogram) basis, as compared with chlorofluorocarbon-11. The numerical value shall, for the purposes of section 9, constitute the ozone depletion factor of each such substance. Until the Administrator promulgates regulations under this subsection, the following ozone depletion factors shall apply:

| Substance | Ozone depleting factor |
|---|---|
| chlorofluorocarbon-11 | 1.0 |
| chlorofluorocarbon-12 | 1.0 |
| chlorofluorocarbon-22 | 0.05 |
| chlorofluorocarbon-113 | 0.78 |
| halon-1211 | 2.69 |
| halon-1301 | 11.43 |

SEC. 106. REPORTING REQUIREMENTS.

(a) Within 90 days after the date of the enactment of this title into law, each person producing a substance listed pursuant to subsections (a) and (b) of section 105 shall file a report with the Administrator setting forth the amount of the substance that was produced by such person during calendar year 1986. Not later than December 31, 1989, and annually thereafter, each producer shall file a report with the Administrator setting forth the production levels of such substance in each successive 12-month period until such producer ceases production of the substance. Each such report shall be signed and attested by a responsible corporate officer.

(b) Within 90 days of the date on which substance is placed on the list under subsection (c) of section 105, each person shall file a report with the Administrator setting forth the amount of the substance that was produced by such person during the 12 months preceding the date of listing. Not less than annually thereafter, each producer shall file a report with the Administrator setting forth the production levels of such substance in each successive 12-month period until such producer ceases production of the substance. Each such report shall be signed and attested by a responsible corporate officer.

SEC. 107. PRODUCTION PHASEOUT.

(a) Effective January 1, 1989, it shall be unlawful for any person to produce a substance listed pursuant to subsection (a) of section 105 in annual quantities greater than that produced by such person during calendar year 1986.

(b) Effective January 1, 1993, it shall be unlawful for any person to produce a substance listed pursuant to subsection (a) of section 105 in annual quantities greater than 80 per centum of that produced by such person during calendar year 1986.

(c) Effective January 1, 1998, it shall be unlawful for any person to produce a substance listed pursuant to subsection (a) of section 105 in annual quantities greater than 50 per centum of that produced by such person during calendar year 1986.

(d) Effective January 1, 1999, it shall be unlawful for any person to produce a substance listed pursuant to subsection (a) of section 105 in annual quantities greater

than 25 per centum of that produced by such person during calendar year 1986.

(e) Effective January 1, 2000, it shall be unlawful for any person to produce or release a substance listed pursuant to subsection (a) or (b) of section 105 for any use other than medical purposes.

SEC. 108. LIMITATION ON USE.

Effective January 1, 1994, it shall be unlawful to introduce into interstate commerce or to use a substance listed under subsection (a) of section 105 except for medical purposes approved by the Commissioner of the Food and Drug Administration, in consultation with the Administrator, in any newly manufactured good, except for a period not to exceed 24 months for insulating foam purposes.

SEC. 109. LIMITATION ON OZONE DEPLETION POTENTIAL.

(a) Effective January 1, 2010, it shall be unlawful for any person to produce substances covered by subsection (b) of section 105 in annual quantities that, based upon the ozone depletion factor assigned to each such substance under subsection (c) of section 105, yield a total ozone depletion or greenhouse warming potential greater than 5 per centum of that produced by such substances listed in subsection (a) of section 105 during calendar year 1986.

(b) The Administrator shall promulgate regulations, after notice and opportunity for public comment, which require each producer to reduce its production of—

(1) a substance listed under subsection (a) of section 105 more rapidly than the schedule provided under this title; or

(2) a substance listed under subsection (b) of section 105 on a specific schedule not otherwise provided for in this title,

if the Administrator determines that such revised or specific schedule (A) based on new information regarding the harmful effects on the stratosphere or climate which may be associated with a listed substance, is necessary to protect human health and the environment, or (B) based on the availability of substitutes for a listed substance, a substitute is attainable. Any person may petition the Administrator to issue such regulations. The Administrator shall issue such regulations within 180 days after receipt of any such petition, unless the Administrator denies the petition.

SEC. 110. PRODUCTION PHASEOUT EXCEPTION FOR NATIONAL SECURITY.

The President may issue such orders regarding production and use of halon-1211 and halon-1301 at any specified site or facility as may be necessary to protect the national security interests of the United States if the President personally finds that adequate substitutes are not available and that the production and use of such substance is necessary to protect such national security interests. Such orders may include, where necessary to protect such interests, an exemption from any requirement contained in this title. The President shall notify the Congress within 30 days of the issuance of an order under this paragraph providing for any such exemption. Such notification shall include a statement of the reasons for the granting of the exemption. An exemption under this paragraph shall be for a specified period which may not exceed 1 year. Additional exemptions may be granted, each upon the President's issuance of a new order under this paragraph. Each such additional exemption shall be for a specified period which may not exceed 1 year. No exemption shall be granted under this paragraph due to lack of appropriated funds unless the President shall have specifically requested such funds as a part of the budgetary process and the Congress shall have failed to make them available.

SEC. 111. CERTIFICATION OF EQUIVALENT PROGRAMS.

(a) Effective 12 months after the date on which a substance is placed on the priority list pursuant to section 105, it shall be unlawful for any person to import such substance, any product containing such substance, or any product manufactured with a process that uses such substance unless the Administrator, in consultation with the Secretary of State, has published a decision, after notice and opportunity for public comment, certifying that the nations in which such substance or product was manufactured and from which such substance or product is imported have established and are fully implementing programs that require reduced production of such listed substance, and limit production of other substances covered by this title, on a schedule and in a manner that is at least as stringent as the reduction scheduled for, and limitations on, domestic production which apply under this title. The prohibition on the import of any product manufactured with a process that uses a substance listed under subsection (a) of section 105 shall include, after notice and opportunity for public comment, any product which the Administrator has reason to believe may have been manufactured with a process that uses such substance. The Administrator's decision that a product may have been manufactured with a process that uses such substance shall constitute a rebuttable presumption.

(b) The Administrator shall not certify any national program under subsection (a) unless it is determined that—

(1) the nation has adopted legislation or regulations which give the reduction schedule for each listed substance the force of law; and

(2) the legislation of regulations include reporting requirements and enforcement provisions no less stringent than those specified in this title, and that the information contained in such reports is available to the Administrator and the Secretary of State.

(c) At least annually, the Administrator, in consultation with the Secretary of State, shall review each certification made under this section and shall revoke such certification, after notice and opportunity for public comment, unless it is determined that the conditions of subsections (a) and (b) remain satisfied and that the reduction schedule for each listed substance is in fact being carried out in such nations. Any such revocation shall take effect 180 days after notice of the revocation has been published.

(d) Any person who imports a substance covered by this title or a product containing such substance shall, for the purposes of section 107 (production phaseout for priority list) and section 109 (limitation on ozone depletion potential), shall be deemed to have produced an equivalent amount of such substance on the date of such importation.

SEC. 112. LABELING.

Effective 90 days after the date on which a substance is placed on a list maintained under subsection (a) or (b) of section 105, no container in which such substance is stored or transported, no product containing such substance, and no product manufactured with a process that uses a listed substance shall be introduced into interstate commerce unless it bears a label stating either of the following, as appropriate:

(1) "Contains (insert name of listed substance) a substance which harms public health and environment by destroying ozone in the upper atmosphere and by disrupting the climate".

(2) "Manufactured with (insert name of listed substance), a substance which harms public health and environment by destroying ozone in the upper atmosphere and by disrupting the climate".

The Administrator shall issue regulations to implement the labeling requirements of this section within 6 months after enactment of this section into law, after notice and opportunity for public comment. Such regulations shall require all containers and products which are subject to this section and introduced or reintroduced into commerce later than 90 days after promulgation of such regulations to bear the appropriate label. Unless and until such regulations have been promulgated and become effective, the required label shall be permanently affixed on the face of such product, with the lettering and background in contrasting colors and the letters themselves not less than two inches in height (or 20 percent of the height of the product which is less than four inches in height). Neither the labeling requirement nor any other provision of the Global Climate Protection Act of 1987 shall constitute, in whole or part, a defense to liability or a cause for reduction in damages in any suit, whether civil or criminal, brought under any law, whether Federal or State, other than a suit for failure to comply with the labeling requirements of this section.

SEC. 113. LIMITATIONS ON USE AND DISPOSAL.

(a) The Administrator shall, not later than July 1, 1991, promulgate regulations establishing standards and requirements regarding the use of substances covered by this Act. Such regulations shall include requirements that reduce the use and emission of such substances to the lowest achievable level and may include requirements to use alternative substances (including substances which are not covered by this Act), minimize use of substances covered by this Act, or maximize the recapture and recycling of substances covered by this Act.

(b) The Administrator shall promulgate regulations establishing standards and requirements regarding the use of any manufactured substance that may, either directly as a radiatively important trace gas or indirectly as a substance that reduces the energy efficiency of products which incorporate or use such substance, exacerbate the problem of human induced global climate change.

(c) The Administrator shall, before January 1, 1994, promulgate regulations establishing standards and requirements for the recapture, recycling, and safe disposal of substances covered by this Act. Such regulations shall include requirements that—

(1) substances covered by this Act that are contained in bulk in appliances, machines or other goods (including but not limited to refrigerators and air-conditioners) shall be removed from each such appliance, machine or other good prior to the disposal of such item;

(2) any appliance, machine or other good containing a substance covered by this Act in bulk shall not be manufactured or distributed in commerce unless it is equipped with a servicing aperture which will allow the recapture of such substance during service and repair of such item; and

(3) any product in which a substance covered by this Act is incorporated so as to constitute an inherent element of such product, including but not limited to rigid and soft foams, shall be disposed of in a manner that prevents the release of such substance into the environment.

(d) Effective January 1, 1993, it shall be unlawful for any person to knowingly vent into the atmosphere or otherwise knowingly use, release, or dispose of any substance covered by this Act (other than halon-1211, halon-1301, and halon-2402) in a fashion which permits such substance to enter the environment. Releases associated with the approved use of medical devices and diagnostic products for medical purposes and de minimus releases associated with good-faith attempts to recapture and recycle or safely dispose of any substance covered by this Act shall not be covered by the preceding sentence. The first sentence of this subsection shall not apply to releases associated with the servicing or repair of equipment which contains substances covered by this Act but does not include a servicing aperture which allows the recapture of such substances if, during the first servicing or repair after the effective date of this Act, such servicing aperture or other similar features are installed.

## PART B—CARBON DIOXIDE

SEC. 114. SHORT TITLE.

This part may be cited as the Act to Reduce and Stabilize Atmospheric Concentrations of Carbon Dioxide.

SEC. 115. FINDINGS.

The Congress finds that—

(1) there is widespread agreement, and no credible scientific dispute, that increases in atmospheric concentrations of carbon dioxide will increase the temperature of the planet;

(2) current emissions of carbon dioxide are approximately 70 times as great as those a century ago;

(3) average concentrations of carbon dioxide in the absence of major contributions from human activity have ranged between 180 and 280 parts per million;

(4) the current concentration of carbon dioxide is approximately 380 parts per million;

(5) concentrations of carbon dioxide because of human activity are increasing at the rate of about 4 percent per decade;

(6) there has already been an observed increase in globally-averaged temperature of 0.7 degrees centigrade during the last century;

(7) increases in North Atlantic ocean temperatures of 0.2 to 0.3 degrees centigrade have been measured;

(8) ocean water levels have increased;

(9) the years 1981, 1983, 1987, and 1988, are the hottest on record;

(10) elevated temperatures and drought are now prevailing in many of the world's agricultural areas;

(11) all of these changes are consistent with predictions that increases in carbon dioxide will lead to global temperature increases;

(12) further temperature increases of as much as 4 degrees centigrade will be experienced by the year 2030 if concentrations of carbon dioxide and other trace gases continue to accelerate at current rates;

(13) even with stringent and immediate controls, global average temperatures are predicted to increase 1.0 to 2.5 degrees centigrade;

(14) scientists are unable to state with certainty whether the global environment will respond predictably to further temperature increases, especially if they occur in combination with other alterations in the atmosphere and oceans;

(15) probably consequences of further warming will include, but cannot with certainty be said to be limited to, the following:

(A) sea level rise of between 1 and 4 feet, accompanied by widespread flooding, estuary destruction, and increased frequency of extreme storm events such as cyclones;

(B) disappearance of many tree and plant species in areas where they now predominate; and

(C) widespread and endemic drought in many areas of the world which now supply the bulk of humanity's foods;

(16) to minimize further climate destruction and mitigate that which is already inevitable will require that atmospheric concentrations of carbon dioxide be stabilized;

(17) the level of carbon dioxide emission reductions necessary to achieve atmospheric stabilization is uncertain, but has been estimated by some to be 50 percent or more;

(18) given the uncertainty of the response of the global environment to further temperature increases, the prudent policy is to strive to minimize carbon dioxide emissions through all possible means rather than establish an arbitrary goal;

(19) between 20 and 25 percent of the worldwide emissions of carbon dioxide originate in the United States;

(20) technologies and practices exist which could reduce carbon dioxide emissions substantially;

(21) the adoption of these technologies and practices would increase the efficiency and competitiveness of the United States business and industrial sector, decrease the Nation's dependence on foreign supplies of fuel, protect the agricultural sector, preserve the natural environment, and simultaneously achieve reductions in other chemicals which cause acid rain, ground level ozone, and fine particle pollution; and

(22) therefore, the United States can protect the global environment directly by reducing emissions of carbon dioxide emissions and indirectly protect such environment by demonstrating the technologies and practices which can be applied elsewhere.

SEC. 116. STATIONARY SOURCE CONTROLS.

(a) Not later than January 1, 1990, the Administrator of the Environmental Protection Agency shall revise the standards under section 111(b) of the Clean Air Act to require a standard for carbon dioxide emissions applicable to nonutility stationary sources, expressed in terms of emissions of such pollutant per unit or product output.

(b) Standards pursuant to the requirements of subsection (a) shall be established for each class or category of stationary sources which is more than a minimal emitter of carbon dioxide. Not later than January 1, 1992, the Administrator shall promulgate standards applicable to—

(1) cement kilns, which standards shall require, not later than January 1, 2000, an emission rate equivalent to a reduction in carbon dioxide emissions per unit of production of not less than 25 percent from 1988 average levels unless the Administrator determines that such a requirement is technologically infeasible;

(2) iron and steel manufacturing operations, which standards shall require, not later than January 1, 2000, an emission rate equivalent to a reduction in carbon dioxide emissions per unit of production of not less than 25 percent from 1988 average levels unless the Administrator determines that such a requirement is technologically infeasible;

(3) pulp and paper mills, which standards shall require, not later than January 1, 2000, an emission rate equivalent to a reduction in carbon dioxide emissions per unit of production of not less than 25 percent from 1988 average levels unless the Administrator determines that such a requirement is technologically infeasible; and

(4) synthetic fiber plants, which standards shall require, not later than January 1, 2000, an emission rate equivalent to a reduction in carbon dioxide emissions per unit of production of not less than 35 percent from 1988 average levels unless the Administrator determines that such a requirement is technologically infeasible.

SEC. 117. MOBILE SOURCE CONTROLS.

(a) The Clean Air Act is amended as follows:

(1) in section 202(a)(3)(A)(i), by inserting before the period at the end of the first sentence, the following: "and, for emissions of carbon dioxide, during and after model year 1990";

(2) in section 202(a)(3)(A)(ii) by striking out the period at the end of clause (II) and inserting in lieu thereof a comma and the word "and", and by adding at the end thereof the following new clause:

"(III) 1990 in the case of carbon dioxide shall contain standards which require a reduction of at least 10 percent in 1990; at least 25 percent in 1995; at least 50 percent in 2000; and at least 75 percent in 2010."; and

(3) inserting immediately after section 202(b)(1)(B) the following new language:

"The regulations under subsection (a) applicable to emissions of carbon dioxide from light-duty vehicles and engines shall provide that emissions of carbon dioxide may not exceed—

"(I) 360 grams of carbon dioxide per vehicle mile from light-duty vehicles and engines manufactured during and after model year 1990;

"(II) 300 grams per mile for light-duty vehicles and engines manufactured during and after model year 1995;

"(III) 200 grams per mile for light-duty vehicles and engines manufactured during and after model year 2000; and

"(IV) 100 grams per mile for light-duty vehicles and engines manufactured during and after model year 2010.".

SEC. 118. RESIDENTIAL CONTROLS.

(a) Not later than January 1, 1991, the Administrator shall promulgate regulations identifying the best available residential control technology available for central furnaces, air conditioners, and hot water heaters designed and sold for installation in single-family dwellings. For purposes of this section, "best available residential control technology" means that technology which achieves in a unit which is commercially available the maximum degree of reduction of emissions of carbon dioxide, whether directly through combustion or indirectly through consumption of electrical energy. Unless and until such regulations are promulgated and become effective, the best available control technology shall be deemed to be as follows:

(1) for furnaces, that which achieves and AFUE of .90 for oil, and AFUE of .95 for gas and a COP of 2.6 for electric heat pumps;

(2) for central air conditioners, that which achieves an Energy Efficiency Rating of not less than 15.0; and

(3) for hot water heaters, that which achieves and EF of 64 for gas and 96 for electricity.

(b) Each new single-family dwelling for which a building permit is issued on or after January 1, 1992, which is equipped with a central furnace, central air conditioner or hot water heater, shall be equipped only with one which meets or exceeds the emission limitation achieved by the best available residential control technology.

(c) Effective January 1, 1993, each replacement central furnace, central air conditioner, or hot water heater installed in a single-family dwelling shall meet or exceed the emissions limit achieved by the best available residential control technology.

(d) Not later than January 1, 1990, the Secretary of the Treasury shall recommend to the Congress means of encouraging the replacement of central furnaces, air conditioners, and water heaters and otherwise minimizing the emissions of carbon dioxide and other greenhouse gases from residential units through a system of tax or other incentives.

## PART C—METHANE

SEC. 126. SHORT TITLE.

This part may be cited as the "Methane Emission Elimination Act".

SEC. 127. METHANE SOURCE IDENTIFICATION AND ASSESSMENT.

(a) Not later than January 1, 1992, the Administrator of the Environmental Protection Agency, in consultation with the Administrators of the National Oceanic and Atmospheric Administration and the National Aeronautics and Space Administration, shall submit to the Congress a report on the following:

(1) the contribution of methane to global climate change;

(2) the sources and sinks of methane;

(3) the methods of controlling emissions of methane; and

(4) the relationship between emissions of methane and concentrations of other trace gases, including the hydroxyl radical.

(b) The Solid Waste Disposal Act is amended by—

(1) inserting in section 4001 immediately before "are environmentally" the following: "minimize emissions and other releases to the environment and which otherwise";

(2) in section 4002(c)(1) striking the words "reasonable protection of ambient air quality" and substituting "and the minimization of emissions and other releases to the environment of pollutants including, but not limited to, methane or other harmful gases or materials";

(3) in section 4003(a) adding a new paragraph (7) as follows:

"(7) The plan shall provide for methods (including prohibitions on the nature of materials which are disposed), practices, or technologies which minimize emissions of methane and other gases, both during operation and after closure."; and

(4) in section 4007(a) inserting immediately before the period at the end of the second sentence the following: ", provided that the Administrator determines that such plan satisfies the requirements of paragraph (7) of section 4003. Plans which fail to satisfy such requirements shall be disapproved".

(c) Not later than January 1, 1992, the Administrator shall promulgate regulations implementing the requirements of this section and requiring State plans developed under subtitle D of the Solid Waste Disposal Act to be amended and either approved or disapproved by July 1, 1993. Any plan not affirmatively approved by such date shall be deemed disapproved for purposes of the Solid Waste Disposal Act. Amended plans shall require all facilities constructed after January 1, 1993, subject to subtitle D to be designed, constructed, and operated so as to minimize emissions of methane and shall require all existing facilities to be modified prior to January 1, 1993, and thereafter operated so as to minimize emissions of methane and other pollutants.

(d) Effective January 1, 1994, mass releases of methane, whether through intentional venting of wells or otherwise, and flaring of methane are prohibited.

## PART D—MISCELLANEOUS PROVISIONS

SEC. 128. FEDERAL ENFORCEMENT.

(a)(1) Whenever on the basis of any information the Administrator determines that any person has violated or is in violation of any requirement of this title, the Administrator may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both, or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

(2) Any order issued pursuant to this subsection may include a suspension or revocation of any permit issued by the Administrator and shall state with reasonable specificity the nature of the violation. Any penalty assessed in the order shall not exceed $25,000 per day of noncompliance for each violation of a requirement of this Act. In assessing such a penalty, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(b) Any order issued under this section shall become final unless, no later than 30 days after the order is served, the person or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

(c) If a violator fails to take corrective action within the time specified in a compliance order, the Administrator may assess a civil penalty of not more than $25,000 for each day of continued noncompliance with the order and the Administrator may suspend or revoke any permit issued to the violator.

(d) Any person who—

(1) knowingly exceeds the production limits under section 107 (production phaseout for initial list) or section 109 (limitation on ozone depletion potential);

(2) knowingly introduces into interstate commerce a substance that was produced in violation of section 107 or section 109;

(3) knowingly imports a substance listed under section 105, a product containing such substance, or a product manufactured with a process that uses such substance, in violation of section 111 (certification of equivalent programs);

(4) knowingly introduces into interstate commerce a substance or product in violation of section 108 (limitation on use) or section 112 (labeling);

(5) knowingly omits material information or makes any false material statement or representation in any application, record, report, permit, or other document filed, maintained, or used for purposes of compliance with this title; or

(6) knowingly produces, transports, distributes, or uses any substance listed under section 105, a product containing such substance, or a product manufactured with a process that uses such substance, and who knowingly destroys, alters, conceals, or fails to file any record, application, report, or other document required to be maintained or filed for purposes of compliance with this title

shall, upon conviction, be subject to a fine in accordance with title 18 of the United States Code, for each day of violation, or imprisoned not to exceed 2 years, or both. If conviction is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment under the respective paragraph shall be doubled with respect to both fine and imprisonment.

(e) Any person who violates any requirement of this title shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation.

(f) Each day of violation of any requirement of this title shall, for purposes of this section, constitute a separate violation. In addition, for purposes of section 107 (production phaseout for initial list), section 108 (limitation on use), section 109 (limitation on ozone depletion potential), and paragraphs (1), (2), (3), and (4) of subsection (d) of this section, the production, introduction into commerce, or importation of each 100 pounds of a substance listed under section 105 that is in excess of the production limits under section 107 or section 109 shall constitute a separate violation.

SEC. 129. JUDICIAL REVIEW OF FINAL REGULATIONS AND CERTAIN PETITIONS.

Any judicial review of any final action of the Administrator pursuant to this title shall be in accordance with sections 701 through 706 of title 5 of the United States Code, except that—

(1) a petition for review of any final action of the Administrator may be filed by any interested person in the Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or transacts business, and such petition shall be filed within 90 days from the date of such promulgation or denial or after such date if such petition is for review based solely on grounds arising after such ninetieth day; action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement; and

(2) if a party seeking review under this Act applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the information is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper; the Administrator may modify administrative findings as to the facts, or make new findings, by reason of the additional evidence so taken, and shall file with the court such modified or new findings and the Administrator's recommendation, if any, for the modification or setting aside of the original administra-

tive order, with the return of such additional evidence.

SEC. 130. CITIZEN SUITS.

(a) Except as provided in subsections (b) and (c) of this section, any person may commence a civil action on his own behalf—

(1) against any person (including (a) the United States, and (b) any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any permit, regulation, condition, requirement, prohibition, or order which has become effective pursuant to this title; or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this title which is not discretionary with the Administrator.

Any action under paragraph (a)(1) of this subsection shall be brought in the district court for the district in which the alleged violation occurred. Any action brought under paragraph (a)(2) of this subsection may be brought in the district court for the district in which the alleged violation occurred or the District Court of the District of Columbia. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the permit, regulation, condition, requirement, prohibition, or order, referred to in paragraph (1), to order such person to take such other action as may be necessary, or both, or to order the Administrator to perform the act or duty referred to in paragraph (2), as the case may be, and to apply any appropriate civil penalties.

(b) No action may be commenced under subsection (a)(1) of this section—

(1) prior to 60 days after the plaintiff has given notice of the violation to—

(A) the Administrator; and

(B) to any alleged violator of such permit, regulation, condition, requirement, prohibition, or order; or

(2) if the Administrator has commenced and is diligently prosecuting a civil or criminal action in a court of the United States to require compliance with such permit, regulation, condition, requirement, prohibition, or order.

In any action under subsection (a)(1), any person may intervene as a matter of right. Any action respecting a violation under this Act may be brought under this section only in the judicial district in which such alleged violation occurs.

(c) No action may be commenced under paragraph (a)(2) of this section prior to 60 days after the plaintiff has given notice to the Administrator that he will commence such action. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(d) In any action under this section the Administrator, if not a party, may intervene as a matter of right.

(e) The court, in issuing any final order in any action brought pursuant to this section or section 125, may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing or substantially prevailing party, whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(f) Nothing in this section, or this title, shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or requirement or to seek any other relief (including relief against the Administrator).

SEC. 131. SEPARABILITY.

If any provision of this title, or the application of any provision of this title to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this title, shall not be affected thereby.

SEC. 132. RELATIONSHIP TO OTHER LAWS.

(a) Nothing in this title shall be construed to diminish the authority of the Administrator under the Clean Air Act, the Resource Conservation and Recovery Act or the Toxic Substances Control Act, or any other law, or to affect the authority of any other department, agency, or instrumentality of the United States under any provision of law to promulgate or enforce any requirement respecting the control of any substance, practice, process, or activity for purposes of protecting the stratosphere or ozone in the stratosphere, or the global environment.

(b) Nothing in this Act shall preclude or deny any State or political subdivision thereof from adopting or enforcing any requirement respecting the control of any substance, practice, process, or activity for purposes of protecting the stratosphere or ozone in the stratosphere or the global environment.

SEC. 133. AUTHORITY OF ADMINISTRATOR.

The Administrator is authorized to prescribe such regulations as are necessary to carry out this Act.

## TITLE II—GLOBAL CHANGE ADJUSTMENT AND MITIGATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Environmental Adjustment Act of 1989".

SEC. 202. FINDINGS.

The Congress finds that—

(1) there has been an observed increase in global average temperatures of 0.7 degree centigrade in the last century;

(2) regardless of any action taken by humanity, there will be further global average temperature increases of up to 1 degree centigrade;

(3) such temperature increases will manifest themselves in widespread alterations of the current environment;

(4) such changes may include, but will almost certainly not be limited to, the following:

(A) a rise in the level of oceans, bays, sounds, and other bodies of water, with ensuing destruction of natural and manmade structures;

(B) shifts in patterns of rainfall and soil moisture, resulting in marked changes in agricultural productivity;

(C) changes in the distribution and seasonal availability of fresh water resources, including the exhaustion of surface and ground water supplies;

(D) increased political instability, with the potential for international conflict; and

(E) accelerated extinction of plant and animal species, including many now classified as endangered;

(5) the adverse effects of some such changes can be mitigated through proper long-range planning, analysis and, most importantly, action; and

(6) substantial resources can be saved through the adoption of a program to systematically identify the impacts of proposed actions on global environmental change and the effects of such changes on the natural environment and engineered structures and systems.

SEC. 203. AMENDMENT TO THE NATIONAL ENVIRONMENTAL POLICY ACT WITH REGARD TO GREENHOUSE GASES.

The National Environmental Policy Act of 1969 is amended by adding at the end thereof a new title as follows:

### "TITLE III—GLOBAL PROTECTION

### "Subtitle A—Atmospheric Protection

"SEC. 301. SHORT TITLE.

"This subtitle may be cited as the 'Atmospheric Protection Act of 1989'.

"SEC. 302. FINDINGS.

"The Congress, recognizing the profound and irreversible and potentially catastrophic impacts of humanity's activities on the global atmosphere and the world's environment, and the inability of science to predict with certainty the consequences for humanity of any such changes, hereby declares that each person has a responsibility and obligation to avoid contamination of the atmosphere.

"SEC. 303. INTERPRETATION.

"The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall, with respect to pollutants, substances, products or practices which may contribute to global climate change, stratospheric ozone depletion or trace gas modification of the atmosphere—

"(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

"(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by subchapter II of this chapter, which will assure that environmental contamination is minimized;

"(C) include in every recommendation on report or proposals for legislation and other major actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

"(i) the environmental impact of the proposed action,

"(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

"(iii) alternatives to the proposed action,

"(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

"(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Such pollutants and substances shall include, at a minimum, the following: carbon dioxide, oxides of nitrogen, chlorofluorocarbons, halons, methyl chloroform, carbon tetrachloride and methane. Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environ-

mental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes;

"(D) study, develop, describe and select appropriate alternatives which recognize and minimize the environmental impacts of such proposed action;

"(E) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

"(F) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

"(G) assist the Council on Environmental Quality established by subchapter II of this chapter.".

TITLE III—INTERNATIONAL FINANCING

SEC. 301. NATIONAL ENVIRONMENTAL POLICY-INTERNATIONAL FINANCING.

The Congress finds that—

(1) the United States plays a significant role in determining the projects, policies, and lending practices of international financial institutions, devoting more financial resources to such institutions than any other nation;

(2) such institutions have failed in some cases to assess the environmental consequences of their actions, resulting at times in deforestation, desertification, erosion, water pollution, water-borne disease, and other manifestations of unsustainable development;

(3) while such institutions are making some progress in their environmental performance, assessment of projects for environmental consequences is not always consistent, timely, or publicly accessible;

(4) consistent, timely assessment and public scrutiny of the environmental and social impacts of proposed international financial projects are essential to ensure sustainable development;

(5) models for the conduct of such assessments exist in various forms, including, but not limited to—

(A) the National Environmental Policy Act, its regulations, and its history in the courts of the United States;

(B) the goals and principles of Environmental Impact Assessment adopted by the Governing Council of the United Nations Environment Programme in June 1987; and

(C) the measures required to facilitate the environmental impact assessment of development assistance projects and programs recommended by the Council of the Organization for Economic Cooperation and Development at its 649th Meeting in October 1986;

(6) methods and procedures for environmental impact assessment should be adopted and utilized by borrowing countries or international financial institutions themselves, and cannot be imposed unilaterally by the United States; and

(7) the United States should encourage, to the extent possible, environmental impact assessment of the international financial activities in which it participates, with the goal of adoption by borrowing countries of their own procedures for assessing environmental impacts and alternatives.

SEC. 302. ENVIRONMENTAL ASSESSMENT INTERNATIONAL FINANCIAL ACTIVITIES.

Title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) is amended by adding at the end thereof the following new section:

"SEC. 106. (a) Effective July 1, 1991, at least 120 days prior to a vote of the United States on a proposed action significantly affecting the quality of the human environment by an institution listed in section 22 of the Export-Import Bank Act Amendments of 1986, the official responsible for casting such vote shall request of the institution a detailed statement which meets the criteria set forth pursuant to subsection (b). All information received as a result of such request shall accompany the proposal through agency review processes, and shall be made available to borrower and donor countries and to the public.

"(b) The Council on Environmental Quality shall establish criteria for environmental impact assessment of international financial activities, sufficient to facilitate the consideration of environmental impacts in lending decisions. Such criteria shall include the solicitation of public comments, review of alternatives, and any other criteria found to be internationally recognized as an element of adequate environmental impact assessment.

"(c) The responsible official identified in subsection (a) shall not be required to verify the accuracy of the content of documents obtained under this section, except as necessary to identify:

"(1) minimum criteria which are not met; and

"(2) information pertinent to environmental impact assessment absent from the statement, but available to the responsible official through means other than the institution proposing the action.

A statement of findings under this subsection should accompany the proposed action through agency review processes, and shall be made available to borrower and donor countries and to the public.".

SEC. 303. COOPERATION AND TECHNICAL ASSISTANCE.

(a) Within 1 month after the date of enactment of this Act, and as necessary thereafter, officials charged with requesting a statement under section 305 of the National Environmental Policy Act of 1969 shall—

(1) inform the management of the institutions listed in section 22 of the Export-Import Bank Act Amendments of 1986 of the expected nature of such statements; and

(2) begin negotiations with institution management and representatives of other institution members, within the framework of international agreements, as necessary to facilitate the conduct of environmental impact assessments.

(b) The Secretary of the Treasury, assisted by the Secretary of State, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, the Administrator of the Agency for International Development, the Administrator of the National Oceanic and Atmospheric Administration, and representatives of other interested agencies, shall, in cooperation with institutions referenced in paragraph (1) of subsection (a), make available upon the request of such institutions the appropriate United States Government personnel to assist in the following areas:

(1) the training of institution staff in environmental impact assessment procedures;

(2) the provision of long- and short-term advisers on environmental issues;

(3) participation in preparing environmental studies for projects with potentially significant environmental impacts; and

(4) the preparation of documents for public release, and the development of procedures to provide for the inclusion of interested nongovernmental organizations in the environmental review process;

and shall encourage other institution member countries to provide similar assistance.

(c) The Secretary of the Treasury shall also take steps with both donor and borrower nations to expand international consensus on the importance of environmental issues and to focus efforts on the need for reform, with particular emphasis on developing greater agreement on standards for projects that may affect ecosystems such as, but not limited to, tropical moist forests, wetlands, savannas, and other areas, and on securing greater support for programs and policies that encourage energy efficiency and conservation and integrated pest management.

SEC. 304. PROGRESS REPORT TO CONGRESS.

(a) The Secretary of the Treasury shall prepare and submit to the Committee on Environment and Public Works in the Senate, and the Committee on Merchant Marine and Fisheries in the House of Representatives, a detailed report, not later than 12 months after enactment of this Act, including an evaluation of the progress achieved by each international financial institution in adopting and implementing procedures for systematically assessing the environmental impacts of institution activities, and in the implementation of section 306 of the National Environmental Policy Act of 1969. The report shall be made available to borrower and donor countries and to the public.

(b) Not later than March 1, 1992, and again not later than January 1, 1993, the Council on Environmental Quality shall submit an interim progress report, and a detailed report respectively, to the Committee on Environment and Public Works in the Senate, and the Committee on Merchant Marine and Fisheries in the House of Representatives, on the efficacy of efforts by the United States to encourage consistent, timely environmental impact assessment within international financial institutions. The report shall be made available to borrower and donor countries and to the public.

SEC. 305. INVENTORY AND REVIEW OF FEDERAL FACILITIES, HOLDINGS AND ACTIVITIES.

(a)(1) Not later than January 1, 1991, the President shall direct each department, agency and other instrumentality of the United States to undertake a systematic and comprehensive survey of all Federal lands and structures to ascertain their vulnerability to changes associated with changes in the global environment. To the maximum extent practicable, such survey shall include the lands and structures of State and local government and Indian tribes as well. Such survey shall include, but not be limited to, the following:

(A) public highways, bridges, tunnels, and other transportation structures;

(B) ports, waterways, locks and dams;

(C) public buildings and monuments;

(D) publicly owned treatment works;

(E) national parks, forests, wilderness areas, wildlife refuges, marine sanctuaries, and all other comparable facilities; and

(F) national defense facilities, including but not limited to military bases and reservations, whether located in the United States or elsewhere.

(2) Not later than January 1, 1993, the President shall submit a report to the Congress containing the results of the survey re-

quired by this section and recommending both generic and site-specific actions and policies to—

(A) preclude further public or private investment in areas susceptible to loss or damage due to global environmental change; and

(B) minimize and mitigate the loss or damage due to the global environmental change which is likely to occur.

SEC. 306. GROUND WATER PROTECTION AND RECHARGE.

(a) The Congress finds that—

(1) a consequence of global climate change may be the exhaustion of ground and surface water resources essential to the maintenance of agricultural productivity, the loss of which could jeopardize the national economy and security;

(2) existing knowledge and technology of artificial recharge of ground water is inadequate to meet existing and anticipated future water resource problems and to take advantage of possible water resource opportunities; and

(3) a program to support and assure the study and development of artificial ground water recharge techniques is essential.

(b) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") acting through the Chief of Engineers, is authorized to undertake a program of research, development, and demonstration of artificial ground water recharge techniques. The purpose of such program shall be to—

(1) demonstrate the usefulness of artificial ground water recharge as a method for improving ground water quantity and for preventing degradation of, or improving ground water quality;

(2) determine the economic viability of artificial ground water recharge as a method of augmenting existing water supplies and improving ground water quality on a local or regional basis; and

(3) develop new and more efficient techniques for the transfer of surface water to existing or potential water bearing underground strata.

(c) In order to advance the purpose of this section, the Secretary shall, at different locations throughout the United States, design, construct, and operate and maintain projects to demonstrate different artificial ground water recharge techniques. To the maximum extent feasible, such locations shall be chosen to reflect a variety of geological, physical, and chemical conditions affecting ground water quality and quantity. In selecting such locations, and carrying out such work, the Secretary shall consult and coordinate with appropriate State and local governmental agencies.

(d) In order to prevent any unnecessary duplication of effort, and in order to fully utilize the available expertise of other agencies and departments of the United States, the Secretary, in carrying out subsection (b) of this section, shall consult and coordinate with the United States Geological Survey, the Environmental Protection Agency, the Bureau of Reclamation, and other appropriate agencies and departments of the United States.

(e) To the extent possible, activities undertaken pursuant to subsection (b) of this section shall utilize existing or authorized Corps of Engineers water resources projects, programs, facilities, and personnel.

(f) Not later than May 30, 1993, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works in the Senate, a final report describing the results of activities undertaken pursuant to this section. Not later than 30 months after the date of enactment of this Act, the Secretary shall transmit to such Committees of Congress a brief report describing the progress of such activities.

(g) For purposes of this section, the term—

(1) "artificial ground water recharge" shall include but not be limited to techniques to supplement or otherwise affect ground water supplies such as wells, pits, ponds, spreading basins, or gravel chains; and

(2) "non-Federal sponsor" shall mean a State, city, county, or any other entity which derives its powers from a State constitution, or was created pursuant to an Act of a State legislature.

(h) This section shall be known as the "Ground Water Recharge Research and Demonstration Act".

## TITLE IV—INTERNATIONAL COOPERATION

SEC. 401. FINDINGS.

The Congress finds that—

(1) complete elimination of chlorofluorocarbons and related chemicals which are destroying the Earth's protective ozone layer and adding to global temperature increases requires concerted international agreement and action;

(2) the most effective controls on emissions of carbon dioxide, hydrocarbons, oxides of nitrogen, methane and other trace gases which are increasing global temperatures will require concerted international agreement and action;

(3) international agreements to address some aspects of these global threats are already underway and include—

(A) an international protocol to reduce production and use of chlorofluorocarbons;

(B) an international agreement to reduce emissions and trans-boundary transport of oxides of sulfur; and

(C) an international agreement to reduce emissions and trans-boundary transport of oxides of nitrogen; and

(4) in the absence of such international cooperation and agreement, the interests of the United States will be directly and substantially threatened due to—

(A) damage to the domestic environment;

(B) damage to the national economy;

(C) increased international tension; and

(D) increased danger of international armed conflict.

SEC. 402. INTERNATIONAL COOPERATION.

(a) The President is hereby directed to request that the United Nations promptly establish a temporary new agency to be headed by the director of the United Nations Environmental Program, to—

(1) coordinate international efforts to minimize and mitigate the effects of unavoidable environmental alterations; and

(2) provide financial, technical and other assistance to developing nations to facilitate improvements in their domestic standards of living while minimizing or eliminating contributions to global, continental and subcontinental scale environmental damages.

(b) The President is hereby directed to request that the United Nations establish a temporary program of forestation to—

(1) assist and encourage nations in halting activities which are resulting in destruction of the world's forests; and

(2) undertake a global program of reforestation.

(c) The President is hereby directed to instruct the United States representatives to bilateral and multilateral organizations other than the United Nations to review the activities of such organizations to assure that their actions and programs are consistent with the goals and objectives of this Act and, where necessary, to persuade such organizations to adopt programs to implement the goals and objectives of this Act.

SEC. 403. NATIONAL GOAL.

It is hereby established as a national goal of the United States to derive 50 percent of the national supply of energy from nonpolluting technologies and practices by the year 2000 and 100 percent by the year 2050.

## TITLE V—DEVELOPMENT OF NONPOLLUTING ENERGY SOURCES

SEC. 501. NATIONAL NEW ENERGY DEVELOPMENT INSTITUTE.

(a) The Administrator is authorized to charter a national organization on energy production standards and practices. The organization shall be called the National New Energy Development Institute (hereinafter referred to as the "institute"). The institute shall be incorporated in the District of Columbia and shall have a board of directors of not less than 11 members which shall be representative of the interests of energy manufacturing industries, utilities, industries and commercial concerns which are major users of energy. The board may also include representatives of the public interest, persons with expertise in energy development, and elected or appointed officials of State utility commissions. The Administrator shall grant (or deny) a charter on the basis of a prospectus or other proposal from a prospective board of directors.

(b) It shall be the purpose of the institute to encourage and promote the use of energy efficient technologies which, with due regard for the cost, will—

(1) minimize the quantity of carbon dioxide and other greenhouse gases which enters the atmosphere;

(2) minimize the consumption of scarce resources;

(3) meet the needs of both developed and lesser developed economies;

(4) insure that United States industry can remain competitive both domestically and internationally; and

(5) assure that human health and the environment (include impacts on global climate) will not be adversely affected.

(c)(1) The institute shall have power to receive, purchase, hold, sell and convey real property; to sue and be sued, complain and defend in courts of law and equity within the jurisdiction of the United States; to make, adopt and amend a constitution, bylaws, rules, and regulations for the conduct of its business; and to provide for the election of its officers and to define their duties: *Provided*, That such constitution, bylaws, rules and regulations are not inconsistent with the provisions of this section or any other law of the United States or of any States thereof.

(2) All powers necessary to govern, direct and manage the institute, including the power to—

(A) establish energy technology standards,

(B) identify and promote the use of these technologies both domestically and internationally,

(C) appoint and replace members of the board, and

(D) hire personnel, enter into contracts and otherwise conduct all business necessary and appropriate to carry out the purposes of the institute, shall be vested in the board of directors.

(d) The institute shall establish industry energy technology standards which address the design, application, efficiency, and other standards of performance deemed appropriate to protect the global climate which shall further the purposes of subsection (b) when implemented on a voluntary basis by entities in the energy industry.

(e) In deciding whether to grant or extend a charter under this section, the Administrator shall take into account any information with respect to the following criteria as evidenced in the prospectus prepared and presented by the prospective board of the institute:

(1) the ability of the board to work with the energy industry and its commercial clients to assure implementation of the standards established under subsection (d) to the fullest extent practicable;

(2) the expertise available to the board in energy management practices and the measures necessary to protect public health and the environment (including global climate) from any adverse effects which may result from such practices; and

(3) financial support for the programs of the board committed to the board or through its affiliate organizations to carry out the programs of the institute.

(f) The board shall conduct its business in open meetings (subject to the requirements for privacy in personnel matters and review of confidential business information) and shall, to the maximum extent practicable, seek public comment and participation in the development of its programs.

(g) The initial charter of the institute shall extend for a period of not more than 4 years with an option for continuous renewal at 7-year intervals thereafter. The Administrator may establish a term of shorter duration or may grant a charter on specified conditions of performance, if it is necessary and appropriate to secure the purposes of this section.

(h)(1) The Administrator is authorized to make grants to the institute in an amount not to exceed $1,000,000 in any fiscal year.

(2) There are authorized to be appropriated $2,500,000 for the fiscal year ending September 30, 1990, and $1,000,000 for each succeeding fiscal year through September 30, 1994, to carry out the purposes of subsection (e)(3) and $1,000,000 for each fiscal year during the period ending prior to October 1, 1994, to carry out the provisions of paragraph (1) of this subsection.

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By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 677. A bill to amend the Arctic Research and Policy Act of 1984 to improve and clarify its provisions; to the Committee on Governmental Affairs.

ARCTIC RESEARCH AND POLICY ACT AMENDMENTS

Mr. MURKOWSKI. Mr. President, today I rise on behalf of myself and Senator STEVENS to introduce legislation amending the Arctic Research and Policy Act of 1984.

The Arctic Research and Policy Act, or ARPA, has worked well in the 5 years since its enactment. It has given us the mechanisms to focus new and badly needed scientific attention on the Arctic.

The Arctic deserves this attention:

The February 17 editorial in Science magazine stated that a greater understanding of the Arctic was the key to understanding world climate. If we want answers about global warming trends, we must first seek answers about the Arctic.

And that is simply one of many critical aspects about the Arctic that warrant increased scientific attention:

For instance, the Nation wants and needs the Arctic's energy and mineral resources. But the American people, and the residents of the Arctic that Senator STEVENS and I represent, insist that we protect the Arctic's unique and pristine ecosystem. Enhancing our knowledge will help us to do this.

The Arctic also provides the nutrients for the greatest single concentration of protein harvested for human consumption—the Bering Sea, North Pacific, and North Atlantic fishery resources. If we want to adequately manage these resources, we must learn more about the Arctic.

The provisions of ARPA, the Arctic Research Commission, the work of the Interagency Arctic Research Policy Committee, and the efforts of the National Science Foundation's Arctic staff, have all laid the foundation for a greater knowledge about the Arctic. While ARPA is working well, these amendments will help it work even better.

In addition to making some largely technical and administrative modifications in the act, these amendments expand the Commission from five to seven members, and they require Federal agencies to actively respond to recommendations made by the Commission.

Mr. President, I ask unanimous consent that a section-by-section outline of the bill, as well as the full text of the bill, appear in the RECORD in full as if read at the conclusion of my remarks.

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

S. 677

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, except as specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to, or repeal of a provision, the reference shall be deemed to be made to the Arctic Research and Policy Act of 1984.

SEC. 2. Section 103(b)(1) (15 U.S.C. 4102(b)(1)) is amended—

(1) in the text above clause (A), by striking out "five" and inserting in lieu thereof "seven";

(2) in clause (A), by striking out "three" and inserting in lieu thereof "four"; and

(3) in clause (C), by striking out "one member" and inserting in lieu thereof "two members".

SEC. 3. Section 103(d)(1) (15 U.S.C. 4102(d)(1)) is amended by striking out "GS-16" and inserting in lieu thereof "GS-18".

SEC. 4. (a) Section 104(a) (15 U.S.C. 4103(a)) is amended—

(1) in paragraph (4), by striking out "suggest" and inserting in lieu thereof "recommend";

(2) in paragraph (6), by striking out "suggest" and inserting in lieu thereof "recommend";

(3) in paragraph (7), by striking out "and" at the end thereof;

(4) in paragraph (8), by striking out the period and inserting in lieu thereof a semicolon; and

(5) by adding at the end thereof the following new paragraphs:

"(9) recommend to the Interagency Arctic Policy Group, established within the Department of State, and the Interagency Committee the means for developing international scientific cooperation in the Arctic; and

"(10) not later than January 31 of the year following the date of enactment of this paragraph, and every 2 years thereafter, publish a statement of goals and objectives with respect to Arctic research to guide the Interagency Committee established under section 107 in the performance of its duties.".

(b) Section 104(b) is amended to read as follows:

"(b) Not later than January 31 of each year, the Commission shall submit to the President and to the Congress a report describing the activities and accomplishments of the Commission during the immediately preceding fiscal year.".

SEC. 5. Section 105 (15 U.S.C 4104) is amended by adding at the end thereof the following new subsection:

"(d) Any recommendation made by the Commission to the Chairman of the Interagency Committee or other Federal officials shall be responded to by those individuals within 120 days after receipt thereof. Any recommendation which is not followed or adopted shall be referred to the Commission, together with a detailed written explanation of the reasons why the recommendation was not followed or adopted.".

SEC. 6. Section 106 (15 U.S.C. 4105) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) appoint, and accept without compensation the services of, scientists and engineering specialists to be advisors to the Commission. Each advisor may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. The provisions of the Federal Advisory Committee Act (5 U.S.C. App. I) shall not apply to the participation in Commission deliberations of advisors appointed under this paragraph. Except for the purposes of chapter 81 of title 5 (relating to compensation for work injuries) and chapter 171 of title 28 (relating to tort claims) of the United States Code, an advisor appointed under this paragraph shall not be considered an employee of the United States for any purpose.".

SEC. 7. Section 108(a)(7) (15 U.S.C. 4107(a)(7)) is amended by inserting "in consultation with the Commission," before "coordinate".

SEC. 8. Subsection (b) of section 108 (15 U.S.C. 4107(b)) is amended to read as follows:

"(b) Not later than January 31, 1990, and biennially thereafter, the Interagency Committee shall submit to the Congress through the President a brief, concise report containing a statement of the activities and ac-

complishments on the Interagency Committee since its last report.".

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SECTION-BY-SECTION OUTLINE OF S. 677, A BILL TO AMEND THE ARCTIC RESEARCH AND POLICY ACT OF 1984 TO IMPROVE AND CLARIFY ITS PROVISIONS

SECTION 2

Authorizes appointments of two additional Commissioners-one from the scientific community and one from the private sector.

New breakdown would be as follows: Scientific Community (4), Private Sector (2), Indigenous resident (1).

This provision will facilitate greater scope of scientific discussion/inquiry and help to assure quorum at business meetings.

SECTION 3

Authorizes limited compensation to Commissioners at daily rate equal to GS-18.

As a practical matter, this has little effect. Commissioners are only compensated for the days they attend meetings *provided* they have no other employment. The purpose of this provision is to keep this Commission on par with the Marine Mammal Commission, upon which the Arctic Research Commission was originally modeled.

SECTION 4

Eliminates inconsistencies in the statutory description of the Commission's advisory role by designating its functions to include the making of recommendations rather than simply suggestions;

Provides express authority to consult with the Interagency Arctic Policy Group (an existing entity chaired by the State Department) on the means to promote international scientific cooperation in the Arctic:

Modifies a reporting requirement:

Instead of requiring "goals and objectives" report annually, the Commission would have to make these reports every two years.

SECTION 5

Requires an agency to respond to a recommendation made by the Commission.

In cases where an agency does not follow or adopt a Commission recommendation, the agency must explain why.

SECTION 6

Allows the Commission to utilize scientific and engineering advisors without compensation except for travel expenses and per diem in lieu of subsistence.

Exempts Advisors from Federal Advisory Committee Act requirements because they render technical information to an advisory commission.

SECTION 7

To assure consistency with Section 4, this provision authorizes the Commission, in addition to the Interagency Arctic Policy Committee, to help coordinate and promote scientific research programs with other nations.

SECTION 8

Deletes a redundant reporting requirement. Currently, the Interagency Committee must report on the Commission's activities . . . something the Commission already does. This provision would eliminate this redundancy.

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By Mr. HEINZ (for himself and Mr. ROCKEFELLER):

S. 678. A bill to provide improved programs for training individuals receiving unemployment compensation; to the Committee on Finance.

TRAINING FOR THE UNEMPLOYED ACT

Mr. HEINZ. Mr. President, the Senator from West Virginia, Mr. ROCKEFELLER, and I are today introducing legislation to improve the opportunities available to unemployed workers.

Every year this Nation spends approximately $15 billion on unemployment insurance. That represents a significant investment in our human capital. But the question we must ask is: Are we getting the best return on this investment? Are the workers who receive unemployment compensation getting the services they need to get back into the labor force?

The answer, sadly, is "No." Of 18 million workers who sought help from the U.S. Employment Service last year, only 3.2 million found jobs. Only 7 million even received a job reference. Even more astonishing is the fact that less than 100,000 were placed in job training. The job service cannot do its job if it does not know what the needs and capabilities of its clients are. And they do not know. As funds for employment services have dried up, the assessment and counseling of unemployed workers, once a standard function, has become a luxury. In 1988 only 559,000 workers received counseling services, a decline of more than 50 percent from 1980 levels.

In field hearings which I held throughout Pennsylvania, I learned first hand what these failures lead to. Workers are placed in training programs which lead nowhere, or fail to be placed in training at all. Others are not provided adequate information about training and employment opportunities until their unemployment insurance has run out, and they are without income support, and are unable to afford job training. Still others are turned away from services all together, even though they are fully eligible for a full range of benefits. To cite only one example of the many, Mr. Jim Sobinski of the Pittsburgh area was turned away from training in 1987. Late last year he learned, second-hand, that he might have been eligible for veterans education assistance and trade adjustment assistance, but now, after he has exhausted unemployment compensation, he must appeal his benefits through an administrative maze to get his benefits. Timely assessment and counseling might have gotten Jim back to work by now.

The problem is not so much that there aren't any programs to help these workers; there are. Senator ROCKEFELLER and I authored legislation, now law, to dramatically expand the availability of job training and job search services. The problem is the failure of the existing system to deliver these services. The failure to adequately assess a worker's needs, and counsel him or her on the options available, hampers the employment service's ability to do its job, and makes it difficult if not impossible to place the long-term unemployed in the right kind of training program. I would define such a program as being skill-intensive, and closely tied to local labor market needs.

Our bill requires States to designate a lead agency which shall be responsible for placing unemployed workers in training, when appropriate, as quickly as possible. The Secretary of Labor must assist the States in this process by developing model criteria, and supplying needed data.

To encourage State participation, unemployment compensation payments made to workers in training can be credited against interest owed on outstanding unemployment compensation loans.

To facilitate prompt placement in training, the legislation authorizes appropriations for States to provide assessment, testing, and counseling services to identify the skills and aptitudes of unemployed workers and to determine the different occupants or training programs which might be suitable. Funds may also be used for job search assistance.

The result of this legislation, Mr. President, will be powerful incentives for States to provide job training and job placement assistance to the unemployed as early as possible, and thus avoid painful and costly periods of long-term unemployment among our workers.

If we are serious about reducing unemployment, about maintaining our competitive edge, then we must, at minimum, enact these commonsense approaches to workers displacement.

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

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

S. 678

*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 "Training for the Unemployed Act of 1989".

TITLE I—DEMONSTRATION PROJECTS

SEC. 101. PROMOTION OF TRAINING PROGRAMS FOR INDIVIDUALS RECEIVING UNEMPLOYMENT COMPENSATION.

(a) ASSISTANCE TO STATES.—The Secretary of Labor (hereinafter in this section referred to as the "Secretary") shall take steps to promote training programs for individuals receiving unemployment compensation. In carrying out this section, the Secretary shall—

(1) develop model criteria that States can use—

(A) in approving training programs for individuals receiving unemployment compensation; and

(B) in approving individuals to participate in such programs while receiving unemployment compensation;

(2) provide technical assistance to States in developing and implementing the criteria described in paragraph (1); and

(3) make available data and other information concerning State laws and regulations that are in effect with respect to such training programs for individuals receiving unemployment compensation.

(b) RESPONSIBILITIES OF GOVERNORS.—

(1) APPROVAL OF TRAINING PROGRAMS.—

(A) The Governor of each State shall, in connection with the unemployment compensation program carried out under the State law approved under section 3304 of the Internal Revenue Code of 1986, designate a State agency that shall be responsible for making prompt determinations with respect to which training programs are approved for individuals receiving unemployment compensation.

(B) For purposes of determinations described in subparagraph (A), the State agency shall approve any training program offered by an accredited training or educational institution unless the agency determines, from a preponderance of evidence, that the training is entirely unrelated to employment or is for a vocation for which employment opportunities do not exist and are unlikely to become available.

(2) APPROVAL OF INDIVIDUALS' PARTICIPATION IN TRAINING.—

(A) The Governor of each such State shall, in connection with the unemployment compensation program carried out under the State law approved under section 3304 of the Internal Revenue Code of 1986, designate a State agency that shall be responsible for making prompt determination of the eligibility of individuals to participate in training programs approved pursuant to paragraph (1).

(B) For purposes of determinations described in subparagraph (A), the State agency shall consider whether an individual's prospects for obtaining suitable employment in the area in which the individual resides will be improved as a result of such training, taking into consideration the employment opportunities that are or may be expected to become available in such area. The State agency shall approve an individual's participation in any training program approved pursuant to paragraph (1) unless the agency determines, from a preponderance of evidence, that the training is entirely unrelated to employment or is for a vocation for which employment opportunities do not exist and are unlikely to become available.

(c) DATA COLLECTION.—(1) The Secretary shall collect data on an annual basis for the purpose of evaluating the implementation of this section.

(2) In carrying out this subsection, the Secretary shall consider at least the following:

(A) The average period during which unemployment compensation was paid to individuals who participated in training programs and the average period during which such compensation was paid to other individuals.

(B) Whether individuals who participated in training programs received higher paying jobs than those who did not, although the individuals had similar skills before participation in such a program.

(C) Whether individuals' participation in training programs increased or reduced costs of administering and paying unemployment compensation.

(D) Whether participation in training programs had any effect on other State or Federal assistance programs, including the food stamp program, the aid-for-families-with-dependent-children program, medicaid, or general assistance programs.

(3) The Secretary shall report to the Congress not later than 1 year after the date of the enactment of this title. Such report shall include an evaluation of the effectiveness of the programs established under this section.

(d) INTEREST CREDITS.—Section 1202 of the Social Security Act (42 U.S.C. 1322) is amended by adding the following subsection at the end thereof:

"(c) Beginning with fiscal year 1988, the Secretary of the Treasury shall credit, by September 30 of the fiscal year with respect to which the credit is made, to the account (in the Unemployment Trust Fund) of a State an amount equal to the amount which the Secretary of Labor certifies to the Secretary of the Treasury as the amount paid, during such fiscal year, by such State (and not compensated for by the Federal Government) as unemployment compensation to individuals who, while receiving such compensation, were in training with the approval of a State agency. Any such amount shall be credited against, and shall operate to reduce, any interest owed with respect to such fiscal year by the State on the balance of advances made under section 1201 to the State."

(e) REPORTS.—(1) Each State shall submit a report to the Secretary of Labor on a quarterly basis with the following information:

(A) The amount of unemployment compensation paid by the State (and not compensated for by the Federal Government) during the quarter to individuals who, while receiving such compensation, were in training with the approval of a State agency.

(B) The number of such individuals.

(C) The total number of weeks with respect to which such compensation was paid during such quarter to all such individuals.

(D) The number of such individuals who during such quarter were in training programs conducted with funds provided under title III of the Job Training Partnership Act or under the Economic Dislocation and Worker Adjustment Assistance Act, and the number of such individuals who were in other State approved training programs during such quarter.

(E) The number of individuals who, during such quarter, applied for a continuation of unemployment compensation benefits while in training with the approval of a State agency.

(2) The Secretary of Labor shall transmit to each House of the Congress an annual report, beginning not later than October 31, 1989, containing a detailed accounting of—

(A) the implementation of this section during the fiscal year preceding the fiscal year in which such report is transmitted; and

(B) the regulations and administrative procedures carried out by the various States during such preceding fiscal year in order to comply with section 3304(a)(8) of the Internal Revenue Code of 1986.

(f) STATE SOLVENCY.—Notwithstanding any other provision of law, the provisions of this section and activities carried out pursuant to such provisions shall not be taken into consideration in determining whether there has been a net decrease in the solvency of any State unemployment compensation system.

TITLE II—ASSESSMENT

SEC. 201. ADDITIONAL SERVICES.

(a) IN GENERAL.—In addition to funds annually appropriated and allotted to States for the operation of State employment service agencies, there are authorized to be appropriated from the Federal Unemployment Account such sums as may be necessary annually to provide—

(1) assessment, testing, and counseling services to identify the skills and aptitudes of unemployed persons who are unlikely to return to their former occupations and to determine different occupations or training opportunities for which they may qualify; and

(2) instruction in job search techniques so that unemployed persons may find work without assistance from public or private employment agencies.

(b) ALLOTMENT.—Funds shall be allotted to States in the manner prescribed under the Act of June 6, 1933, known as the Wagner-Peyser Act.

(c) RESTRICTION.—Funds provided under this title shall be used only for activities which are in addition to those which would otherwise be available in the State in the absence of such funds.

(d) PRIORITIES.—(1) In providing services under this title, States shall give priority to those most in need of assistance, including—

(A) dislocated workers;

(B) other long-term unemployed who are receiving or have exhausted unemployment insurance benefits; and

(C) economically disadvantaged adults and youth.

(2) Priorities for services shall be established and services delivered in accordance with section 8 of the Wagner-Peyser Act.

(e) WORKERS LIKELY TO RETURN TO FORMER EMPLOYMENT.—If a State employment service agency determines that a worker has a reasonable chance of returning to his former employment within 8 weeks, such worker shall not be required to participate in a training program under this title.

(f) DEFINITIONS.—For purposes of this title—

(1) the terms "dislocated worker" and "economically disadvantaged" mean such individuals as defined in the Job Training Partnership Act;

(2) the term "long-term unemployed" means individuals who have been without jobs for 15 weeks and who want and are available for work; and

(3) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

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By Mr. INOUYE:

S. 680. A bill to restore the traditional observance of Memorial Day and Veterans Day; to the Committee on the Judiciary.

TRADITIONAL OBSERVATION OF MEMORIAL DAY AND VETERANS DAY

● Mr. INOUYE. Mr. President, this bill would authorize the President to issue a proclamation calling upon the people of the United States to observe Memorial Day and Veterans Day as days for prayer and ceremonies showing respect for American veterans of wars and other military conflicts. The bill would help to restore the traditional observance of Memorial Day and Veterans Day.●

By Mr. BAUCUS (for himself, Mr. BURNS, Mr. ADAMS, Mr. GORTON, Mr. MCCLURE, Mr. SYMMS, Mr. BURDICK, Mr. CONRAD, Mr. SIMPSON, Mr. WALLOP, Mr. PRESSLER, Mr. DASCHLE, Mr. HATCH, Mr. LEVIN, Mr. CRANSTON, Mr. PRYOR, and Mr. GARN):

S. 681. A bill to require the Secretary of the Treasury to mint and issue coins in commemoration of the 100th anniversary of the statehood of Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

STATEHOOD CENTENNIAL COMMEMORATIVE COIN ACT OF 1989

● Mr. BAUCUS. Mr. President, today I am introducing legislation, along with Senators BURNS, ADAMS, BURDICK, CONRAD, DASCHLE, GORTON, MCCLURE, PRESSLER, SIMPSON, SYMMS, WALLOP, HATCH, LEVIN, CRANSTON, PRYOR, and GARN to strike a palladium and a silver commemorative coin to mark the centennial of Montana, Idaho, North Dakota, South Dakota, Washington, and Wyoming.

Mr. President, this is an amended version of the bil we introduced last Congress and which the Senate passed on four separate occasions. I feel confident that the agreement this legislation represents will be acceptable by all parties involved and hope we can achieve early enactment so that these coins can be struck and distributed throughout our States during our centennial year.

Providing this unique official congressional recognition of the 100th birthday of those six States, which were admitted to the Union in 1889 and 1890, is certainly appropriate given their unique heritage and importance.

These States represent the culmination of Thomas Jefferson's dream of one land—from sea to shining sea; statehood for territories stretching from the Minnesota border to the Straits of San Juan de Fuca, from the Canadian border to the Laramie Trail—statehood for the great agricultural heartland—to the northern tier of the Rockies—to the Pacific Ocean.

This legislation recognizes that these six States, though sparsely populated, represent a great portion of the resource base of our country—metals and minerals, oil, timber, water, and power.

This is a land of immigrants from Europe and the Orient and a land where native Americans are a proud part of our heritage: Montana, Idaho, North Dakota, South Dakota, Washington, and Wyoming. The six-State commemorative recognizes the brilliance of Jefferson's Louisiana Purchase; it recognizes our foresight to claim to the Oregon Territory; and it recognizes the wisdom of Daniel Webster, who brilliantly negotiated a lasting boundary with our neighbor to the north in Webster-Ashburton Treaty.

Rain forests and the Rockies, seafood and submarines, coal and cattle, Yellowstone Park and Glacier Park, the Olympic Peninsula and Lake Coeur d'Alene—sturdy people, a part of America's past and a part of her future; unique as the coin we propose to strike from palladium, sister of platinum, rare to this continent.

The Stillwater mine near Yellowstone Park currently produces 120,000 ounces of platinum group metals every year, and soon will produce twice that amount. The mine, located on the edge of the Absaroka Beartooth Wilderness, was designed and built to complement the wilderness without damage to the beauty of the region nor degradation of the crystal clear Stillwater River.

Mr. President, I hope we can achieve early enactment so that this coin can be struck and distributed throughout our States during our centennial year.

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

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

S. 681

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

TITLE I—STATEHOOD CENTENNIAL COIN

SEC. 101. SHORT TITLE.

This title may be cited as the "Statehood Centennial Commemorative Coin Act of 1989".

SEC. 102. SPECIFICATIONS OF COINS.

(a) AUTHORIZATION.—Subject to subsection (b), the Secretary of the Treasury (hereinafter referred to as the "Secretary") shall mint and issue—

(1) not more than 350,000 five-dollar palladium coins, and

(2) not more than 1,000,000 one-dollar silver coins,

in commemoration of the 100th anniversary of the statehood of Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming.

(b) SPECIFICATIONS.—

(1) PALLADIUM COINS.—Each five-dollar palladium coin shall—

(A) weigh 31.103 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 23.327625 grams of palladium (.75 fine troy ounce) and shall contain an alloy of such metals and in such proportion as may be deemed necessary by the Secretary.

(2) SILVER COINS.—The silver coins shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) be composed of 90 percent silver and 10 percent alloy.

(c) DESIGN.—The design of the coins minted in accordance with this section shall contain an engraving of the Centennial States' regional logo on one side; and on the other side, the bust of Thomas Jefferson, and the busts of Lewis and Clark overlooking the Missouri River. Each coin shall bear a designation of the value of the coin, the year 1989, and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum". The reverse may also contain the words "Northwest Centennial" and "Statehood 1889-1890". Modifications to these designs may be made, if necessary, by the Secretary upon consultation with a duly authorized representative of the 6 States' Centennial Commissions. The design for each coin authorized by this title shall be selected by the Secretary upon consultation with the Commission of Fine Arts.

(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this title 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. 103. SOURCES OF BULLION.

(a) PALLADIUM.—The Secretary shall obtain palladium for the coins referred to in this title by purchase of palladium mined from natural deposits in the United States within one year after the month in which the ore from which it is derived was mined and by purchase of palladium refined in the United States. The Secretary shall pay not more than the average world price for the palladium. In the absence of available supplies of such palladium at the average world price, the Secretary shall purchase supplies of palladium pursuant to the authority of the Secretary under existing law. The Secretary shall issue such regulations as may be necessary to carry out this provision.

(b) SILVER.—The Secretary shall obtain silver for the coins minted under this title only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 104. MINTING AND ISSUANCE OF COINS.

(a) UNCIRCULATED AND PROOF QUALITIES.—The coins minted under this title may be issued in uncirculated and proof qualities, except that not more than 1 facility of the United States Mint may be used to strike each quality.

(b) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the coins minted under this title as soon as practicable.

(c) TERMINATION OF AUTHORITY.—Coins may not be minted under this title after December 31, 1990.

SEC. 105. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this title at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this title at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this title prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount to reflect the benefit of prepayment.

(d) SURCHARGES.—Sales of coins minted under this title shall include a surcharge of $20 for the palladium coin or $7 for the silver coin.

SEC. 106. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this title will not

result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this title unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States 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. 107. DISPOSITION OF PROCEEDS.

(a) IN GENERAL.—Except as provided in subsection (b), notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this title shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this title from the coinage profit fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this title.

(b) REDUCTION OF NATIONAL DEBT.—An amount equal to $1,500,000 of all surcharges received by the Secretary from the sale of coins minted under this title shall be provided to the "Documents West" exhibition program and administered by the Idaho Centennial Foundation. These funds shall be used for the sole purpose of promoting the exhibition of historical and educational artifacts pertaining to the six Centennial States. The remaining amount of surcharges that are received by the Secretary from the sale of coins minted under this title shall be deposited in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.

SEC. 108. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the Idaho Centennial Commission as may be related to the expenditure of amounts paid under section 107.

SEC. 109. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(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 and services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity. No firm shall be considered a Federal contractor for purposes of 41 C.F.R. part 60 et seq. as a result of participating as a United States Mint coin consignee.

TITLE II—SILVER PROOF SETS

SEC. 201. SHORT TITLE.

This title may be cited as the "Silver Coin Proof Set Act".

SEC. 202. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF SILVER PROOF SETS.

Section 5112 of title 31, United States Code, is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following new subsection:

"(h)(1) Notwithstanding this section and section 5111(a)(1) of this title, the Secretary may mint and issue, in quantities the Secretary decides are necessary to meet the public demand, proof sets containing coins described in paragraphs (5) and (6) of subsection (a), and coins described in paragraphs (1), (2), (3), and (4) of subsection (a) that—

"(A) are an alloy of 90 percent silver and 10 percent copper,

"(B) have a design and inscriptions consistent with subsection (d)(1),

"(C) have reeded edges;

"(D) have a mintmark indicating their place of manufacture; and

"(E) bear a hallmark as determined by the Secretary evidencing their fine metal content.

"(2) The Secretary shall sell the proof sets minted under this subsection to the public at a price equal to the market value of the bullion at the time of sale, plus the cost of minting, marketing, and distributing such coins (including labor, materials, dyes, use of machinery, and overhead expenses).

"(3) For purposes of section 5132(a)(1) of this title, all coins minted under this subsection shall be considered to be numismatic items.".

SEC. 203. SOURCE OF SILVER FOR PROOF SETS.

Section 5116(b) of title 31, United States Code is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary shall obtain silver for the coins authorized under section 5112(h) of this title by purchase from stockpiles established under the Strategic and Critical Materials Stock Piling Act and from Treasury stocks on hand. At such time as the Secretary determines that a surplus no longer exists with respect to the sources referred to in the preceding sentence, the Secretary shall acquire silver for such coins by purchase of silver mined from natural deposits in the United States, or in a territory or possession of the United States, within 1 year after the month in which the ore from which it is derived was mined. The Secretary shall pay not more than the average world price for the silver. The Secretary may issue such regulations as may be necessary to carry out this paragraph.".

● Mr. BURDICK. Mr. President, I am pleased to rise today in support of the Centennial Coin bill. I want to thank my good friend and colleague from Montana, Mr. BAUCUS, and his fine staff for their efforts in putting together a bill to create a commemorative coin for the States of North Dakota, Montana, South Dakota, Idaho, Washington, and Wyoming.

Mr. President, this bill will require the Secretary of the Treasury to mint and issue a total of up to 1,350,000 coins including the first palladium coins ever minted in this country. I think the production of this special coin is fitting to the significance of this very special event—the anniversary of statehood of six of the most beautiful and productive States in these United States.

I urge all my colleagues in the Senate to take part in this celebration by joining me in cosponsoring the centennial coin bill.●

● Mr. McCLURE. Mr. President, I rise in support of the Statehood Centennial Commemorative Coin Act of 1989 of which I am an original sponsor. This bill commemorates the centennial of statehood for six Northwestern States—Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming—by minting silver and palladium coins.

Mr. President, legend has it that the name "Idaho" comes from an Indian word meaning "light on the mountains" or "gem of the mountains." Although historians have done their jobs and told we Idahoans that our long-held belief about the origin of our State's name is a myth, the reality is that Idaho is the gem of the mountains.

The Commemorative Coin Act will help celebrate the 100th year of the "gem of the mountains" by minting 1 million silver coins. Silver is one of Idaho's gems. In fact, Idaho is the largest silver producer the United States. It accounts for close to one-fourth of the Nation's production.

The silver coins will be 90-percent silver and 10-percent alloy. The coins will be engraved on one side with the centennial States' regional logo which depicts the centennial States and on the other with busts of Thomas Jefferson, and Lewis and Clark overlooking the Missouri River. Silver for the coins will come from the national defense stockpile.

In addition, profits from coin sales will go to reduce the deficit and to provide $1.5 million for Documents West.

Mr. President, I am pleased to be an original sponsor of this important legislation and ask my colleagues to join in our effort to celebrate this historic event.●

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By Mr. SIMON:

S. 682. A bill to amend chapter 33 of title 18, United States Code, to prohibit the unauthorized use of the names "Visiting Nurse Association," "Visiting Nurse Service," "VNA," "VNS," or "VNAA," or the unauthorized use of the name or insignia of the Visiting Nurse Association of America; to the Committee on Foreign Relations.

PROHIBITING THE UNAUTHORIZED USE OF THE VISITING NURSE ASSOCIATION NAMES AND INSIGNIAS

● Mr. SIMON. Mr. President, I am pleased to rise for the purpose of introducing legislation designed to protect the name of the Visiting Nurse Association [VNA], also known as the Visiting Nurse Service [VNS] and the Visiting Nurse Association of America [VNAA]. The VNA is comprised of voluntary, nonprofit, community-based organizations dedicated to providing quality home health care for all people. The name of the VNA is well recognized with a reputation for quality and dependability. The VNA lends its name only to organizations committed to high quality home health care. As more and more Americans are relying on home health care, especially many members of our senior commu-

nity, we need to do all we can to make sure that the services they use are reliable. The VNA name stands as a guarantee for people who need health care, and the purpose of this legislation is to protect that name from misuse by organizations which do not meet the high standards set by the VNA.

Specifically, the legislation will amend chapter 33 of title 18, U.S.C. to prohibit the unauthorized use of any of the Visiting Nurse Association names or insignias. By enacting this bill we will protect unsuspecting consumers from organizations which use the VNA, VNS, or VNAA name without permission and trade on the reputation and good will of these organizations. I urge my colleagues to support this bill, which is identical to the bill introduced in the other body by Representative STAGGERS; you will be helping the VNA continue to assure high quality home health care for all Americans.

I ask unanimous consent that the full text of this bill be printed in the RECORD.●

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

S. 682

SECTION 1. PROHIBITION OF UNAUTHORIZED USE OF NAME OR INSIGNIA OF VISITING NURSE ASSOCIATION OF AMERICA.

(a) IN GENERAL.—Chapter 33 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 716. Visting Nurse Association; Visiting Nurse Service

"(a) Whoever, not being a Visiting Nurse Association, a Visiting Nurse Service, or a member or agent of the Visiting Nurse Association of America—

"(1) knowingly uses the words 'Visiting Nurse Association', 'Visiting Nurse Service', 'Visiting Nurse Association of America', 'VNA', 'VNS', or 'VNAA', or any combination or variation of such words alone or with other words; or

"(2) knowingly uses the insignia of the Visiting Nurse Association of America or any imitation thereof, "for the purpose of inducing the belief that he or she is a member or agent of the Visiting Nurse Association of America or that he or she operates as a Visiting Nurse Association or Visiting Nurse Service, shall be fined under title 18, United States Code, or imprisoned not more than 6 months, or both.

"(b) For purposes of this section—

"(1) the term 'Visiting Nurse Association' and the term 'Visiting Nurse Service' mean a voluntary, community-based home health agency which is controlled by an independent, voluntary board of directors, is exempt from Federal taxation under section 501(a) of the Internal Revenue Code of 1986, and is described in section 501(c)(3) of such Code; and

"(2) the term 'Visiting Nurse Association of America' means an organization which is exempt from Federal taxation under section 501(a) of the Internal Revenue Code of 1986, is described in section 501(c)(3) of such Code, and is a national, nonprofit coalition of Visiting Nurse Associations and Visiting Nurse Services.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 33 of title 18, United States Code, is amended by adding at the end the following new item:

"716. Visiting Nurse Association; Visiting Nurse Service.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall take effect 6 months after the date of the enactment of this Act.

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By Mr. CRANSTON (for himself, Mr. PELL, Mr. DODD, Mr. DECONCINI, and Mr. SANFORD):

S. 683. A bill to amend the Peace Corps Act to extend the authorizations of appropriations for the Peace Corps through fiscal year 1991, to shorten the period during which a former Peace Corps employee is ineligible for reemployment by the Peace Corps, and to establish a Peace Corps foreign exchange fluctuations account; to the Committee on Foreign Relations.

PEACE CORPS ACT AMENDMENTS OF 1989

Mr. CRANSTON. Mr. President, I am today introducing S. 683, legislation to extend the authorization of appropriations for the Peace Corps through fiscal year 1991—at a level that would enable the Peace Corps to continue making progress toward achieving the congressionally established goal of a Peace Corps volunteer strength of 10,000, as enacted in section 1102 of the International Security and Development Cooperation Act of 1985, Public Law 99-83—and to make certain other improvements in Peace Corps operations. Joining me in introducing this measure are the chairmen of the Foreign Relations Committee, Senator PELL, and of the committee's Subcommittee on Western Hemisphere and Peace Corps Affairs, Senator DODD, committee member Senator SANFORD, and Senator DECONCINI, a key Appropriations Committee member and long time Peace Corps supporter.

For more than 27 years, Peace Corps volunteers have promoted international peace and friendship by helping persons in many nations overcome the often harsh circumstances—including malnutrition, lack of clean water, disease, and illiteracy—of their lives. Since the Peace Corps' establishment in 1961, over 130,000 American men and women have served as volunteers in 95 nations around the world. Of this total, I am terribly proud that 16,826 have come from California and returned so much wiser and more effective in their chosen fields of endeavor.

Mr. President, this bill would amend the Peace Corps Act, first to authorize increased appropriations for fiscal years 1989, 1990, and 1991; second, place a 30-month cap on the length of time that a former Peace Corps employee must remain out of the Peace Corps in order to be eligible for reemployment in the agency, and third, establish a foreign currency fluctuations account from which the Peace Corps could draw when the costs of its operations increase as a result of a decline in the value of the U.S. dollar.

AUTHORIZATION OF APPROPRIATIONS

Mr. President, section 2 of this bill would amend section 3 of the Peace Corps Act to authorize Peace Corps appropriations of $157 million for fiscal year 1989, $172.8 million for fiscal year 1990, and $185.3 million for fiscal year 1991. These levels of funding would enable the Peace Corps to continue to make progress toward achieving the congressionally established goal of a 10,000-volunteer strength. As the Senate author of the provision establishing this goal, I believe that the Congress should take the steps necessary to provide the Peace Corps with the resources to make steady progress toward realizing that goal.

Following the establishment of the 10,000-volunteer goal, I and the leadership, and a number of other members of the Senate Foreign Relations Committee and of the House Foreign Affairs Committee, requested that Loret Ruppe, the very effective Director of the Peace Corps, develop a phased, realistic, and programmatically appropriate plan to meet that goal. Director Ruppe's plan, submitted to Congress on March 5, 1986, provides a realistic blueprint for moderate Peace Corps growth through the end of this decade and into the beginning of the next. The funding levels called for in that plan for fiscal years 1990 and 1991 are the amounts that would be authorized to be appropriated by the bill we are introducing.

With respect to the current fiscal year, fiscal year 1989, I would note that the $157 million figure is also the level proposed in the plan. It is the amount that we proposed in the authorization bill, S. 2054, that we introduced last year, and the amount that was included in the Senate-passed appropriation for the Peace Corps—in H.R. 4637, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989. Unfortunately, in conference with the House, that amount was reduced to $153.5 million and the agency is now in dire need of supplemental fiscal year 1989 funding of about $2,395,000 in order to maintain its level of operations.

Mr. President, the funding levels proposed in this bill are essential if the Peace Corps is to continue to move forward toward making the 10,000-volunteer goal a reality. By the end of the current fiscal year, there will be 6,800 men and women serving in the Peace Corps—as compared to a low of 5,000 volunteers in 1984. The prospect for continued growth are good. For example, in fiscal year 1988, there were 12,505 applicants for 3,722 volunteer positions, and the number of volunteers placed in host countries in-

creased by 25 percent between fiscal years 1987 and 1988.

However, in fiscal year 1989 that increase will have slowed to 3 percent. A major reason for this is that the $157 million called for in the 10,000-volunteer plan for fiscal year 1989 was not fully appropriated. As I have noted, the Peace Corps received only $153.5 million for the current fiscal year. If appropriations in the amount called for in the 10,000-volunteer plan for fiscal year 1990 are provided, the Peace Corps will be able to resume more substantial program growth and expand to 7,300 volunteers by the end of 1990.

Mr. President, unfortunately the funding levels in the plan I have been discussing have been inadequate to sustain the rate of growth necessary to reach the 10,000-volunteer goal by the target year of fiscal year 1992. This is amply illustrated by the revised plan which Director Ruppe submitted to us on April 17, 1987, which specifies substantially higher funding needs. Because of the great need to restrain Federal spending, however, we have not chosen to move forward with the figures in the revised plan.

Mr. President, I ask unanimous consent that the April 17, 1987, letter from Director Ruppe setting forth the revised plan be printed in the RECORD at this point.

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

PEACE CORPS,
*Washington, DC, April 17, 1987.*

Hon. ALAN CRANSTON,
*Chairman, Subcommittee on East Asian and Pacific Affairs, Committee on Foreign Relations, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: I am writing in response to your earlier letter requesting an update to the plan submitted last year for attaining a volunteer strength of 10,000. We continue to feel very strongly that such an increase would be very much in the best interests of overall U.S. foreign policy. We also recognize, of course, that any such plan must conform to national economic planning objectives.

As you know, the original plan reflected assumptions about funding levels for FY 1987 which did not occur. The impact of lower funding levels this year would normally be seen in lower voluntary levels in FY 1988 and FY 1989. We feel that these reductions can be minimized by a more rapid increase in our trainee levels in these two years, but some impact on total volunteer levels will be inevitable.

We estimate that the annualized impact of the Federal Employees' Retirement System (FERS) and the 1987 and 1988 pay raises to be between $2.5 million and $3.4 million. We estimate tht FAAS costs will rise by between $.3 million and $2.3 million between now and 1992, while FECA costs will rise by between $1 million and $3 million. Other uncontrollables (rents, mail, severance pay, and communications) are projected to increase by between $1 million and $4 million. Estimates of the impact of currency revaluations and in-country inflation are, as you know, dependent on both the international trade situation and the economic situation in each country in which we serve, and are therefore very difficult to predict. If we assume roughly the status quo, we would project a need for roughly $2 million each year to preclude a reduction in real dollars available for our programs.

The net effect of these projections, partially offset in FY 1987 and FY 1988 by lower volunteer levels, would be to revise the budget requirements identified in our original plan as follows:

| | Original plan (million) | Revision |
|---|---|---|
| Fiscal year: | | |
| 1988 | 146.2 | 149.4 |
| 1989 | 157.0 | 164.7 |
| 1990 | 172.8 | 182.4 |
| 1991 | 185.3 | 197.8 |
| 1992 | 196.2 | 210.9 |

We are continually seeking ways to reduce our operating costs, so some reductions to these estimates may be possible. As with any projections so far into the future, our revised plan reflects our best estimates of future costs, assuming that authorizations and appropriations will occur in a timely enough fashion to permit effective planning for orderly growth.

We would be happy to answer any questions you may have about these revisions. We greatly appreciate your continued interest in Peace Corps' programs. We completely agree that the long range value to the United States of our continued people-to-people support to the developing world can not be overestimated.

Sincerely,

LORET MILLER RUPPE,
*Director.*

FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

Mr. CRANSTON. Mr. President, in addition to insufficient appropriations, another reason for the slowed growth in fiscal year 1989 toward the 10,000-volunteer goal is the decreased value of the Peace Corps' funding due to foreign currency fluctuations.

In a February 27, 1989, letter to me, Director Ruppe stated that, due to the falling dollar, $1.8 million was lost in fiscal year 1988, and an estimated $3 million will be lost in fiscal year 1989. In order to avoid such losses in the future, section 4 of the bill would establish a foreign currency fluctuations account for the Peace Corps—patterned after similar accounts established for the Departments of Defense and State in 10 U.S.C. 2779 and 22 U.S.C. 2696, respectively, and for the American Battle Monuments Commission in 36 U.S.C. 138(c)—and would authorize appropriations of amounts sufficient to maintain a balance of $5 million in the account. Such a foreign currency fluctuations account would stabilize Peace Corps fiscal support and hence would help to ensure that the congressionally intended levels of program operations are achieved. The account would provide a mechanism for redistributing savings realized in certain years when the value of the dollar has risen to offset losses in other years in which the dollar has dropped.

Mr. President, I ask unanimous consent that a copy of Director Ruppe's February 27 letter be printed in the RECORD at this point.

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

PEACE CORPS,
OFFICE OF THE DIRECTOR,
*Washington, DC, February 27, 1989.*

Hon. ALAN CRANSTON,
*U.S. Senate, Washington, DC.*

DEAR SENATOR CRANSTON: As you requested, enclosed is information relative to the establishment of a currency fluctuation account for the Peace Corps. Should such an account be established, Peace Corps would benefit in three ways:

It will help alleviate program erosion. Currently, funds that could be used for program growth are reduced because we must pay exchange rate losses out of our annual appropriation. For example, in FY'87 we estimated a loss of $3.2 million, FY'88 $1.8 million, FY'89 $3.0 million, and FY'90 $3.4 million. The most vulnerable are our West African countries whose economies are based on the Franc. In the first quarter of FY'87, the dollar's devaluation in West Africa caused an $800,000 shortfall.

A fluctuation account will provide an efficient mechanism to centrally redistribute funds as needed. Should the legislation require that the fund be replenished, savings in Peace Corps countries where the dollar is strong could be used to offset losses in countries where the dollar is weak.

By having a multi-year account, the Peace Corps could potentially stabilize fluctuation by being able to plan and budget across fiscal years. If for example, exchanges are favorable in FY'89, the Peace Corps could use these savings in FY'90.

Attached is a summary data sheet for the Philippines which illustrates which expenses are most vulnerable to foreign currency fluctuation. Also attached is a report on uncontrollable expenses for FY '89 and FY '90.

In reference to your inquiry regarding the in-and-out rule, the major justification for its adjustment to a maximum of 2½ years out before rehire, is that it would afford more excellent employees the opportunity to return to the agency with expanded knowledge and skills. As it currently stands, American Peace Corps employees above the GS 8 grade level, must leave the agency for as long as they were employees, thus making it almost impossible for some of our brightest and best to return.

Please let me know if you need more detailed information on the impact of currency fluctuations on our budget or further details relative to a shortened in-and-out rule.

With best wishes,

Sincerely,

LORET MILLER RUPPE,
*Director.*

PEACE CORPS EMPLOYEES

Mr. CRANSTON. Mr. President, under legislation enacted in 1965—in section 7(a) of the Peace Corps Act, 22 U.S.C. 2506(a)—Peace Corps employees are generally precluded from serving for more than 5 years, normally consisting of two 30-month appointments, with the exception that the Director of the Peace Corps may personally grant 1-year extensions in individual cases where the Director finds that

special circumstances warrant the extension. Over the 8-year period fiscal year 1981 through 1988, the Director granted a total of 140 1-year extensions, an average of about 17 per year.

Additionally, under 1985 amendments to section 7(a) which I authored, service for a third 30-month tour is authorized for exceptional employees—not to exceed 15 percent of the Peace Corps' U.S. citizen employees—in certain specified circumstances in which the individual's extended service would be particularly valuable to the Peace Corps. Such appointments were given to 11, 28, and 24 employees in fiscal years 1986, 1987, and 1988, respectively.

An essential corollary to these limits is a rule—known as the "in-out" rule—which prescribes how long an employee must remain outside Peace Corps employment before being reemployed. Under current law, the rule is that the former employee is ineligible for reemployment for a period of time equal to the length of his or her previous period of employment.

These limits on length of employment and the in-out rule are intended to prevent Peace Corps employment from becoming a career unto itself and to ensure that turnover in employment provides a substantial number of openings for former volunteers to return to Peace Corps employment with new ideas and field experience. However, for those employees who have served for long periods—which now may extend to 6 years, 7½ years, and even 8½ years—the in-out rule can be unduly restrictive. From discussions with Peace Corps officials and others, I am convinced that a modification of this rule would be beneficial in affording highly effective former employees whom the agency would like to rehire the opportunity to return to the Peace Corps while still maintaining the essential purpose of the in-out rule.

Thus, section 3 of the bill would modify the rule to place a 30-month maximum limit on the length of time that a former Peace Corps employee must remain out of the Peace Corps in order to be eligible for reemployment there.

CONCLUSION

Mr. President, of all the international efforts we make to achieve world peace and understanding, there is no greater contribution than that which the American people make through the Peace Corps. The investment in the Peace Corps is a sound one, and I truly believe that we should take all necessary steps to stay on the path we have forged toward achievement of the 10,000-volunteer goal and to continue to find ways to improve Peace Corps operations and administration.

I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 683

*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 "Peace Corps Act Amendments of 1989".

SEC. 2. AUTHORIZATIONS OF APPROPRIATIONS FOR THE PEACE CORPS.

The first sentence of section 3(b) of the Peace Corps Act (22 U.S.C. 2502(b)) is amended to read as follows: "There are authorized to be appropriated to carry out the purposes of this Act $157,000,000 for fiscal year 1989, $172,800,000 for fiscal year 1990, and $185,300,000 for fiscal year 1991.".

SEC. 3. PERIOD OF INELIGIBILITY FOR PEACE CORPS REEMPLOYMENT.

Section 7(a)(2)(B) of the Peace Corps Act (22 U.S.C. 2506(a)(2)(B) is amended by inserting before the period at the end "or 30 months, whichever is shorter".

SEC. 4. PEACE CORPS FOREIGN CURRENCY FLUCTUATIONS.

(a) ESTABLISHMENT OF FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.—The Peace Corps Act (22 U.S.C. 2501 et seq.) is amended by inserting after section 15 the following new section:

"FOREIGN CURRENCY FLUCTUATIONS ACCOUNT"

"SEC. 16. (a) There is hereby established in the Treasury an account to be known as the 'Foreign Currency Fluctuations, Peace Corps, Account'. The account shall be used for the purpose of providing funds to pay expenses for operations of the Peace Corps outside the United States which, as a result of fluctuations in currency exchange rates, exceed the amount appropriated for such expenses. The account may not be used for any other purpose.

"(2) Funds in the account may be transferred, upon the certification of the Director of the Peace Corps (or the Director's designee) that the transfer is necessary for the purpose specified in paragraph (1), to the account containing funds appropriated for the expenses of the Peace Corps.

"(b) Funds transferred under subsection (a) shall be merged with and be available for the same time period as the appropriation to which they are applied. A provision of law limiting the amount of funds the Peace Corps may obligate in any fiscal year shall be increased to the extent necessary to reflect in exchange rates from those used in preparing the budget submission.

"(c) An obligation of the Peace Corps payable in the currency of a foreign country may be recorded as an obligation based upon exchange rates used in preparing a budget submission. A change reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

"(d) Funds transferred from the Foreign Currency Fluctuations, Peace Corps, Account my be transferred back to that account—

"(1) if the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; or

"(2) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay such obligations.

"(e) A transfer back to the account under subsection (d) may not be made after the end of the second fiscal year after the fiscal year in which the appropriations to which the funds were originally transferred is available for obligation.

"(f) Not later than the end of the second fiscal year following the fiscal year for which appropriations for the expenses of the Peace Corps have been made available to the Peace Corps, unobligated balances of such appropriation provided for a fiscal year may be transferred into the Foreign Currency Fluctuations, Peace Corps, Account, to be merged with and available for the same period and purposes as that account.

"(g) There are authorized to be appropriated to the Foreign Currency Fluctuations, Peace Corps, Account for a fiscal year such sums as are sufficient to maintain a balance of $5,000,000 in such account at the beginning of such fiscal year.

"(h) The Director of the Peace Corps shall submit to the appropriate committees of the Congress each year a report on funds transferred under this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to each fiscal year after fiscal year 1989.

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By Mr. DOLE:

S.J. Res. 89. Joint resolution that the week beginning April 2, 1989, be designated "National Auctioneers Week"; to the Committee on the Judiciary.

NATIONAL AUCTIONEERS WEEK

Mr. DOLE. Mr. President, I rise today to introduce legislation designating the week beginning on April 2, 1989, as "National Auctioneers Week." This commemorative week has been recognized by State and local governments and private institutions for more than 15 years.

Auctioneering is one of the world's most visible and influential techniques for the marketing and sale of real and personal property. Already a $100 billion-a-year industry, auctioneering continues to grow by selling a wider range of goods and by diversifying its clientele.

The auction is truly an integral part of the American economy. Through competitive bidding, a fair market value can be established for goods and services, to the benefit of both the buyer and the seller. At the same time, the scope of property sold at auctions is expanding, ranging from residential real estate to valued works of art.

The success of this industry would be impossible without the efforts of our Nation's auctioneers. While maintaining the highest in professional and ethical standards, these individuals help ensure that all customers, whether buyers or sellers, are treated fairly.

In closing, I believe this legislation offers an excellent opportunity to improve public awareness of auctions and the role they play in our free enterprise system. I would encourage all my colleagues to join me in support of "National Auctioneers Week."

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 89

Whereas auctions of real and personal property historically have been an integral and influential marketing tool in the United States and countries around the world;

Whereas auctions demonstrate how the free enterprise system establishes fair market value;

Whereas trained professional auctioneers ensure that auctions are conducted in a manner fair to both buyers and sellers;

Whereas a national auctioneers week has been observed for more than 15 years by State and local governments and private organizations;

Whereas the designation of National Auctioneers Week by the Congress and the President will heighten the awareness of the people of the United States of the contributions made by auctions and auctioneers to the economy of the Nation and the culture and way of life of the people of the Nation: Now, therefore, be it:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the week beginning April 2, 1989, is designated as "National Auctioneers Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

## ADDITIONAL COSPONSORS

S. 5

At the request of Mr. DODD, the names of the Senator from Vermont [Mr. JEFFORDS] and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 5, a bill to provide for a Federal program for the improvement of child care, and for other purposes.

S. 34

At the request of Mr. HUMPHREY, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 34, a bill to amend title 28 of the United States Code to clarify the remedial jurisdiction of inferior Federal courts.

S. 60

At the request of Mr. INOUYE, the names of the Senator from California [Mr. CRANSTON] and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 60, a bill concerning the naturalization of natives of the Philippines through active-duty service in the Armed Forces during World War II.

S. 62

At the request of Mr. INOUYE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 62, a bill to amend the Public Health Service Act to give the Director of the National Center for Nursing Research certain authorities commensurate with those of the Directors of the National Research Institute.

S. 82

At the request of Mr. THURMOND, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 82, a bill to recognize the organization known as the 82d Airborne Division Association, Inc.

S. 84

At the request of Mr. BIDEN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 84, a bill to amend title 28, United States Code, to provide Federal debt collection procedures.

S. 134

At the request of Mr. GLENN, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 134, a bill to establish the Congressional Scholarships for Science, Mathematics, and Engineering, and for other purposes.

S. 137

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 137, a bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes.

S. 190

At the request of Mr. MATSUNAGA, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 190, a bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay without reduction in the amount of the compensation and retired pay.

S. 195

At the request of Mr. PELL, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 195, a bill entitled the "Chemical and Biological Weapons Control Act of 1989."

S. 244

At the request of Mr. GLENN, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 244, a bill to require the Administrator of the General Services Administration to encourage the development and use of plastics derived from certain commodities, and to include such products in the General Services Administration inventory for supply to Federal agencies, and for other purposes.

S. 247

At the request of Mr. METZENBAUM, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Pennsylvania [Mr. HEINZ], the Senator from North Dakota [Mr. BURDICK], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 247, a bill to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such act, and for other purposes.

S. 256

At the request of Mr. HARKIN, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 256, a bill to direct a study by the Secretary of Agriculture of the classification of anhydrous ammonia as a poisonous gas for purposes of the Hazardous Materials Transportation Act, and for other purposes.

S. 258

At the request of Mr. RIEGLE, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 258, a bill to amend the National Flood Insurance Act of 1968 to extend the program of flood insurance for structures on land subject to imminent collapse or subsidence.

S. 273

At the request of Mr. HEINZ, the name of the Senator from New Hampshire [Mr. RUDMAN] was added as a cosponsor of S. 273, a bill to amend title 39, United States Code, to designate as nonmailable matter solicitations of donations which could reasonably be misconstrued as a bill, invoice, or statement of account due, solicitations for the purchase of products or services which are provided either free of charge or at a lower price by the Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes.

S. 302

At the request of Mr. PRYOR, the names of the Senator from Utah [Mr. HATCH], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 302, a bill to amend title 39, United States Code, with respect to the budgetary treatment of the Postal Service, and for other purposes.

S. 324

At the request of Mr. WIRTH, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 324, a bill to establish a national energy policy to reduce global warming, and for other purposes.

S. 355

At the request of Mr. RIEGLE, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Utah [Mr. GARN] were added as cosponsors of S. 355, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during

which qualified mortgage bonds and mortgage credit certificates may be issued.

S. 369

At the request of Mr. BOSCHWITZ, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 369, a bill to seek the eradication of the worst aspects of poverty in developing countries by the year 2000.

S. 375

At the request of Mr. HOLLINGS, the names of the Senator from Minnesota [Mr. BOSCHWITZ] and the Senator from Kansas [Mr. DOLE] were added as cosponsors of S. 375, a bill to provide for the broadcasting of accurate information to the people of Cuba, and for other purposes.

S. 439

At the request of Mr. PELL, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 439, a bill to establish a program of grants to consortia of local education agencies and community colleges for the purposes of providing technical preparation education, and for other purposes.

S. 446

At the request of Mr. METZENBAUM, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 446, a bill to amend the Price Anderson provisions of the Atomic Energy Act of 1954 to provide for the financial accountability of certain contractors of the Department of Energy, and for other purposes.

S. 448

At the request of Mr. SIMON, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 448, a bill to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States.

S. 459

At the request of Mr. GORE, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 459, a bill to amend title 35, United States Code, and the National Aeronautics and Space Act of 1958, with respect to the use of inventions in outer space.

S. 461

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 461, a bill to amend title XVIII of the Social Security Act to permit payment for services of physician assistants outside institutional settings.

S. 507

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 507, a bill to prohibit investments in, and certain other activities with respect to, South Africa, and for other purposes.

S. 519

At the request of Mr. LAUTENBERG, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 519, a bill to prohibit smoking on any scheduled airline flight in intrastate, interstate, or overseas air transportation.

S. 527

At the request of Mr. BAUCUS, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 527, a bill to amend title XVIII of the Social Security Act to reclassify certain hospitals as sole community hospitals, and for other purposes.

S. 551

At the request of Mr. CRANSTON, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 551, a bill to amend the Internal Revenue Code of 1986 to restore a capital gains tax differential, and for other purposes.

S. 563

At the request of Mr. MATSUNAGA, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 563, a bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive retired pay concurrently with disability compensation after a reduction in the amount of retired pay.

S. 601

At the request of Mr. DOLE, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 601, a bill to amend the Internal Revenue Code of 1986 to authorize a child tax credit and refundable child and dependent care tax credit.

S. 602

At the request of Mr. DOLE, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 602, a bill to authorize additional appropriations for the Head Start Program.

S. 619

At the request of Mr. SARBANES, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 619, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 625

At the request of Mr. NICKLES, the names of the Senator from Utah [Mr. GARN], the Senator from Wyoming [Mr. WALLOP], the Senator from Louisiana [Mr. BREAUX], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 625, a bill to eliminate artificial distortions in the natural gas marketplace, to promote competition in the natural gas industry, and for other purposes.

S. 626

At the request of Mr. HATCH, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 626, a bill to amend the Lanham Trademark Act regarding gray market goods.

SENATE JOINT RESOLUTION 10

At the request of Mr. THURMOND, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of Senate Joint Resolution 10, a joint resolution to designate the month of May 1989 as "National Foster Care Month."

SENATE JOINT RESOLUTION 14

At the request of Mr. THURMOND, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Senate Joint Resolution 14, a joint resolution proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation.

SENATE JOINT RESOLUTION 53

At the request of Mr. D'AMATO, the names of the Senator from Connecticut [Mr. DODD] the Senator from New Hampshire [Mr. HUMPHREY] were added as cosponsors of Senate Joint Resolution 53, a joint resolution to designate May 25, 1989, as "National Tap Dance Day."

SENATE JOINT RESOLUTION 55

At the request of Mr. SIMON, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of Senate Joint Resolution 55, a joint resolution to designate the week of October 1, 1989, through October 7, 1989, as "Mental Illness Awareness Week."

SENATE JOINT RESOLUTION 61

At the request of Mr. CHAFEE, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Montana [Mr. BURNS], the Senator from Maryland [Mr. SARBANES], the Senator from Delaware [Mr. ROTH], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Joint Resolution 61, a joint resolution to designate April 1989 as "National Recycling Month."

SENATE JOINT RESOLUTION 63

At the request of Mr. RIEGLE, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of Senate Joint Resolution 63, a joint resolution designating June 14, 1989, as "Baltic Freedom Day," and for other purposes.

SENATE JOINT RESOLUTION 64

At the request of Mr. SPECTER, the names of the Senator from Washington [Mr. GORTON] and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Senate Joint Resolution 64, a joint resolution to designate March 25, 1989, as "Greek Independence Day: A National Day of

Celebration of Greek and American Democracy."

SENATE JOINT RESOLUTION 66

At the request of Mr. HELMS, the names of the Senator from Virginia [Mr. WARNER], the Senator from Idaho [Mr. SYMMS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Alaska [Mr. STEVENS], the Senator from Arkansas [Mr. BUMPERS], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Arkansas [Mr. PRYOR], the Senator from North Dakota [Mr. BURDICK], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Mississippi [Mr. COCHRAN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Tennessee [Mr. SASSER], the Senator from Georgia [Mr. FOWLER], the Senator from California [Mr. WILSON], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Tennessee [Mr. GORE], the Senator from Oklahoma [Mr. BOREN], the Senator from Kansas [Mr. DOLE], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of Senate Joint Resolution 66, a joint resolution to designate the third week of June of 1989, as "National Dairy Goat Awareness Week."

SENATE JOINT RESOLUTION 67

At the request of Mr. DOMENICI, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Joint Resolution 67, a joint resolution to commemorate the 25th anniversary of the Wilderness Act of 1964 which established the National Wilderness Preservation System.

SENATE JOINT RESOLUTION 72

At the request of Mr. RIEGLE, the names of the Senator from Wyoming [Mr. SIMPSON], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Joint Resolution 72, a joint resolution to designate the period commencing May 7, 1989, and ending May 13, 1989, as "National Correctional Officers Week."

SENATE JOINT RESOLUTION 76

At the request of Mr. HELMS, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Tennessee [Mr. GORE], the Senator from Idaho [Mr. MCCLURE], the Senator from North Carolina [Mr. SANFORD], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of Senate Joint Resolution 76, a joint resolution to designate the period commencing on June 21, 1989, and ending on June 28, 1989, as "Food Science and Technology Week."

SENATE JOINT RESOLUTION 88

At the request of Mr. WIRTH, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Senate Joint Resolution 88, a joint resolution to establish that it is the policy of the United States to reduce the generation of carbon dioxide and for other purposes.

SENATE RESOLUTION 13

At the request of Mr. DOLE, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Hawaii [Mr. INOUYE], the Senator from New Mexico [Mr. DOMENICI], the Senator from Wyoming [Mr. SIMPSON], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Illinois [Mr. DIXON], were added as cosponsors of Senate Resolution 13, a resolution to amend Senate Resolution 28 to implement closed caption broadcasting for hearing-impaired individuals of floor proceedings of the Senate.

SENATE RESOLUTION 63

At the request of Mr. SYMMS, the names of the Senator from Mississippi [Mr. LOTT], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Resolution 63, a resolution expressing the sense of the Senate that the Federal excise taxes on gasoline and diesel fuel shall not be increased to reduce the Federal deficit.

## SENATE CONCURRENT RESOLUTION 25—RELATING TO SOVIET REFUGEES

Mr. GRASSLEY submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 25

Whereas an unusual opportunity now exists for the Government of the United States to rescue individuals in the Soviet Union who have long been fearful for the security of their lives and liberties;

Whereas the Soviet Union has recently permitted increased numbers of individuals to emigrate from the Soviet Union, including increased numbers of Jews, Armenians, and Pentacostal Christians;

Whereas 19,323 individuals were given permission to emigrate from the Soviet Union in 1988, which is more than in any year since 1980 and significantly more than the Department of Justice of the United States predicted;

Whereas if the trend of increasing numbers of individuals emigrating from the Soviet Union continues, between 35,000 and 40,000 Jews will flee from the Soviet Union in 1989;

Whereas the United States is a signatory nation to the Final Act of the Conference on Security and Cooperation in Europe (known as the Helsinki Final Act) and the Concluding Document of the Conference on Security and Cooperation in Europe (known as the Vienna Concluding Document), which call for the establishment of open emigration policies;

Whereas the credibility of the advocacy of open emigration policies by the Government of the United States has been based upon the willingness of the Government of the United States to admit Soviet Jews who were permitted and chose to emigrate to the United States;

Whereas because the actual number of Soviet emigrants in 1988 significantly exceeded the number predicted at the time of consultation between the President and the Congress, the amount of funds appropriated for 1988 for programs of the Department of Justice and the Department of Health and Human Services for refugee migration and resettlement was insufficient to permit the admission to the United States of all Soviet emigrants who were eligible for and desired admission;

Whereas the Department of Justice has unilaterally changed the admission policy for emigrating Soviet Jews by eliminating the long-standing presumption that Soviet Jews and members of other religious minorities qualify for refugee status because they have a well-founded fear of persecution in the Soviet Union, thereby reducing the number of Soviet emigrants admissible into the United States;

Whereas Soviet Jews still face considerable popular anti-Semitism in the Soviet Union including activities by State-sanctioned organizations like Pamyat;

Whereas the presumption that emigrating Soviet Jews are refugees fleeing the Soviet Union because of a well-founded fear of persecution is still valid;

Whereas the admission to the United States of refugee Soviet Jews should not decrease the number of other refugees admitted to the United States: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of the Congress that—

(1) the President and the Congress should conduct emergency consultation to increase the number of refugees admitted to the United States so that the number is sufficient to provide for the increased number of Soviet Jews and other emigrants permitted to emigrate from the Soviet Union;

(2) the appropriation for programs for refugee migration and resettlement should be increased for fiscal year 1989 to provide for the admission to the United States of the increased number of Soviet Jews and other emigrants permitted to emigrate from the Soviet Union; and

(3) the Department of Justice should reestablish the admission policy that presumes, subject to rebuttal, that Jews and members of other religious minorities emigrating from the Soviet Union qualify for refugee status because they have a well-founded fear of persecution in the Soviet Union.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President and the Attorney General.

● Mr. GRASSLEY. Mr. President, the situation facing Soviet refugees has grown very serious. While General Secretary Gorbachev has improved the prospects for emigration for many citizens, the United States has been unprepared for the influx of these refugees. Clearly, we need to respond. Therefore, I am submitting a sense of the Congress resolution on this important issue. I am pleased to be cosponsoring this resolution with Congressman SIKORSKI in the House.

This concurrent resolution, Mr. President, expresses the sense of the Congress in the three areas which make up the current problem. First, it recognizes that the number of spaces we have allocated for Soviet refugees is inadequate. Last fall, former Secre-

tary of State Shultz appeared before the Senate Judiciary Committee to consult on fiscal year 1989 refugee allocations. At that time, he firmly stated that if the proposed number proved inadequate, there could be an emergency consultation and an additional allocation. The time has come for that emergency consultation and additional allocation. We need the President's designee to meet with us and address the problem now.

Second, the concurrent resolution expresses the sense of the Congress that additional money be appropriated for refugee migration and resettlement. I realize that we are in the midst of a very serious budget crisis. But I am confident that close scrutiny of the budget will produce funds which could be expended for this critical situation. And, Senators KENNEDY and KASTEN have already identified one possible source of additional funding. They recently introduced a bill, which I have cosponsored, providing for the use of moneys appropriated to the States, but unused by them, for immigration programs under the 1986 Reform Act.

Third, the concurrent resolution expresses the sense of the Congress that the Justice Department return to its practice of presuming the refugee status of Soviet Jews and other religious minorities. In the last several months, INS officers have deviated from this longstanding practice, by requiring that Soviet citizens prove they have a well-founded fear of persecution. Clearly, the Soviet Union's history of persecution of religious followers, and of state-sponsored antisemitism in particular, warrants that these people be considered refugees.

For the last 8 years, Mr. President, we have made human rights, and emigration in particular, a centerpiece in our discussions with Soviet leaders. They have, in the last 2 years, begun improving their performance in this critical area. We must be prepared to take on the responsibilities of this major foreign policy success. I urge my colleagues to join me on this sense of the Congress resolution so that we send this important message to the President, as well as to those Soviet refugees, so that they know they have not been abandoned.●

## SENATE RESOLUTION 85—RELATING TO THE FUTURE OF AFGHANISTAN

Mr. BYRD (for himself, Mr. MITCHELL, Mr. DOLE, Mr. BOREN, Mr. BRADLEY, Mr. HOLLINGS, Mr. GORE, Mr. HUMPHREY, and Mr. HELMS) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 85

Whereas the Soviet Union invaded the sovereign territory of Afghanistan on December 27, 1979, and attempted to subjugate that nation through the use of force, relying upon a puppet regime and an occupying army of an estimated 120,000 Soviet troops;

Whereas the Soviet Union, having concluded that it could not militarily subjugate Afghanistan, announced its intention to withdraw its troops from that country;

Whereas on April 14, 1988, the Soviet Union signed accords at Geneva, Switzerland, which obligated the Soviet Union to withdraw all its military forces from Afghanistan by February 15, 1989;

Whereas on February 15, 1989, the Soviets announced they had completed their withdrawal from Afghanistan, the invasion of which having cost the Soviet Union roughly 15,000 lives and billions of rubles;

Whereas United States aid has been a critical element in the success of the Afghan resistance in regaining the territorial integrity of Afghanistan against the Soviet invasion;

Whereas President Bush in a statement on February 16, 1989, announced that "as long as the resistance struggle for self-determination continues, so too will America's support";

Whereas the Soviet invasion of Afghanistan directly resulted in the deaths of more than one million Afghans, the economic, social, and environmental devastation of Afghanistan, and created the world's largest refugee population, including more than three million refugees in Pakistan and two million in Iran;

Whereas despite the withdrawal of Soviet troops from Afghanistan, the Soviet-backed puppet government remains in Kabul, Afghanistan, along with several hundred Soviet advisors, receiving direct military assistance from the Soviet Union;

Whereas more than 400 delegates to a special consultative council, including members of the seven resistance parties, elected an interim government on February 23, 1988;

Whereas the election of this interim government represents a step in the right direction toward eventual free elections for a popular representative government; and

Whereas it is important that Afghanistan in this period of transition not become isolated from its friends and the international community and that the Afghan resistance continue to work in unity toward the goal of freeing their land and establishing a representative government so that the Soviet Union is not tempted to act to destabilize Afghanistan and thereby achieve by other means what it failed to accomplish through military occupation and action: Now, therefore, be it

*Resolved,* That the Senate hereby—

(1) reiterates its firm conviction that the only acceptable formula for settlement of the Afghan situation is one which—

(A) provides for the self-determination of the Afghan people, without interference and pressure from outside powers,

(B) results in a government genuinely representative of the Afghan people,

(C) provides for the restoration of civic order and peaceful economic development, and

(D) provides for the return and resettlement of refugees in a timely and safe manner;

(2) expresses its strong belief that the Government of the United States should not cease, suspend, or diminish lethal assistance to the Afghan resistance or take actions which might limit the ability of the Afghan resistance to receive assistance—

(A) until it is absolutely clear that the Soviet Union has terminated its military assistance to, and significant control over, its political proxies in Afghanistan; and

(B) so long as the effects of the recent provision of massive military assistance by the Soviet Union to its puppet regime and forces directed by that regime continue to give the Soviet proxy regime and its forces an unbalanced or overbearing advantage against the forces of the Afghan resistance;

(3) believes United States assistance programs should be configured—

(A) to continue to support the replacement of the puppet regime in Kabul to promote true self-determination in Afghanistan,

(B) to aid in the reconstitution of civil society and further economic and democratic development,

(C) to assist in the expeditious resettlement of 5 million refugees, both those currently located outside Afghanistan and those internally displaced,

(D) to assist in the removal of the remnants of war, particularly the mines strewn about the country by Soviet invading forces, and

(E) to help bring Afghanistan back into the mainstream of international political and economic life;

(4) believes that, if it becomes apparent that United States military assistance is not promoting the resolution of internal differences, but is instead fueling intra-resistance conflict, such assistance should be appropriately reduced or redirected;

(5) believes that the President should seek to identify resources to increase substantially the level of United States emergency humanitarian assistance inside Afghanistan;

(6) urges the President to devote sufficient resources from the cross-border assistance program for the democratic political reconstruction of Afghanistan, with particular attention to the promotion of pluralistic institutional development and respect for the rule of law, and to disburse these funds through private, nongovernmental organizations;

(7) commends the long-standing exemplary record of the government of Pakistan, often under extreme and violent attack by forces and parties controlled by the Soviet Union, for supporting the resistance and caring for the refugees, and encourages the President to continue to work closely with the government of Pakistan;

(8) calls upon the President to increase significantly the direct interaction of the United States Government with the Afghan resistance through the naming of an ambassadorial-level envoy to the Afghan resistance; and

(9) calls upon the President to report to the Majority Leader and the Minority Leader of the Senate and the chairmen and the ranking minority members of the appropriate committees of the Senate within 90 days, in both classified and unclassified form, the details of the current United States policy, taking into account the most likely options for political, economic, and military developments in Afghanistan over the next year, including—

(A) an assessment of the adequacy of the current level of assistance to Afghanistan during the period of transition prior to the replacement of the regime in Kabul and the implementation of a new United States policy on Afghanistan;

(B) an assessment of the circumstances under which the current level of military assistance would be suspended, diminished, or redirected into other forms of assistance;

(C) a description of how United States policy will promote the development of pluralistic institutions and political reconstruction of Afghanistan toward true self-determination, specifically identifying how funds will be obligated and expended to promote such purposes;

(D) consideration of a new economic aid program for Afghanistan, subject to the formation of a stable, pluralistic government whose policies are not inimicable to United States interests; and

(E) a description of the circumstances under which the United States will recognize a new Afghan government achieved through a process of self-determination.

SEC. 2. The Secretary of the Senate shall transmit of copy of this resolution to the President.

Mr. BYRD. Mr. President, the resolution which I shall send to the desk shortly sets forth the outline of our policy toward Afghanistan in the immediate wake of Soviet combat forces withdrawal and serves as a look down the road for as far as we see at this time. The gallant and courageous forces of the Afghan resistance guerrillas, the Mujahidin, have served as an inspiration to me and to all of us who value our independence, our Nation's sovereignty, and our freedoms. The incredible persistent bravery of these people has been a constant reminder, over a decade, of how dear our freedoms are and how very difficult it is to win them back once they have been wrested away from us by tyranny, brutality, and invasion. The Soviet Union's barbaric behavior toward the Afghan people and its extreme attempts to subjugate the Afghans should be a reminder of how very much the Soviet leadership wanted that prize. It was an answer to the age-old Russian dream of a route to warm water south, to the building of buffer states on its border, and a foothold with which to eventually destabilize Pakistan and thereby take firm control of South Asia. Only reluctantly, and after great human cost to its armies, great political cost to its diplomacy in the Arab world, and after it was clear that victory was fading from view, did the Soviet leadership recognize the better side of valor and withdraw.

We can take pride in the role that this Senate played over the years. The Senate pushed for a robust program of support, including lethal support, unwavering even at times when the administration, itself, was reluctant to commit the necessary level of resources. It was this Senate, at a crucial time last year when some fast diplomacy was overcoming our common sense, that reiterated our support for the freedom fighters even while a sophisticated Soviet political offensive was tempting us to prematurely withdraw from our allies.

Now, Mr. President, comes a dangerous period. We cannot flag in our attention to the ongoing situation. The Soviet proxy Government is armed to the teeth, it may be on the defensive but it is still in power. It may control ever smaller slices of Afghan territory but it is today, still in power in Kabul. Who can doubt that the Soviet Union will make every effort, short of another military intervention, to promote a government pliable to its needs or, in the alternative, a fractured Afghanistan which eventually disassembles politically and as a viable economic unit. Either result will accomplish for the Soviets the goals which were frustrated on the battlefields of that rugged country. As a recent article pointed out with regard to the Geneva accords of 1988:

> These are obviously accords that the Soviet Union was eager to see signed, preferably with but even without American guarantees. They fulfill the first and most essential requirement of its time-tested strategy for subduing resistance and armed insurrections, i.e., to isolate the area, the rebellious population and its forces. Once isolated, they can in time be crushed. Tsars and commissars alike have tested and developed this strategy, from the Caucasus in the 1850's to Turkestan in the 1920's; the process has usually taken about 20 to 25 years to complete. Thus, to their critics, the Geneva negotiations and the resulting accords have provided a solution to the wrong problem: an arrangement for the long-term Soviet consolidation of control in Afghanistan without the overt use of its uniformed military forces, and in a manner satisfactory to world opinion.

Our country has a remaining, consistent heavy responsibility to Afghanistan. The resolution I offer today spells it out: First, we need to continue our lethal aid support so long as the Soviet client regime is using Soviet firepower to maintain political control. But, if our overall goal is the restoration of the political independence, integrity, self-determination of those people, without outside interference, there is a need for the restoration of civic order and economic development. There is a need for a political settlement among the factions which make up the Mujahidin movement so as to govern the nation and repair the ravages of the Soviet invader.

American influence and resources, together with our faithful ally in the region, Pakistan, need to be directed wisely in a situation where political turmoil will most likely persist even after the demise of the present Soviet proxy regime. We cannot dictate the future Government of Afghanistan any more than the Soviets should or, for the matter, the Pakistanis. So long as it is independent, can govern, reasserts the sovereignty and integrity of that Nation, we must allow the chips to fall where they may. We should not attempt to play politics there, but use our aid program in ways that will challenge our skill. As the resolution points out, our assistance programs should be configured to promote the resolution of internal differences by peaceful means, to aid in the reconstitution of civil society and further economic resettlement of 5 million refugees, both those currently located outside Afghanistan and those internally displaced. Most particularly, we should assist in the removal of the remnants of war and dedicate the technologies we now have for mine removal in an energetic and vigorous program to clean up the rural countryside.

Mr. President, it is clear that lethal aid cannot be suspended so long as Soviet aid and the results of massive Soviet aid shipments toward the end of their occupation put the Soviet proxy regime in a position of strength, vis-a-vis the guerrilla forces. It is also clear that military aid should not be redirected to the advantage of one another of the factions now vying for the future political power of the country. Further, the transformation of military to economic assistance should occur as soon as it is prudent to do so, and such economic aid should be tailored carefully in concert with Pakistan and the rest of the international community.

Mr. President, the Soviets are engaged in very active diplomacy throughout the Middle East and the Arab world at this time. Their withdrawal from Afghanistan has removed a stone from around the Soviet diplomatic neck and they are challenging us in that region as never before. Our diplomacy needs to match and exceed theirs. We have an inherent advantage in Afghanistan, if we exercise it properly. We can show the world of Islam what kind of friend the United States can be by staying in the game, helping repair the damage done by the Soviets and by highlighting the contrast between our way of life and our values with those which still hold sway in Moscow. The opportunity for an enlightened approach is before us and this resolution puts the Senate on record for such a long-term involvement.

Finally, Mr. President, the resolution asks the President to report to the Congress on the most likely options for political, military, and economic developments in Afghanistan over the coming year, and how we should be responding to these options with our assistance programs. We look forward to working closely with the new administration to continue what has been a unique bipartisan approach in close collaboration between the executive and legislative branches, for over a decade. In South Asia, we should look forward to a decade of peace in the 1990's an American decade in stark contract to what went before.

Mr. President, I now send to the desk for appropriate referral a Senate resolution, whch I introduce on behalf of myself and Senators MITCHELL,

DOLE, BOREN, BRADLEY, HOLLINGS, GORE, and HUMPHREY.

I yield the floor.

The PRESIDING OFFICER. The resolution will be received and appropriately referred.

Mr. MITCHELL. Mr. President, despite the Soviet military withdrawal from Afghanistan, a critical struggle continues—a struggle that will have an important effect not only on the character and future of Afghanistan, but on the stability of the entire region.

As events unfold, the United States must carefully evaluate its policy toward Afghanistan and the Mujahidin who continue to fight against the Soviet-backed regime in Kabul.

I therefore am pleased to cosponsor this resolution authored by the distinguished Senator from West Virginia. I believe that it is valuable to reiterate the Senate's support for existing United States policy toward Afghanistan while encouraging the Executive to thoroughly examine the future goals and direction of that policy.

The Soviet Union's decision to resume military aid to its proxy forces underscores the need for continued American support for the Mujahidin. Until the foreign-imposed Najibullah government is defeated, the Mujahidin deserves continued military assistance from the United States.

Despite our firm support for the liberation effort, the United States must not lose sight of our ultimate goals in Afghanistan.

We seek to promote a peaceful and democratic future for the Afghan people.

We cannot guarantee that outcome.

But we can ensure that our policy and actions contribute toward that end.

We therefore must consider carefully the limits of our military commitment to the Mujahidin and how we can best assist the Afghan people in the political and economic reconstruction of their country.

The purpose of our military assistance is to enable the Afghan resistance to remove the foreign-installed government and gain independence for Afghanistan. Once this goal is achieved, there should be no need for further military aid.

Moreover, military aid is counterproductive if it fuels conflict among the factions of the Mujahidin instead of helping them achieve their shared goal of liberating the country. This resolution clearly states these points.

In continuing military assistance as long as necessary and effective, the United States also must remain mindful of the need to stem the proliferation of sophisticated weapons in the region.

We all hope that the day is near when we can focus our energies and resources upon the rebuilding of a peaceful and democratic Afghanistan.

This resolution anticipates that day, urging the administration to consider and communicate to the Senate the outlines of a future United States policy toward Afghanistan.

Afghanistan faces countless hurdles in its reconstruction. The challenges range from overcoming deep political divisions and building democratic institutions, to resettling millions of refugees and clearing the land of countless Soviet mines.

This resolution urges the administration to consider how we can best assist the people of Afghanistan in their effort to solve these problems.

I look forward to working with the administration in support of a comprehensive policy toward the political and economic reconstruction of Afghanistan.

Mr. HUMPHREY. Mr. President, I commend the distinguished President pro tempore of the Senate for introducing this important resolution on Afghanistan. This is the fourth year in a row that this Senator has worked with the Senator from West Virginia in focusing the Senate's energies on Afghanistan. I am grateful to the Senator for incorporating into his resolution suggestions which I offered.

Mr. President, the resolution makes it clear that the war in Afghanistan is far from over. The Soviets may have withdrawn their military forces, but the Communist puppet regime in Kabul—set up at the point of 120,000 bayonets—is still in power. The puppet government still controls Kabul, and Kandahar, and Herat, and Jalalabad. The Soviets are still massively resupplying their clients with military hardware. The Soviets still have military advisors in Afghanistan. The nation of Afghanistan is physically and economically devastated. And refugees are still pouring into Pakistan—not back into Afghanistan. Mr. President, even if the Kabul regime were replaced tomorrow by a truly representative government arrived at through a process of self-determination, it will takes years, and years, to restore that nation to some semblance of normalcy.

I fear, Mr. President, that every day the Kabul regime stays in power, it gains more opportunities to entrench itself, as Communist regimes always do. This Senator heard time and again from the State Department that the Kabul regime would come tumbling down as soon as the Soviet troops withdrew. Just yesterday, I heard the same argument from the State Department. I have never believed that argument—nor did the Afghan resistance for that matter. We must seize every opportunity at this juncture to bolster the momentum of the resistance, and expedite the collapse of the genocidal regime in Kabul.

As the resolution clearly states, now would be the worst possible time for the United States to walk away from the Afghan cause. There is a serious danger that all the gains, and the enormous losses of the past 10 years could be jeopardized, if the United States and the international community walk away from Afghanistan merely because Soviet forces have been withdrawn. Now, more than ever before, we must work to consolidate the gains of this historic war.

Mr. President, for the past 5 years, the Congress has been far ahead of the administration in shaping policy on Afghanistan. The Congress, year after year, mandated one program after another to increase support for the resistance. In fact, a resolution unanimously adopted by this body in February 1988, was responsible for a major shift in United States policy on Afghanistan, averting a cutoff in military aid to the Afghan resistance.

The time has come for the administration to take the initiative. So far, the steps taken by President Bush and Secretary Baker, have been encouraging. As this resolution notes, President Bush has forcefully committed the United States to continue support for the Afghan resistance until the fall of the Kabul regime, and the restoration of self-determination in Afghanistan. Secretary Baker swiftly closed the U.S. Embassy in Kabul—a move that was long overdue in my view.

But there is much more that we can do. As evidenced by the cosponsorship of this resolution, there is broad consensus in this body for doing much more.

This resolution reiterates a position unanimously adopted by this body more than 1 year ago, that we must continue our military support for the resistance. But it also states that U.S. assistance programs should be configured to support the replacement of the puppet regime in Kabul and to promote true self-determination in Afghanistan—free from any outside interference, and if our assistance is not achieving those urgent objectives, it should be appropriately redirected to ensure these objectives are being met.

We must immediately increase the level and frequency of our direct diplomatic interaction with the Afghan resolution. Once again, the Senate is calling for the immediate naming of an ambassadorial-level envoy for Afghanistan. This is the third time, Mr. President that this body has expressed its views on that issue. I have heard that a decision by the administration is imminent. However, I have been hearing that for weeks. Meanwhile, the Afghan resistance has formed an interim government, and the war is reaching a critical phase.

We should also immediately sever diplomatic relations with the Kabul regime. It is hard to believe, Mr. President, that we still have diplomatic ties with the puppet government in Kabul.

Several weeks ago, when Secretary Baker wisely withdrew American personnel from Kabul, a number of other countries followed our example—to the dismay of the Communist dictator in Kabul. We must now close the Afghan Embassy in Washington, and throw their diplomats out of the country. I discussed this matter earlier this week with the Deputy Secretary-designate, Larry Eagleburger, who shared my view. But again, we must move expeditiously.

Finally, Mr. President, the humanitarian needs in Afghanistan are overwhelming. For 5 years in a row, the Congress significantly increased the appropriation for cross border humanitarian assistance. Currently, the AID-administered program is far ahead of the United Nations in delivering emergency assistance inside Afghanistan. This resolution calls on the President to indentify resources to substantially increase our contribution. Lives, Mr. President, are at stake.

Mr. President, this resolution calls for an expeditious report to the Senate on the new administration's policy. We badly need a plan to ensure that the aspirations of the Afghan resistance are achieved. This resolution provides an important outline for such a plan.

## SENATE RESOLUTION 86—RELATING TO THE APPOINTMENT OF A COMMISSION TO CONSIDER THE DESTRUCTION OF PAN AM FLIGHT 103 AND THE SECURITY OF AIR TRAVEL

Mr. LAUTENBERG (for himself, Mr. HOLLINGS, Mr. FORD, Mr. BRADLEY, Ms. MIKULSKI, Mr. D'AMATO, Mr. HEINZ, Mr. SARBANES, and Mr. MOYNIHAN) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 86

Whereas, on December 21, 1988, Pan American World Airways flight 103 (hereinafter referred to as Pan Am 103) was deliberately and maliciously destroyed over Lockerbie, Scotland, by a terrorist explosive device;

Whereas 259 passengers and crew members on board Pan Am 103 were killed;

Whereas 11 individuals in and around Lockerbie, Scotland, were also killed;

Whereas relatives and friends of the victims of Pan Am 103 have been unable to obtain satisfactory information regarding the events leading up to the destruction of Pan Am 103;

Whereas investigations have revealed that the terrorist explosive device apparently was concealed within a portable radio cassette tape player and likely designed to explode upon attaining a specific altitude;

Whereas on November 18, 1988, the Federal Aviation Administration alerted United States Department of State officials and United States air carriers operating overseas that a terrorist group had prepared an explosive device hidden in a portable radio cassette tape player that included a device that could be used to trigger the explosive in an aircraft;

Whereas it has been revealed that the Government of the United Kingdom had the same information as the Federal Aviation Administration in November 1988, and that such Government issued a notice on November 22, 1988, and on December 19, 1988, two days prior to the bombing of Pan Am 103, distributed additional information, to United Kingdom airports and airlines and certain non-United Kingdom airlines, including photographs of the explosive device and portable radio cassette tape player;

Whereas complete information relating to the actions of United States and foreign diplomatic officials, aviation officials, and air carriers, including any responses to official warnings and security bulletins, preceding the destruction of Pan Am 103 has not yet been fully disclosed to the Congress or to the public;

Whereas the issue of selective notification of threats of terrorist action on flights, such as in the case of Pan Am 103, must be resolved;

Whereas serious questions remain as to the adequacy of United States and foreign aviation security procedures to safeguard the traveling public on domestic and international flights;

Whereas the events surrounding the destruction of Pan Am 103 effects the public's confidence in the ability of the Government of the United States to ensure, to the maximum extent possible, the safety of travelers on domestic and international flights;

Whereas an independent, objective assessment of both the facts and circumstances surrounding the destruction of Pan Am 103 and of the adequacy of aviation security procedures may help prevent recurrences of tragedies such as the destruction of Pan Am 103; and

Whereas complete information surrounding the events leading to the destruction of Pan Am 103 may assist in bringing the responsible parties to justice: Now, therefore, be it

*Resolved*, That it is the sense of the United States Senate that—

(1) the President should appoint, not later than March 30, 1989, a special commission to investigate the events surrounding the destruction of Pan Am 103;

(2) the commission should have the power to conduct hearings;

(3) consistent with national security, the commission should have access to classified information, subject to appropriate safeguards;

(4) the commission should hold its first meeting not later than April 15, 1989;

(5) the commission should submit, not later than August 31, 1989, to the President, and to the Committees on Commerce, Science and Transportation and Appropriations of the Senate, and the appropriate Committees of the House of Representatives, a report including, but not limited to—

(A) its findings relating to the relevant information available to the Government of the United States, and to commercial air carriers, prior to December 21, 1988;

(B) an assessment of the adequacy of all known aviation security procedures;

(C) recommendations for changes in all laws and regulations relating to security of commercial air carriers; and

(D) the commission should also prepare a copy of its report, for public distribution, excluding such information that is classified or the disclosure of which would threaten the safety of air travelers or others.

SEC. 2. The Clerk of the United States Senate shall transmit a copy of this resolution to the President with the request that the President further transmit copies of this resolution to the Secretary of Transportation and the Secretary of State.

## AMENDMENTS SUBMITTED

### COST OF URANIUM ENRICHMENT PROGRAM

### DOMENICI (AND OTHERS) AMENDMENT NO. 10

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. SIMPSON, Mr. WALLOP, Mr. GARN, and Mr. HATCH) submitted the following amendment intended to be proposed by them to the bill (S. 83) to establish the amount of costs of the Department of Energy's Uranium Enrichment Program that have not previously been recovered from the enrichment customers in the charges of the Department of Energy to its customers; as follows:

At the end of the bill add the following:

"TITLE II—URANIUM

"Subtitle A—Short Title, Definitions, and Savings Provision

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Uranium Revitalization, Tailings Reclamation and Enrichment Act of 1988.'

"SEC. 202. DEFINITIONS.

"For purposes of subtitles A, B, and C of this title—

"(1) the term 'active site' means—

"(A) any uranium processing site, including the mill, containing by-product material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, as amended, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium derived from ore—

"(i) was in effect on January 1, 1978;

"(ii) was issued or renewed after January 1, 1978; or

"(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

"(B) any other real property or improvement on such real property that is determined by the Commission to be—

"(i) in the vicinity of such site; and

"(ii) contaminated with residual byproduct material;

"(2) the term 'active thorium site' means—

"(A) any thorium processing site, including the mill, containing by-product material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, as amended, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any thorium derived from ore—

"(i) was in effect on January 1, 1978;

"(ii) was issued or renewed after January 1, 1978; or

"(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

"(B) any other real property or improvement on such real property that is determined by the Commission to be—

"(i) in the vicinity of such site; and

"(ii) contaminated with residual byproduct material;

"(3) the term 'Administrator' means the Administrator of the Environmental Protection Agency;

"(4) the term 'byproduct material' has the meaning given such term in section 11(e)(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2);

"(5) the term 'civilian nuclear power reactor' means any civilian nuclear powerplant required to be licensed under section 103 or section 104 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133);

"(6) the term 'Commission' means the Nuclear Regulatory Commission;

"(7) the term 'Corporation' means the United States Enrichment Corporation;

"(8) the term 'Department' means the Department of Energy;

"(9) the term 'domestic uranium' means any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in-situ recovery, leaching and ion recovery, or recovered from phosphoric acid manufactured in the United States;

"(10) the term 'domestic uranium producer' means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having jurisdiction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment.

"(11) the term 'enrichment tails' means uranium in which the quantity of the U235 isotope has been depleted in the enrichment process.

"(12) the term 'overfeeding' means the use of natural uranium from stockpiles or inventories to produce enriched uranium when—

"(A) an enrichment services customer supplies less natural uranium than the amount actually used to produce its enriched uranium requirements; and

"(B) for purposes of achieving efficient operation of enrichment facilities, natural uranium from stockpiles or inventories is used to satisfy the shortfall in natural uranium supplied by such customer;

"(13) the term 'pre-production of enriched uranium' means the use at a given point in time of natural uranium from stockpiles or inventories to produce enriched uranium in excess of amounts required to satisfy then current obligations to provide enrichment services;

"(14) the term 'reclamation, decommissioning and other remedial action' includes long-and short-term monitoring, except for the purpose of determing the date when reclamation, decommissioning and other remedial action is complete for the purpose of making refunds under section 222. Such term shall include mill decommissioning only if the owner or licensee of an active site elects to make the contributions provided for in section 212(b)(1)(C);

"(15) the term 'Secretary' means the Secretary of Energy;

"(16) the terms 'source material' and 'special nuclear material' have the meanings given such terms in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014); and

"(17) the term 'tailings' means the wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

"Subtitle B—Uranium Revitalization

"SEC. 210. REPEAL OF SECTIONS 161v. and 170B.

"Sections 161v. and 170B of the Atomic Energy Act of 1954, as amended, are repealed and the remaining sections are relettered accordingly.

"SEC. 211. URANIUM REVITALIZATION FUND.

"(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a separate fund, to be known as the Uranium Revitalization Fund (referred to in subtitles A, B, and C of this title as the 'Fund'). The Fund shall consist of—

"(1) all contributions to the Fund from the States in which active sites are located as provided in section 212(a);

"(2) all contributions to the Fund from owners or licensees of active sites as provided in section 212(b);

"(3) all contributions to the Fund by the Corporation as provided in section 212(c);

"(4) all fees received from owners or operators of civilian nuclear power reactors as provided in section 212(d); and

"(5) all interest earned on sums in the Fund.

"(b) USE OF FUND.—The Secretary shall make expenditures and reimbursements from the Fund only in accordance with subtitles B and C of this title.

"(c) ADMINISTRATION OF THE FUND.—(1) The Secretary of the Treasury, after consultation with the Secretary, shall annually submit to the Congress a report on the financial condition and operation of the Fund during the preceding fiscal year.

"(2) The Secretary shall submit the budget of the Fund to the Office of Management and Budget annually along with the budget of the Department in accordance with chapter 11 of title 31, United States Code. The budget of the Fund shall consist of the estimates made by the Secretary of receipts by and expenditures and reimbursements from the Fund and other relevant financial matters for the succeeding three fiscal years, and shall be included in the Budget of the United States Government.

"(3) If the Secretary determines that the Fund contains at any time amounts in excess of current needs, the Secretary shall request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

"(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund; and

"(B) bearing intertest at rates determined to be appropriate by the Secretary of Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

"(4) Receipts, proceeds, and recoveries realized by the Secretary for the Fund under this title, and expenditures and reimbursements of amounts from the Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

"(5) Receipts, proceeds and recoveries realized by the Secretary under this title shall be deposited in the Fund and shall be available until expended without further appropriations. For fiscal year 1989, total expenditures from the Fund shall not exceed total receipts, proceeds and recoveries.

"SEC. 212. CONTRIBUTIONS TO THE FUND.

"(a) CONTRIBUTIONS BY STATES CONTAINING ACTIVE SITES.—(1) Each State containing an active site or sites may contribute from non-Federal fund to the Treasury of the United States to be deposited in the Fund the sum of $0.10 for each dry ton of tailings at an active site within such State listed in section 220(d)(1) whose owner or licensee has elected to participate in reclamation, decommissioning and other remedial action through the Fund as determined under section 221.

"(2) Such payment shall be made in five equal annual installments commencing January 1, 1990.

"(3) If any State containing an active site or sites, whose owner or licensee has elected to participate in reclamation, decommissioning and other remedial action through the Fund, fails or refuses to make the contributions, or any portion thereof, such failure or refusal shall not affect the right of the owner or licensee of an active site in such State to participate in reclamation, decommissioning and other remedial action through the Fund.

"(b) CONTRIBUTIONS BY OWNERS OR LICENSEES OF ACTIVE SITES.—(1) Each owner or licensee of an active site listed in section 220(d)(1) who elects to participate in reclamation, decommissioning and other remedial action, through the Fund shall contribute to the Treasury of the United States, to be deposited in the Fund, for each such site as to which it is the owner or licensee

"(A) $2,000,000 per site, of which,

"(i) $1,000,000 shall be contributed on or before January 31, 1990; and

"(ii) $1,000,000 shall be contributed on or before January 31, 1991;

"(B) $1 per dry ton for all tons of tailings at such active site, the uranium from which was processed for commercial sales prior to the effective date of the Act, of which—

"(i) $0.50 per dry ton for all tons of tailings at such active site, the uranium from which was processed for commercial sales prior to the effective date of this Act, shall be contributed on or before January 31, 1992; and

"(ii) $0.50 per dry ton for all tons of tailings at such active site, the uranium from which was processed for commercial sales prior to the effective date of this Act, shall be contributed on or before January 31, 1993; and

"(C) an additional $500,000 to be paid on or before January 31, 1994 if the owner or licensee elects to decommission the mill at such site as a part of the reclamation, decommissioning and other remedial action.

"(c) CONTRIBUTIONS BY THE CORPORATION.—The Corporation shall contribute to the Treasury of the United States, to be deposited in the Fund, the total of $450 million. The sum of $90 million shall be deposited in the Fund on December 15, 1989 and the remaining $360 million deposited in the Fund in equal annual installments beginning December 15, 1990 and each December 15 thereafter through December 15, 1993.

"(d) CONTRIBUTIONS BY LICENSEES OF CIVILIAN NUCLEAR POWER REACTORS.—(1) Licensees for civilian nuclear power reactors shall contribute to the Treasury of the United States, to be deposited in the Fund, the sum of $1 billion. The contribution shall be derived from a fee of $72.00 per kilogram of uranium contained in fuel assemblies initially loaded into each civilian nuclear power reactor during each of the calendar

years beginning with January 1, 1988 and paid until the $1 billion is contributed to the Fund. In the year that the $72 per kilogram fee would result in the total contribution to the Fund exceeding $1 billion, the fee for that year shall be reduced on a prorate basis to each licensee so that the total contribution to the Fund under this section will not exceed $1 billion.

"(2) The $72 per kilogram fee provided under paragraph (1) shall apply to fuel on its initial loading into the reactor and not to previously loaded fuel being loaded again; Provided, That the fee shall only be charged for one third of the total kilograms of uranium contained in the first core loading of a new reactor. In calculating the total annual obligation by a licensee, fuel loaded in loadings during refueling outages that begin in one calendar year and are completed in the subsequent year may be deemed to have occurred in either year but not both. Fees paid pursuant to paragraph (1) shall be considered as a component of fuel cost for accounting and regulatory purposes.

"(3) The fee from each user so affected will be due on January 31 the following year with the first such payment due on January 31, 1989.

"(4) The contribution of this fee shall constitute the total obligation of licensees of civilian nuclear power reactors for uranium revitalization and mill tailings reclamation, except to the extent that a licensee of a civilian nuclear power reactor may be the owner or licensee of a uranium mill or as provided by contract executed prior to the effective date of this Act.

"(5) Not later than ninety days after the date of enactment of this Act the Secretary shall establish procedures for the collection and payment of the fee established by this subtitle.

"SEC. 213. MAINTENANCE OF FUND BALANCE.

"The Secretary shall manage expenditures and disbursements from the Fund such that it never is in a deficit on a cash basis. Priority of expenditures and disbursements from the Fund shall be given to the purchase of domestic uranium under sections 214 and 215 of this title. Reimbursements to owners or licensees of active sites for reclamation, decommissioning and other remedial action may be delayed until receipts allow disbursements. In such cases, owners or licensees of active sites will be treated pro-rata where only partial reimbursements can be made.

"SEC. 214. EARLY PURCHASE PROGRAM.

"(a) The Secretary shall obligate from the Fund the sum of $80 million dollars in approximately equal quarterly installments in calendar year 1989 to purchase domestic uranium from small domestic uranium producers.

"(b) The purchase process shall be accomplished using the same competitive bidding system as established in subsections (c) and (d) of section 215.

"(c) For the purpose of this section, a small domestic uranium producer is a domestic uranium producer with net assets of less than $200 million as of the date bids are submitted. The net assets of a domestic producer shall be determined in conformity with generally accepted accounting principles on a consolidated basis and shall include the assets and liabilities of affiliated companies, as determined in the manner the Secretary provides in regulations. The domestic uranium producer shall certify that it is an eligible small domestic uranium producer, as defined in such regulations, as of the date bids are submitted.

"(d) The domestic uranium delivered under this section shall be:

"(1) domestic uranium actually produced by the small domestic uranium producer after the enactment of this Act, or

"(2) domestic uranium actually produced by the small domestic uranium producer before the enactment of this Act and held by it without sale, transfer or redesignation of the national origin of such uranium on a DOE/NRC form 741.

"(e) In the event that the $80 million provided for purchases of domestic uranium under this section is not fully obligated, any amounts remaining shall be used for purchases of domestic uranium under section 215 of this title. Such amounts shall be in addition to the amounts provided in section 215.

"SEC. 215. DEMAND ENHANCEMENT.

"(a) COMMITMENT.—The Secretary shall obligate from the Fund the following amounts per calendar year to purchase domestic uranium:

| "Calendar Year: | Expenditures |
|---|---|
| 1989 (fourth quarter) | $80,000,000 |
| 1990 | $150,000,000 |
| 1991 | $140,000,000 |
| 1992 | $130,000,000 |
| 1993 | $120,000,000 |
| 1994 | $50,000,000 |

"(b) TIMING OF SOLICITATIONS OF BIDS TO SELL.—Solicitations of bids to sell domestic uranium under this section shall begin on October 15, 1989 and shall be made quarterly so as to obligate approximately equal amounts out of each annual amount provided in subsection (a).

"(c) DELIVERIES.—Deliveries of the domestic uranium purchased by the Secretary shall be made in accordance with customary uranium industry practice to locations specified by the Corporation through the Secretary, and payment shall be made within thirty days after delivery.

"(d) COMPETITION.—Purchases of domestic uranium by the Secretary shall be accomplished using a competitive bidding system. The Secretary shall implement a bidding system which the Secretary determines to be appropriate. Purchases of domestic uranium by the Secretary shall be restricted to quantities deliverable within not more than twelve months of the contract award.

"(e) ELIGIBLE BIDS.—(1) Bidding shall be restricted to domestic uranium meeting one or more of the following criteria:

"(A) domestic uranium actually produced by a domestic uranium producer after the enactment of this Act;

"(B) domestic uranium actually produced by a domestic uranium producer before the enactment of this Act and held by it without sale, transfer or redesignation of the origin of such uranium on a DOE/NRC form 741;

"(C) domestic uranium returned to a domestic uranium producer pursuant to the settlement or final order of a lawsuit initiated prior to May 26, 1988; or

"(D) domestic uranium purchased by a domestic producer prior to January 1, 1988, to the extent that an equal amount of domestic uranium has been produced by such producer after January 1, 1988.

"(2) Contract awards under this section shall be limited to one million pounds of domestic uranium per domestic uranium producer per calendar year, subject to waiver if in the judgment of the Secretary it appears unlikely that the entire amount provided during a calendar year by subsection (a) will be obligated during that calendar year.

"(3) In the event that the entire amount provided during a calendar year by subsection (a) is not obligated during that calendar year, the unobligated balance shall be carried forward and added to subsequent monthly purchase obligations until the total amount of the Fund available for domestic purchases is expended.

"(4) Domestic producers that submit bids under this section or section 214 shall certify that the uranium to be delivered is eligible under paragraph (1) or subsection 214(d) as appropriate. The Secretary may impose penalties up to three times the bid price against any person or entity that knowingly submits a false certification.

"SEC. 216. PROMOTION OF EXPORT OF DOMESTIC ORIGIN URANIUM.

"(a) ENCOURAGE EXPORT.—The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium.

"(b) IMPLEMENTATION.—Within one hundred and eighty days of the date of the enactment of this Act, the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium. The Secretary shall report annually to the Senate Committee on Energy and Natural Resources and the appropriate House Committees on the progress of government programs to promote the export of domestic uranium.

"SEC. 217. CERTIFICATION.

"(a) REACTORS.—The owner or operator of any civilian nuclear power reactor shall certify to the Secretary by January 31 of each year beginning January 31, 1989, and ending when the $1 billion has been contributed to the Fund as specified in section 212(d)(1), the total weight of uranium in new fuel assemblies loaded during such year.

"Sec. 218. OWNERSHIP OF PURCHASED URANIUM AND RESTRICTIONS ON USE OF URANIUM AND ENRICHMENT TRAILS.

"(a) GOVERNMENT URANIUM.—The use of natural uranium contained in stockpiles or inventories owned by the Department as of the date of enactment of this title, including its agencies and instrumentalities, shall be restricted to military purposes, Government research, working inventory for purposes of enrichment, overfeeding and preproduction of enriched uranium by the Corporation. In no event shall such use decrease the demand for natural uranium by United States utilities in comparison to the demand that would exist in the absence of such use. The United States, its agencies and instrumentalities shall not sell natural uranium contained in stockpiles or inventories owned by the Department as of the date of enactment of this title.

"(b) URANIUM PURCHASES UNDER THIS SUBTITLE.—All natural uranium purchased under sections 214 and 215 of this subtitle shall be the property of the Corporation without need for payment other than the contribution required under section 212(c). The use of such uranium shall be restricted to overfeeding and preproduction of enriched uranium by the Corporation. In no event shall such use decrease the demand for natural uranium by United States utilities in comparison to the demand that would exist in the absence of such use.

"(c) ENRICHMENT TAILS.—The Corporation may use or recycle available enrichment tails only for military purposes or for purposes of replacing uranium provided by the Corporation's enrichment customers which

was previously used in overfeeding. In no event shall the Corporation or the Federal government use or recycle enrichment tails in such a manner as to decrease the demand for natural uranium by United States utilities in comparison to the demand that would exist in the absence of such use or recycling.

"SEC 219. SECRETARY'S AUTHORITY TO MAKE REGULATIONS.

"The Secretary shall issue appropriate regulations to accomplish the purposes of this subtitle.

"Subtitle C—Remedial Action Performed by the Owner or Licensee of Active Sites

"SEC. 220. REMEDIAL ACTION.

"(a) IN GENERAL.—The owner or licensee of an active site shall select and perform reclamation, decommissioning, and other remedial actions, at active sites.

"(b) REMEDIAL ACTION TO BE PERFORMED IN ACCORDANCE WITH APPLICABLE STANDARDS.—Any reclamation, decommissioning or other remedial action performed under subsection (a) by an owner or licensee shall comply with all applicable requirements established pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, as amended, or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021).

"(c) COSTS OF REMEDIAL ACTION TO BE PAID FROM URANIUM REVITALIZATION FUND.—The costs incurred by the owner of licensee who has elected to participate under section 221 for reclamation, decommissioning and other remedial action, performed by the owner or licensee under this subtitle shall be reimbursed under sections 222, 223, and 224 from the Fund established in section 211.

"(d) LISTS OF SITES AND TAILING DETERMINATION.—(1) The following active sites qualify for reimbursement from the Fund in accordance with the terms of this subtitle:

| "Site: | Estimated tons of mill tailings July 1, 1985 |
|---|---|
| Cotter—Cannon City Mill, Cannon City, CO | 2,200,000 |
| UMETCO—Uravan Mill, Uravan, CO | 10,300,000 |
| Sohio Western—L-Bar Mill, Seboyeta, NM | 2,100,000 |
| United Nuclear—Churchrock Mill, Churchrock, NM | 3,500,000 |
| Anaconda—Bluewater Mill, Grants, NM | 23,600,000 |
| Quivera Mining—Ambrosia Lake Mill, Grants, NM | 33,000,000 |
| Homestake—Grants Mill, Grants, NM | 21,800,000 |
| Conoco—Pioneer Nuclear, Conquista Project, Falls City, TX | 8,800,000 |
| Chevron Resources—Panna Maria Mill, Hobson, TX | 4,600,000 |
| Exxon—Felder Facility, Three Rivers, Texas | 400,000 |
| Rio Algom—Lisbon Mill, Moab, UT | 3,000,000 |
| Atlas—Moab Mill, Moab, UT | 10,500,000 |
| Dawn—Ford Mill, Ford, WA | 3,000,000 |
| Western Nuclear—Sherwood Mill, Wellpinit, WA | 2,900,000 |
| American Nuclear—Gas Hills Mill, Riverton, WY | 5,900,000 |
| Pathfinder—Lucky McMill, Riverton, WY | 9,500,000 |
| Western Nuclear—Split Rock Mill, Jeffrey City, WY | 7,700,000 |
| UMETCO—East Gas Hills Mill, Riverton, WY | 9,200,000 |
| Exxon—Highland Mill, Douglas, WY | 7,200,000 |
| Rocky Mountain Energy—Bear Creek Mill, Douglas, WY | 5,000,000 |
| Pathfinder—Shirley Basin Mill, Shirley Basin, WY | 5,800,000 |
| Petrotomics—Shirley Basin Mill, Shirley Basin, WY | 6,300,000 |
| Energy Fuels/UMETCO—White Mesa Mill, Blanding, UT | 1,900,000 |
| Minerals Exploration—Red Desert, Rawlins, WY | 1,000,000 |
| UMETCO—Maybell, Maybell, CO | 2,000,000 |
| Tennessee Valley Authority, Edgemont, SD | 2,000,000 |

"(2) Within one hundred and eighty days of the date of enactment of this title the Secretary shall determine the actual amounts of mill tailings at each of the active sites listed in paragraph (1) on the date of enactment of this title.

"(3) No reimbursement under this subtitle shall be made for the reclamation, decommissioning and other remedial action performed for an active site not listed in paragraph (1) or for reclamation, decommissioning and other remedial action of mill tailings at a listed active site in excess of the actual amount of tailings determined by the Secretary under paragraph (2).

"SEC. 221. ELECTION TO PARTICIPATE.

"The owner or licensee of an active site listed in section 220(d)(1) may elect to perform reclamation, decommissioning and other remedial action through the Fund and be entitled to receive reimbursement under this subtitle for the cost incurred by such owner or licensee for reclamation, decommissioning and other remedial action performed in connection with the owner's or licensee's active site by notifying the Secretary of such election on or before January 1, 1990. If an owner or licensee makes an election to participate, the notice shall specify whether the owner or licensee elects to have decommissioning undertaken pursuant to the Fund. Such election to participate or not to participate shall be irrevocable.

"SEC. 222. REIMBURSEMENT OF COSTS INCURRED FOR RECLAMATION, DECOMMISSIONING OR OTHER REMEDIAL ACTION FROM FUND.

"(a) IN GENERAL.—The Secretary shall make reimbursement from the Fund to the owner or licensee of an active site listed in section 220(b)(1) who has elected to participate as provided in section 221, the costs incurred by such owner or licensee for the reclamation, decommissioning and other remedial actions in connection with such site as follows:

"(1) From the contributions made to the Fund by the Corporation as provided in section 212(c), by the States as provided in section 212(a), and by the licensees of civilian nuclear power reactors as provided in section 212(d), plus the interest earned upon such contributions, the owner or licensee of an active site shall be reimbursed an amount equal to two-thirds of the total cost of reclamation, decommissioning, and other remedial action at such site.

"(2)(A) From the contributions made by the owner or licensee of such active site plus the interest earned thereon, such owner or licensee shall be reimbursed one-third of the cost of reclamation, decommissioning and other remedial action at such site.

"(B) Notwithstanding (A), if the contributions made by the owner or licensee of such active site plus interest earned thereon exceed one-third of the cost of reclamation, decommissioning and other remedial action at such site, such excess shall be refunded to such owner or licensee. The payment of such excess shall be considered a refund and not reimbursement. If the contributions made or to be made by the owner or operator of such active site, plus interest earned thereon, is less than one-third of the cost of reclamation, decommissioning and other remedial action at such site, then the amount by which one-third of the cost of reclamation, decommissioning and other remedial action at such site exceeds the amount of contributions made by the owner or licensee of such active site plus interest earned thereon, shall be borne by the owner or licensee thereof.

"(3) Notwithstanding paragraphs (1) and (2), the owner or licensee of an active site shall also bear, and not be reimbursed for, any amount by which the cost of reclamation, decommissioning and other remedial action at such site exceeds a sum equal to $4.50 multiplied by the dry tons of tailings at such site as determined under section 220(d)(2).

"(4) Before an owner or licensee of an active site elects to participate as provided in Section 221, the owner or licensee shall dismiss, with prejudice, any pending action it has against the United States for reclamation, decommissioning and other remedial action at active sites covered by this title, or withdraw with prejudice its participation in such an action.

"(5) The successor to the owner or licensee of an active site (other than the United States or agency thereof or a State as provided by law) shall be entitled to credit for contributions made by its predecessor and interest earned thereon and be entitled to receive any reimbursements or refunds.

"(b) OWNER'S OR LICENSEE'S ACCOUNT.—The Secretary shall maintain accounts for each participating owner or licensee to reflect contributions by such owner or licensee, interest deemed earned on such contributions, reimbursements to such owner or licensee from the Fund, and the cost incurred by the owner or licensee for the reclamation, decommissioning or other remedial action in connection with such active site.

"(c) ACCOUNTS FOR OTHER CONTRIBUTORS TO THE FUND.—(1)(A) For the purpose of accounting, two-thirds of the costs incurred by participating owners or licensees at active sites, up to the maximum of $4.50 per dry ton of tailings at such sites as of the effective date of this Act (such two-thirds being $3 per dry ton based upon $4.50 per dry ton of tailings), shall be deemed to have been reimbursed from the Fund out of the portion of the Fund contributed:

"(i) by or on behalf of the Corporation as provided in section 212(c);

"(ii) by the States which have contributed as provided in section 212(a);

"(iii) by the licensees of civilian nuclear power reactors as provided in section 212(d); and from interest deemed earned upon such contributions.

"(B) The Secretary shall maintain accounts for each such person or entity making contributions to the Fund, reflecting the date and amount of such contributions, and the interest deemed earned thereon.

"(2) The Secretary shall determine as of January 31, 1994, whether the amount remaining in the Fund (other than the

amounts contributed by participating owners or licensees of active sites and interest deemed earned thereon) when considered with the $4.50 per dry ton limit on reimbursement exceeds the total cost reimbursable to the participating owners or licensees of active sites (other than that deemed reimbursed out of such participating owners' or licensees' contributions and interest deemed earned thereon or to be borne by owners or licensees), where reclamation, decommissioning and other remedial action has not been completed.

"(3) If the Secretary determines there is an excess, then the excess shall be refunded as set forth in subsection (d): *Provided, however,* That no amounts contributed to the Fund by the participating owners of licensees of active sites and interest deemed earned thereon shall be refunded to any person or entity other than the owner or licensee making such contribution, or their successors or assigns.

"(d) REFUNDS TO CERTAIN CONTRIBUTORS.—The Secretary shall make a determination annually after January 31, 1994, whether an excess as calculated pursuant to subsection (c) exists in the Fund. If, as of January 31, 1994, and each January 31 thereafter, the Secretary determines that the Fund contains an excess as calculated in subsection (c), then the Secretary shall refund or use the excess in the following order:

"(1) the Secretary shall refund the excess to the States which have made contributions to the Fund as provided in section 212(a), until such States have been refunded the full amount of their contributions;

"(2) up to $100 million shall be used for the purchase of domestic uranium as described in section 215; and

"(3) the remaining excess, if any, shall be refunded to the licensees of civilian power reactors.

"(e) INTEREST DEEMED EARNED.—For the purposes of this subtitle, the contributions made by any person or entity shall be deemed to have earned interest annually on the contribution from the date made. The appropriate interest rate for each year shall be determined by the Secretary, taking into consideration the average market yield on outstanding marketable obligations of the United States with one year maturity during the year for which calculation is being made: *Provided, however,* That contributions made by any participating owners or licensees of active sites shall be deemed to bear interest during any such year only to the extent that the contributions made by such owner or licensee exceed one-third of the costs reimbursed out of the Fund to such owner or licensee up to such time.

"SEC. 223. LIMITATION OF REIMBURSEMENT.

"(a) $4.50 PER TON LIMIT.—The total reimbursement from the Fund to the owner or licensee of an active site shall not exceed an amount equal to $4.50 multiplied by the dry tons of tailings located at the site as of the effective date of this subtitle, as determined in accordance with the requirements of section 220(d). Costs in excess of $4.50 per ton shall be borne by the owner or licensee of the active site on its own account outside the Fund.

"(b) INFLATION ESCALATION INDEX.—The $4.50 per dry ton multiplier provided in subsection (a) shall be increased annually based upon an inflation escalation index. The Secretary shall determine the appropriate index to apply.

"SEC. 224. TAILINGS GENERATED AFTER THE DATE OF THE ENACTMENT OF THE TITLE.

"(a) IN GENERAL.—An owner or licensee of an active site who has elected to participate pursuant to section 220 shall be entitled to reimbursement from the Fund to the limits provided, for the costs incurred for the reclamation, decommissioning and other remedial action in connection with such active site on the basis of tailings existing at such active site as of the date of enactment of this title. The participating owner or licensee of an active site shall be responsible on its own account outside the Fund for the costs incurred for the reclamation, decommissioning and other remedial action associated with tailings generated at such active site after the date of the enactment of this title.

"(b) ACTIVE SITES CONTAINING TAILINGS GENERATED BEFORE AND AFTER THE DATE OF ENACTMENT OF THIS TITLE.—If an active site owner or licensee has elected to participate contains tailings generated both before and after the date of the enactment of this title, then it shall be assumed that the costs incurred by the owner or licensee for the reclamation, decommissioning and other remedial action in connection with such site were incurred pro-rata based on the dry tons of tailings generated before and after the date of the enactment as determined on the basis of the Secretary's findings under section 220(d)(2), unless the Secretary determines that the costs incurred in connection with the tailings generated after the date were less than would result from the pro-rata formula, in which event such lower amount shall be used for the purpose hereof.

"SEC. 225. THORIUM SITES.

"(a) IN GENERAL.—The cost of reclamation, decommissioning, and other remedial action at active thorium sites shall be borne by the licensee or owner, subject to reimbursement by the United States for a portion of the costs at any such sites if tailings at the site were generated as an incident of sales to the United States or any of its agencies and instrumentalities. The portion of the costs to be allocated to the United States shall be determined by the ratio of the volume of tailings that were generated as an incident of sales to the United States, or any of its agencies and instrumentalities, to the total volume of tailings at the site. Owners or licensees shall decide by January 1, 1989, whether they have tailings subject to Federal reimbursement and so notify the Secretary. Subject to such notification and confirmation of the existence of tailings eligible for reimbursement as described above, the Secretary shall enter into a cooperative agreement with the owner or licensee of the site providing for the payment by the United States of its portion of the cost of reclamation, decommissioning and other remedial action.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the provisions of this section, such funds as necessary are hereby authorized to be appropriated.

"SEC. 226. INTEREST ON COSTS INCURRED.

"Reimbursement from the Fund for costs incurred shall include interest at the rate provided in section 222(e) on costs incurred by the participating owner or licensee of an active site from the date a statement for reimbursement of such cost is submitted by the owner or licensee to the Secretary until reimbursement for such cost is made from the Fund.

"SEC. 227. LIMITATION OF FINANCIAL OBLIGATIONS.

"The contributions made and work performed by the owners or licensees of the active sites shall be the sole liability and obligation imposed under Federal laws in connection with the reclamation, decommissioning and other remedial action at active uranium and thorium sites; Provided, however, that nothing herein contained shall affect the obligation of every owner or licensee to provide for such long-term care or other reclamation requirements (including financial requirements) as are provided in the Uranium Mill Tailings Radiation Control Act of 1978, as amended, the regulations of the Commission thereunder, and the regulations of the Environmental Protection Agency thereunder. The financial requirements provided in the Commission's regulations under the Uranium Mill Tailings Radiation Control Act of 1978, as amended, as of the date of enactment of this Act shall remain in effect until the Commission has promulgated regulations implementing this subtitle.

"SEC. 228. RECLAMATION ALREADY UNDERTAKEN.

"The owner or licensee of a participating active site who has undertaken reclamation, decommissioning or other remedial action at such site prior to the date of the enactment of this title shall be entitled to reimbursement for the cost thereof as if the work was done after such date if such work, including disposal work, was accomplished in order to comply with the standards under section 220(b). The timing of such reimbursement shall be subjected to the management of the Fund as specified in section 213. An owner or licensee of an active site which has elected to participate in the Fund and has performed reclamation work prior to the effective date of enactment of this Act may have any sums to which it is entitled to be reimbursed credited against any sums it is required to contribute. The Commission shall determine whether work performed at a site prior to the enactment of this title was accomplished in order to comply with the standards under section 220(b) and advise the Secretary accordingly.

"SEC. 229. SECRETARY'S AUTHORITY TO MAKE REGULATIONS AND REIMBURSEMENTS.

"The Secretary shall adopt and issue appropriate regulations to accomplish the purposes of this title and shall review statements by participating owners or licensees for reimbursement from the Fund of costs incurred for reclamation, decommissioning and other remedial actions. Any such statement for reimbursement found appropriate shall be approved by the Secretary and reimbursement therefore shall be made from the Fund.

"SEC. 229. STANDARDS AND INSTRUCTIONS FOR BONDING, SURETY, OR OTHER FINANCIAL ARRANGEMENTS, INCLUDING OR OTHER PERFORMANCE BONDS.

"Section 161x. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201x.), is amended by inserting after the word 'ensure' in the matter preceding paragraph (1) a comma and the following: 'for the share of costs for which the licensee is responsible'.

"SEC. 230. PAYMENTS TO URANIUM REVITALIZATION FUND.

"The Secretary, or the United States Enrichment Corporation, as the case may be, shall make annual payments to the Uranium Revitalization Fund of $90 million for five years, for a total of $450 million. Of each $90 million payment, $60 million shall

be credited against payments owned to the Treasury on the initial debt.".

● Mr. DOMENICI. Mr. President, today I introduce legislation to foster restoration of the viability of our Nation's uranium industry. This measure is cosponsored by Senators BINGAMAN, SIMPSON, WALLOP, GARN, and HATCH.

Our domestic uranium industry is now in even worse condition than it was last year when the Senate passed similar legislation to that I introduce today. Once again—for the fourth consecutive year—the Secretary of Energy has found our domestic uranium industry to be nonviable. Import levels are so high that he has asked the Secretary of Commerce to initiate a study under section 232 of the Trade Expansion Act to determine the national security impacts of uranium imports.

Uranium prices are at record lows. Currently, only three uranium mills are currently producing and domestic uranium production has declined from 43 million pounds in 1980 to little more than 12 million pounds—only 30 percent of demand.

Revitalization of this industry is not only important to my State of New Mexico, but it is important to our national security. Almost one-half of the capital base of our domestic utility industry is invested in over 100 uranium-fueled nuclear reactors. These reactors will burn more than 2 billion pounds of uranium over their operational lives. In addition, vital U.S. defense programs depend on reliable sources of uranium—notably, 150 nuclear subs. By any standard, uranium is a critical strategic material.

Last year the Senate approved a three part initiative to revitalize our domestic uranium industry. Last month, the distinguished Senator from Kentucky, introduced one part of last years triad as amendment No. 6 to S. 83. His amendment reorganizes the DOE's uranium enrichment program by establishing the U.S. Enrichment Corporation to manage the Federal program on a commercial basis.

The amendment I introduce today contains the other two parts of the uranium triad approved by the Senate last year. First, it establishes a 5-year, $750 million program for the Federal purchase of domestic uranium by the Secretary of Energy. Second, it provides a system for funding the reclamation of uranium mill tailings at active mill sites.

To finance these other two programs, the legislation establishes the uranium revitalization fund in support of both the purchase program and the tailings reclamation. Contribution to the fund will be $450 million from the revenues of the U.S. Enrichment Corporation, a $300 million contribution from uranium producers, and a $1 billion contribution from the licensees of nuclear reactors.

The two programs in my amendment represent the compromise reached last year following negotiations between the Reagan administration, the utility industry and domestic uranium producers.

The proposed uranium purchase program could help restore a viable industry by increasing the demand for domestic uranium by some 6 million pounds a year over the next 5 years.

There was a time, Mr. President, when 65 percent of the Nation's uranium production came from my State of New Mexico. We had 7,000 people employed in an industry where today we have few more than 100 active miners at work. I do not deceive myself in believing that the legislation that I am submitting today will restore the uranium industry to the levels of employment that once existed in New Mexico and other major uranium States. But what it will do is help preserve the nucleus of an industry that is critically important to our Nation's energy security and military security.

Importantly, Mr. President, the legislation also will aid the uranium industry by providing assistance for the reclamation of mill tailings. Most of the affected tailings were generated at a time when tailings were not viewed as hazardous and the price paid for uranium by the Government and utilities did not include the heavy costs of complying with stringent standards later imposed retroactively by Congress. It is entirely appropriate that both the utilities and the Government pay a fair-share of these environmental restoration costs with the owners of active mill sites, who remain responsible for doing the required reclamation work.

I recognize, Mr. President, that circumstances have changed in recent months. The free-trade agreement with Canada has now been ratified and is being implemented. Canadian uranium, which comprises some 60 percent of our uranium imports, is now exempt from any restrictions which might otherwise be imposed on the enrichment of foreign uranium. Nevertheless, there continues to be strong support among many of my colleagues for efforts to preserve a viable uranium industry by addressing all the problems of the front end of the nuclear fuel cycle.

When reporting uranium legislation in 1987, the Energy Committee reaffirmed that—

> Congress has considered a viable domestic uranium industry as vital to the U.S. national defense and security.

The committee went on to state that:

> While dependency on other nations for strategic minerals generally, and for uranium in particular, may bring some short-term gain, it also involves long-term economic and energy security risks to the Nation's common defense and security.

Despite this significance of uranium to the Nation's common defense and security, the United States has pursued policies which contributed greatly to the depressed condition of the industry. The inventories which currently overhang the market and depress prices today largely the result of past Government enrichment policies.

In addition, there is the problem of subsidized uranium imports that our trade officials have consistently declined to address. They have been well aware of these problems for years.

It is not too late, however, for action by both Congress and the executive branch to restore a viable domestic uranium industry. Clearly, we are not bound by the specifics of the specific proposals in my amendment which were approved by the committee and the Senate last year. The details of any final legislation will once again have to be negotiated with all interested parties. Nevertheless, these proposals can serve as the basis for further discussion and negotiations.

I anticipate that the committee will consider Senator FORD's proposal for a U.S. Enrichment Corporation and my two proposals as a triad, as was done during the last Congress. In this effort I intend to work with Senator FORD and my other colleagues on the Energy Committee, as well as the Bush administration to achieve early resolution of the remaining outstanding issues.●

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Friday, March 17, 1989, at 10 a.m. to continue its oversight hearings on the problems of the Federal Savings and Loan Insurance Corporation.

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

### SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate Friday, March 17, 1989, at 10 a.m. to conduct an oversight hearing on policies to prevent destruction of the ozone layer and global warming.

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

### SUBCOMMITTEE ON MEDICARE AND LONG-TERM CARE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Medicine and Long-

Term Care of the Committee on Finance be authorized to meet during the session of the Senate Friday, March 17, 1989, at 10 a.m. to hold a hearing on the Physician Payment Review Commission's report to Congress.

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

SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Defense Industry and Technology of the Committee on Armed Services be authorized to meet during the session of the Senate Friday, March 17, 1989, at 9:30 a.m. in open session to receive testimony on the first annual critical technologies plan.

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

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Friday, March 17, 1989, at 9:30 a.m., to hold a hearing on S. 544.

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

## ADDITIONAL STATEMENTS

### BREATHING LIFE—AND A FUTURE—INTO AMTRAK

● Mr. HOLLINGS. Mr. President, a recent edition of Modern Railroads published an article commending W. Graham Claytor, Jr., for the success that our National Passenger Railroad Corporation—Amtrak—has achieved under his tutelage. In fact, Graham Claytor has been named Modern Railroads, "Railroader of the Year" for 1989. I want to commend Modern Railroads for its excellent selection and salute my friend Graham Claytor for the tireless leadership he has provided Amtrak. The success Amtrak has achieved in recent years can be measured by the increase in ridership and miles traveled, significant improvements in its revenue-to-cost ratio, as well as the $1.1 billion in revenue earned in fiscal year 1988. I ask that the following article be reprinted.

The article follows:

BREATHING LIFE—AND A FUTURE—INTO AMTRAK

(By Greg Borzo)

Three years ago, Amtrak did not seek private financing to purchase the new cars and locomotives it needed. Perhaps it knew better than to try. At worst, loans would have been denied; at best, they would have been difficult to secure, even at a premium rate.

At that time, Amtrak's very future was in question. The Reagan Administration had again requested zero dollars for Amtrak—a position that would be taken four years in a row. As long as it seemed destined for extinction, Amtrak's ability to repay loans was on a par with, let's say, Brazil's.

During the last several months, however, Amtrak has secured financing for 100 new passenger cars from the builder and an affiliated financier. Last year it did the same for new locomotives, and just recently refinanced the transaction with a third party. These funds, extended on very competitive terms, marked Amtrak's first major entree into the financial market in almost a decade. The good credit rating says a lot about Amtrak's new vigorous health; most of all, it says that the national passenger railroad system is here to stay.

"It's very difficult to get any kind of money when they think you might be out of business within a year; that doesn't do anything for your credit," said W. Graham Claytor Jr., president and chairman of the board of Amtrak since 1982. "How well we do is going to depend, to a great extent, on whether or not we get enough capital to keep moving. I'm confident we'll get it."

For turning Amtrak around and for leading Amtrak to its best year in revenue, operating ratio and ridership—as well as just about any other yardstick—Claytor has been named Modern Railroads' Railroader of the Year for 1989.

In a way, Amtrak's improved standing in the financial community tells the whole story. Lenders who once didn't want to talk to Amtrak are now willing to extend credit. Why?

Because revenue keeps growing. From 1981 to 1988 (fiscal years), it grew more than 30 percent, after accounting for inflation.

Because Amtrak's revenue-to-cost ratio, or operating ratio, has improved steadily from 48 percent in 1981 to 69 percent in 1988.

Because ridership continues to grow; in fact Amtrak has to turn away customers for want of equipment. With sold-out trains in the West and 200,000 standees in the Northeast Corridor last year, new equipment is a sound investment.

Because, for the second year in a row, Amtrak covers all short term, above the rail costs with revenue.

And because it's the one major railroad that has managed to reduce labor costs and keep them in line.

Amtrak's improved standing in the financial community is a vote of confidence in the man at the helm and demonstrates that Amtrak is capable of solving its own problems rather than relying on the federal government.

"We've already done a significant amount of private financing. If we get more federal funds, it will be easier to get more private financing. Even just words of support from Washington—which we are now getting [from President-elect Bush]—will help us get financing on the outside."

CREATIVE REVENUING

Besides seeking capital funds from financial institutions, Claytor has generated much-needed capital by exploring new revenue options. In 1987, for example, Amtrak began carrying some 10 million yearly commuters under contract for the Massachusetts Bay Transportation Authority. In 1988, that grew to 15 million. Next, Claytor hopes to provide similar services for transit agencies in Connecticut and Florida, for Caltrans, and for the Virginia Railway Express' proposed services out of Washington, D.C.

Real estate development represents another promising area. With 70 acres of air rights in downtown Philadelphia, and extensive center-city property in Chicago, New York and Washington, D.C., Amtrak is sitting pretty. Development of these properties, and station renovation including leases to commercial ventures, will generate significant new revenue.

Mail and express freight also generate profit and represent potential earnings. This traffic has been growing at eight to 10 percent a year during the past several years. Clayton expects Amtrak to carry more and more of it—but only where it's profitable.

Amtrak is selling its passenger seat reservation system to Via Rail in Canada, and has negotiations under way with Australia and France. This leads Claytor to hope that the system may become an international standard.

But most "extra" revenue in 1988, about $30 million, was generated by the corporate development department. This includes leasing the right-of-way for fiber optics; leasing equipment, such as high speed tampers and track laying machinery; track work and welding rail, mostly for commuter lines; and assembling rail cars. Even safe harbor leasing still generates a few million a year, although it lessens every year.

Amtrak's aggressive pursuit of new revenue streams has raised a few objections in the rail supply industry. Some suppliers believe that Amtrak benefits from an unfair competitive advantage because it receives federal funds, but Claytor claims that the suppliers just don't want the competition.

"Congress said that we should reduce the federal budget deficit by making a profit on anything we could," he said. "It also said, from the very beginning, that we have to include in our bid all capital costs that you would have to include if you were a fully private operation. We lean over backwards in that area. In fact, we load it up so much that we've lost a lot of bids."

Claytor pointed out that some politicians think Amtrak should in fact be given preferential treatment when it comes to providing car assembly or contracting services for transit agencies. That would help reduce the budget deficit since transit agencies are typically supported with federal funds. Claytor was quick to point out, however, that Amtrak does not take this position.

CONTROLLING COSTS

Claytor has also improved the bottom line by controlling costs. Amtrak's operating expenditures declined 6 percent in constant dollars, between 1981 and 1987. Claytor points to high labor productivity for much of this gain. Between 1980 and 1988, cumulative wage increases totaled 34 percent vs. 48 percent for the rail industry as a whole. All told, Amtrak saves more than $200 million a year due to favorable labor conditions, such as reduced crew sizes, elimination of arbitraries, and hourly pay scales, rather than paying on the basis of miles traveled.

Amtrak is only Class I with these innovative work rules across the board, although all the other major railroads would jump at the chance to implement them. For the most part, the rules grew out of congressional action that gave Amtrak the opportunity to renegotiate labor conditions as the railroad was created and subsequently remade. Neither Claytor nor (it seems) anyone else has a formula on how to make these work rules rub off on Class I's. When asked if he had any suggestions to fellow railroad presidents on how to do away with the 108-mile day or superfluous train crew

positions he answered, "It's to the unions that I'd like to make some suggestions!"

One of Claytor's major achievements is covering all short term avoidable operating costs with route revenues, systemwide. Before his arrival, route revenues covered only 73 percent of these costs; today that figure is 115 percent. This doesn't mean Amtrak is in the black, nor that it will ever be. But it does mean that the railroad should be able to continue to reduce its reliance on federal subsidies, which fell from $900 million in 1981 to $581 million in 1988, a drop of more than 50 percent in constant dollars.

WORKING WITH FREIGHT LINES

Claytor has worked hard to improve the sometimes-troubled relationships between Amtrak and the major freight railroads. He is especially qualified for this task because he headed the Southern Railway from 1967 to 1976. He knows freight railroading, as well as many of the industry's key players.

"Running Amtrak is not all that different from running a freight railroad," he said. "We're in the same business so we've got to work together."

If all railroad presidents shared this veiw, however, Claytor's job would be much easier. Although he describes Amtrak's relationship with freight railroads as "excellent," there are some inherent differences between the priorities of freight and passenger railroading.

Track conditions and resultant speed limits constitute perhaps the biggest rift. Railroads don't want the expense of maintaining track up to the standards needed for Amtrak's faster trains. In perhaps the most recent example of this industrywide dilemma, Burlington Northern Railroad in October told Amtrak that it would have to limit its trains to the same speeds as BN's freight trains. In many cases this will require Amtrak to reduce its train speeds and alter its schedules.

BN says that speed differentials cause congestion now that traffic levels are relatively high. The issue is being negotiated.

On a subject related to good track maintenance, Claytor would like freight railroads to do more to help Amtrak improve its on-time performance, an area in which things are getting worse. In 1983, 82 percent of Amtrak's trains were on time. That figure has dropped steadily to 71 percent for 1988.

"The Metroliners were at about 90 percent [on time], but off-corridor our on-time performance has been dreadful this year," he said. "The increase in freight business is the main reason, and one of the principal problems has been freight derailments. One derailment can hold up as many as a dozen of our trains."

Incentive contracts, which reward railroads for on-time performance, should help solve this, according to Claytor, even though the railroads without such contracts are not necessarily the ones with the worst on-time records. "The incentive contract is the most important thing in resolving this," Claytor said. "Some lines like Santa Fe and Conrail don't have them, but I expect the idea to spread. Dick Sanborn, who takes over at Conrail in January, assures me that it's one of the first things he will do."

Problems with on-time performance and sharing track are not limited to freight railroads. Claytor complained about how difficult it is to share the right-of-way with some commuter agencies in and around New York City. "Since they do the dispatching, they can stick you behind their commuter trains," he said.

BARRIER TO GROWTH

Amtrak seems bristling with enthusiasm and eager for the chance to grow . . . if it could just get more equipment. Help is on the way. The 100 new coaches on order from Bombardier will relieve some of the pressure and will help assure passengers on existing routes a seat on a well maintained car—something Amtrak has not been able to guarantee up till now.

"Last summer we overutilized equipment on order to try to meet demand," Claytor said. "This year we won't do that. By next summer we won't have shoddy equipment," partly because of the new capacity and also because he says he would now rather turn passengers away than give them a bad experience with Amtrak.

AMTRAK'S PERFORMANCE

| | 1984 | 1985 | 1986 | 1987 | 1988 |
|---|---|---|---|---|---|
| Revenues (millions) | $758.8 | $825.8 | $861.4 | $973.5 | $1,107.7 |
| Expenses (millions) | $1,522.1 | $1,600.1 | $1,563.6 | $1,672.0 | $1,757.1 |
| Revenue-to-expense ratio | 0.56 | 0.58 | 0.62 | 0.65 | 0.69 |
| Passenger miles (millions) | 4,552 | 4,825 | 5,013 | 5,221 | 5,654 |
| Passenger miles per train-mile | 157.1 | 159.0 | 172.2 | 176.8 | 189.0 |
| Ridership (millions): | | | | | |
| System | $19.9 | $20.8 | $20.3 | $20.4 | $21.4 |
| Contract commuter | [1] $0.518 | $0.587 | $0.656 | [2] $10.2 | $15.0 |
| Systemwide on-time performance (percent) | 80 | 81 | 74 | 74 | 71 |
| Application of Federal appropriations (millions) | $4,716.4 | $684.0 | $590.7 | $607.0 | $580.0 |

[1] Jan. 1, 1983, Amtrak began providing commuter service under contract to the State of Maryland.
[2] Jan. 1, 1987, Amtrak began providing commuter service under contract to the Massachusetts Bay Transportation Authority.

Unfortunately, the new cars will not make expansion possible, even though Amtrak has identified several new routes it would like to start up. Except for an extension of an existing route into Houston last November, no new intercity services are in the works. Instead, the limited number of new cars likely to come on line within the next few years will go toward relieving equipment overutilization and toward making Amtrak's three, thrice weekly trains daily.

Some future car needs will be met by the Viewliner, the single-level sleeper now being run through extensive revenue-service testing. Claytor expects that within 10 years the Viewliner will have replaced most of the Heritage cars, but he does not anticipate placing the first order for Viewliners until 1990.

Locomotives have also been overutilized, but Claytor believes the additional units on order and recently delivered should resolve the shortage. Improvements in locomotive shop maintenance procedures will help, too. Amtrak has begun to use a production line for locomotive repairs and overhauls.

The next area where we can greatly increase productivity is in our maintenance costs . . . which has been pretty inefficient," Claytor explained. With a production line, "the same guy does the same work on every engine so he becomes a specialist. We're turning out far more locomotives."

Claytor also plans to increase locomotive availability by employing units that need less maintenance, i.e., locomotives that use ac traction motors.

"I hope to never have to buy another new dc traction-motor unit," he said, adding the the U.S. locomotive builders didn't want to switch because of the expense. "We forced their hand by going to Europe. EMD [Electro-Motive Division] might not have built us any [ac traction locomotives] except that they found out that I was taking delivery on two Brown Boveri units. I hope GE [General Electric] will build us ac traction motors, too."

Amtrak's future is more promising today than ever before, thanks in part to the leadership of W. Graham Claytor Jr. But as promising as that future may be, it is chockfull of questions and potential pitfalls. In some ways, the proposed Boston-New York high speed service is indicative of Amtrak's situation: a modest amount of money will help set up a service in great demand. About $400 million for equipment and minimal track work would suffice to develop a three-hour-Boston-New York run. That's not all that much, considering the tens of billions of dollars spent on new highways or airport improvements every year.

"The problem with a high speed line from Boston to New York is only money," Claytor said. He believes that the proposed service could make an operating profit, but not a favorable enough return on investment to attract financial institutions.

"We'd be delighted to run the service, but we're not in a position to buy the equipment. Now if CONEG [Coalition of Northeastern Governors] or the states come up with the money. . . ."

In other words, Amtrak can provide a useful, efficient service, but the politicians and the public have to decide to what extent they are willing to support that service. Under Claytor, that service has improved dramatically—and Amtrak has come to deserve that support more than ever.●

## DEFICIT FIGURING DOESN'T ADD UP

● Mr. KASTEN. Mr. President, the major debate in the 101st Congress will be over the Federal budget deficit and what to do about. Many of my colleagues are justly concerned about the deficit problem—and I agree that prompt action is both desirable and necessary. What I disagree with is that we must reduce the deficit at all costs—even if it means raising taxes.

Mr. President, there is compelling economic evidence suggesting the Federal budget deficit is not the economic monster of prevailing conventional wisdom. Indeed, there seems to be a surprising degree of agreement among responsible economists—from conservatives like Milton Friedman and Paul Craig Roberts to liberal keynesians like Robert Eisner—that the deficit problem is manageable and a tax increase is unnecessary.

I highly recommend to the Senate an article in the February 12 edition of the New York Times magazine entitled "Deficit Figuring Doesn't Add Up." This cogent article cuts through the political rhetoric surrounding the deficit debate and examines the bare economic facts. The Times article makes several important points that I would like to bring to the attention of my colleagues:

First, the importance of a budget deficit depends crucially on the size of the economy. Charting changes in the budget deficit without reference to

changes in the size of the economy is a gross misrepresentation; and the present deficits become less frightening when they are expressed as a percentage of GNP.

Second, in order to assess the true impact of deficits on the economy, we must include State and local budgets. The annual overall Government deficits in the 1980's as a percentage of GNP never reached the record level set in 1975—and this deficit has declined to less than 2 percent of GNP in recent years.

Third, the experience of the last 10 years unequivocally rejects the notion that deficits increase inflation and interest rates. In fact, there is no evidence that over the last 40 years budget deficits have been associated with either higher interest rates or inflation.

Fourth, the relationship between deficits and savings-investment is practically random. Canada and Italy have run large budget deficits for the last decade, and both have seen very strong increases in private savings. In the 1980's, U.S. gross business investment ran at an average of 10.9 percent of GNP, actually higher than the last 40 year's average of 10.2 percent.

Fifth, the supposed relationship budget deficits and trade deficits is equally tenuous. The 1980's are the first time in U.S. postwar history that trade deficits and budget deficits have consistently moved in the same direction. And in the rest of the world, there is no such correlation. England, for example, had a rising trade deficit and a rising budget surplus over the same period.

Mr. President, in highlighting these facts, I do not want to minimize the importance of reducing the budget deficit. Our efforts should focus on reducing the growth rate of spending and enacting new budget restraints and reforms. However, I do believe that it's important to look at the facts concerning the deficit and the economy before rushing into shortsighted and counterproductive solutions like a tax increase.

I ask unanimous consent that the Times article be printed at this point in the RECORD:

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

DEFICIT FIGURING DOESN'T ADD UP

(By Charles R. Morris)

In the few months since George Bush's election, there has been a remarkable swing of sentiment on the Federal budget deficit. In November, a sharp drop in the financial markets was regarded by some as signaling a deficit "crisis." Former and present Federal Reserve Chairmen Paul A. Volcker and Alan Greenspan, former Presidents Gerald R. Ford and Jimmy Carter and economists of every political allegiance took up the cry: without very fast action to cut the deficit right away, we were facing an American recession, a world economic crisis, or worse.

With the sudden blooming of President Bush's unexpected honeymoon with Congress and the news media, the deficit issue is rapidly fading from view. Most economists, bankers, stockbrokers, editorial writers and Congressmen still believe that Federal budget deficits cause high inflation and high interest rates, sap savings and investment, are at the root of our trade deficit and have converted America into "the world's largest net debtor," But they are being reassured that, though all these bad consequences do follow deficits, they work so slowly as to be imperceptible. In other words, instead of a crisis, we have a mini-recession forever.

Without doubt, a major quiver in the financial markets will send the deficit flags flying again. But for once, the deficit Pollyannas may have the stronger argument, if for different reasons than usually stated. Remarkably, there has never been strong evidence for the malevolent consequences of a Federal budget deficit: virtually all of the arguments in favor of urgent action on the current deficit are supported only by the most tenuous connections between theory and evidence, or are not supported at all, or are misleading or actually false. As David Hale, chief economist of Kemper Financial Services, who believes the deficit is important, freely concedes, the fundamental relations are "very murky . . . either very difficult to quantify or you can't quantify them at all."

The gap between the prevailing wisdom and the economic evidence is partly a matter of politics and partly just honest confusion. But more fundamentally, it points up basic flaws in our conventional understanding of how a modern economy works.

The standard model of a modern economy runs roughly as follows: A country's total output (its gross national product, or G.N.P.) is the sum of private consumption and investment and government spending. When the government increases its own spending beyond what it takes in as taxes—creating a budget deficit—it is putting more money into private hands. So total spending—and the G.N.P.—rise.

But the temporary stimulus to the G.N.P. comes at a cost. The increased borrowing by the government to pay its deficit will cause interest rates to rise, because the government action will have heightened competition among borrowers bidding for the available pool of capital. Alternatively, if the Federal Reserve increases the supply of money to accommodate the borrowing, the additional spending power will cause inflation to rise. Things get more complicated when international effects are taken into account, but, in general, the spur to consumption in the deficit country should cause a temporary spurt in imports, such as VCR's and autos, causing a deficit in trade.

How well does this conventional picture comport with reality? Do government deficits actually increase inflation and interest rates and reduce savings and investment? And what is the impact of deficits on America's trade balance and international financial standing? More fundamentally, how do we measure a deficit in the first place?

DEFINING THE DEFICIT

The importance of a budget deficit depends crucially on the size of the economy. A $100 billion deficit will have five times the impact on a $1 trillion economy as on a $5 trillion economy, the current size of our own. Charting changes in budget deficits without reference to changes in the size of the economy is a gross misrepresentation; and the present deficits, in fact, become much less frightening when they are expressed as a percentage of the G.N.P.

The current policy debate also confuses Federal deficits with overall government deficits. State and local surpluses reduce private spending and retire debt just as Federal surpluses do. In recent years, in fact, state and local surpluses have been quite large, the recent problems in Massachusetts and New York notwithstanding.

As the chart on page 38 makes clear, the annual overall government deficits in the 1980's, expressed as a percentage of the G.N.P., have never reached the record level set in 1975, and the present deficit level is in a range seen rather frequently in the past, even in the conservative Eisenhower years. (Just as pacifistic Democrats make wars, fiscally upright Republicans have always run up the biggest deficits.)

Even more important is the changing nature of Federal spending. President Dwight D. Eisenhower's big deficits came from buying things, like tanks or roads. But only about a third of the modern Federal budget actually is used to purchase goods and services. The remaining two-thirds are transfer payments of one form or another—including interest payments—and make no direct contribution to the G.N.P. Money is merely shuffled from one set of potential spenders to another.

The largest transfer payments are those paid through the Social Security trust fund (about $223 billion in 1988), although there are many others, including Federal and military pensions and welfare payments. There is no satisfactory way to measure their impact on the economy.

The government raises money, mostly from taxes, but some from borrowing, and gives it to transfer recipients. The standard rhetoric that the government borrows from savings to support consumption is not accurate. Some portion of that money raised would have otherwise been used for consumption and some portion for investment and savings. Moving the money from one set of owners to another undoubtedly changes those proportions, but there is no way to know by how much, or even in what direction—although there are economists with strong views on all sides of the issue. (The only sure thing, as conservatives point out, is that to manage it all, the size of government increases.)

The impact of Federal interest payments—about $150 billion in 1988, roughly equal to the entire deficit—is even more ambiguous. Pension funds, banks and other financial institutions hold the lion's share of Federal debt, in the form of Treasury notes and bonds. To pay interest, the Government sells Treasury paper to those institutions and then pays the proceeds back to them. (About $25 billion is paid to foreigners, who own about 15 percent of the Federal debt, but that is a tiny amount in a $5 trillion economy.) Whatever the economic impact of the interest-payment churning process, it is far too small even to be measured.

Interest payments overstate the deficit in other ways: currently, the Federal Government is paying approximately 9 percent interest on its money. About half of that is just covering the loss of purchasing power due to inflation, and constitutes no change in wealth one way or the other. After all, a borrower who pays 5 percent interest during a time of 5 percent inflation is not giving anything extra back to his lenders.

If the inflation premium is considered in the figuring of Federal interest payments, as Robert Eisner of Northwestern University has suggested, and state and local surpluses are taken into account, the total government deficit dwindles to near the vanishing point. The question, in short is not whether the glass is half full or half empty, but whether there is a glass on the table at all.

INFLATION AND INTEREST RATES

Assuming away the problem of how big the deficit really is, do budget deficits increase inflation and interest rates? The experience of the last 10 years provides an unequivocally negative answer. Interest rates and inflation fell as sharply as the Federal deficit rose; the mild uptick in inflation and interest rates in the last year or so, conversely, comes at a time when the deficit is finally falling.

In fact, there is no evidence that over the last 40 years budget deficits have been associated with higher interest rates or inflation—if anything, the correlation runs in the opposite direction. Economists, like Paul Evans of Ohio State University, have conducted elaborate statistical analyses—controlling for lag effects, inflation, the experience in different countries—without finding any consistent effects from government deficits.

The United States Treasury Department conducted an exhaustive survey of the economic literature in 1984, and found "no systematic relationship between government budget deficits and interest rates. . . ." Some studies, to be sure, claimed to find some such effects; but there was always another drawing the opposite conclusion from the same data.

The budget deficit is frequently blamed for making American interest rates higher than in other countries—in the 1980's, interest rates in this country have been higher than in, say, Japan or Germany. But American rates began to shoot up in the late 70's, before the deficit rose, in reaction to the high, and extremely volatile, American inflation in the 70's, a time when German and Japanese prices were much more stable.

Tracking changes in American, Japanese and German rates shows no consistent pattern. For example, the gap betwen American and Japanese government bond rates more than doubled between 1980 and 1981, when the American budget deficit was actually falling. The gap then narrowed as the deficit peaked and began to rise last year as the deficit dropped. In all seven major industrial countries (including Canada, England, France and Italy) in the 1980's, in fact, inflation-adjusted interest rates almost always dropped as budget deficits rose, and vice versa. As Rudolph G. Penner, former director of the Congressional Budget Office, recently phrased it: "One would expect a positive relationship between the deficit and real interest rates. This relationship has been devilishly difficult to document statistically."

SAVINGS AND INVESTMENT

It is taken as a truism that government budget deficits reduce savings and investment: the spur to spending increases consumpton, the logic goes, at the same time as government borrowing reduces total savings. The result is lower investment and, over the long term, a less productive economy. The experience of the 1980's in the United States is consistent with that picture: both savings and net business investment have dropped as the deficits rose.

But it is reasonable to ask whether it is generally true that budget deficits reduce total national savings. The surprising answer is that it is not. Robert J. Barro of Harvard University has tracked the interplay of savings and deficits in a number of countries, and the results are frequently—usually, Barro argues—the opposite of what one would expect. Canada and Italy have run very large budget deficits for the last decade, and both have seen very strong increases in private savings. In Israel, England and Demark, private savings rose sharply to offset big government deficits in the early 1980's, then dropped sharply as their budgets moved into surplus, keeping overall national savings rates roughly constant.

The most one can conclude is that the relationship between budget deficits and savings is practically random. Indeed, the comparative youthfulness of American adults probably has much more influence on savings patterns in this country.

According to the World Bank, 26 percent of the American population is between the ages of 20 and 34, compared to only 21 percent in Japan and 23 percent in West Germany. By contrast, 30 percent of Japanese and 28 percent of West Germans are between the ages of 35 and 54, compared to only 23 percent in the United States.

In demographic terms, these are massive differences; and it should be no surprise that younger people save less. (Projected figures show how rapidly the American population will age in coming decades; one would expect a substantial reversal of savings patterns, quite independently of Federal budget practices.)

The much-lamented decline in American business investment similarly merits a closer look. In the first place, during the 1980's, gross business investment ran at an average 10.9 percent of the G.N.P., actually higher than the last 40 years' average of 10.2 percent. The figure that causes concern, however, is the decline in net business investment—that is, gross investment less depreciation allowances—which has dropped sharply from a post-war average of 3 percent and a 1979 peak of 3.9 percent to an average of only 2.3 percent in the 1980's.

But the net investment data are suspiciously inconsistent with the strong increase in American manufacturing productivity in the 1980's; at about 4 percent in a year since 1982, it is one of the fastest rises on record. Logically enough, Prof. Allan H. Meltzer of Carnegie Mellon University decided to look at the Commerce Department's depreciation schedules to see if they explain part of the mystery. He found that the schedules are based on a set of 1935 guidelines called "Winfrey's rules," which generally assume different investment lives than obtain in a modern business. When Meltzer applies new schedules—developed within the Commerce Department—he says "much, but no all, of the drop in net investment simply disappears."

INTERNATIONAL DEBT AND TRADE DEFICITS

If measurement problems bedevil analyses of investment trends, they almost preclude sensible discussion of America's international financial position. To begin with, that staple of editorial jeremiads, that America has become the "world's largest net debtor," with more than $500 billion in net foreign debt, is flatly untrue.

The "largest net debtor" rhetoric stems from a misuse of the Commerce Department's international balance-sheet accounts. The accounts list all foreign assets owned by Americans—by the Federal Government, private corporations and individuals—and compare the total to all assets in the United States owned by foreigners. All of the hotels in Honolulu that are owned by Japanese hotel chains, for example, are included in the "international debt" totals, although they hardly constitute "debt" in any meaningful sense of the word. The totals show that the value of foreign assets in America has been increasing rapidly and now exceeds American assets abroad by more than $500 billion.

But, oddly enough, through most of the 1980's, Americans earned about $20 billion a year more on their foreign assets than foreigners did on their American assets; and at present, the inflow and outflow of earnings is precisely equal. How does the earnings record square with the "largest net debtor" rhetoric?

The answer, again, lies with accounting conventions. The Commerce Department generally values assets at their purchase price. The big American overseas investment drive came in the 1950's and 60's, so American overseas assets tend to have a much lower book value than the assets purchased by foreigners in the 80's. Monetary gold, an "asset," is valued at $42.22 an ounce, one-tenth its actual value. Asset-pricing conventions, that is, make the balance-sheet accounts utterly meaningless as a measure of American "indebtedness." The more directly relevant earnings figures, on the other hand, imply that America has been a creditor nation throughout the 1980's, and is now roughly in balance with the rest of the world.

The recent shift from a strong American surplus position to a rough balance, however, is clearly related to the trade deficit. The trade deficit is frequently confused with the budget deficit because they are both roughly the same size; and it is assumed that budget deficits cause trade deficits. But the 1980's are the first time in American post-war history that trade deficits and budget deficits have consistently moved in the same direction. And in the rest of the world, there is no such correlation. England, for example, had a sharply rising trade deficit and a sharply rising budget surplus—over the same period.

There are also much better available explanations for the trade deficit. By the beginning of the decade, East Asia and, to a lesser extent, West Germany, had built an enormous store of productive capacity and needed to expand their overseas markets. To do so, they drastically cut prices by bidding up the value of the dollar against their own currencies. At the very same time, the United States abruptly stopped sending between $75 billion and $100 billion to Latin America each year in the form of bank loans. (Ironically, our accounting rules made us look richer as we piled up Brazilian and Mexican i.o.u.'s—they are "assets"—while the inflow of high-quality cars, television sets and machine tools somehow make us poorer.)

One way or another, a major readjustment of trade and capital flows was inevitable, with or without a Federal budget deficit. Doubtless, international capital realignments, American savings trends and Federal fiscal policies all interacted in some subtle way, but it defies logic and history to contend that Federal budget policy "caused" such a seismic shift.

Trade performance is, in any case, a poor measuring rod for American industrial might. American companies have long since spread across the globe in pursuit of local

markets, a much more efficient strategy than shipping goods across oceans. Foreign branches of American companies sold $640 billion worth of goods overseas in 1986, almost five times that year's trade deficit. Imports from those branches, in fact, made up more than 15 percent of total American imports, or more than half the total trade deficit.

Twenty-five years ago, Europeans met the American overseas investment drive with the same complaints about selling off national "patrimonies" that are heard in this country today, and they were just as ill-founded. American companies consistently reinvest half to two-thirds of their overseas earnings in their host countries; apart from the loss of the long French lunch hour, Europe has clearly gained as a result. Significantly, the Japanese company that purchased Firestone Tire recently announced a billion-dollar investment program in its North American operations.

There is, in short, no evidence of a trade or debt "crisis," and the link between the trade and budget deficits is indirect and elusive at most. The world's industrial powers are much more evenly matched than a decade or so ago, but in that there are benefits as well as challenges for America—hardly the best of all possible worlds, perhaps, but hardly cause for ringing the fire bells.

WHY THE CLAMOR?

The obvious question, then, is why all the clamor? There are a number of bad reasons and one or two good ones.

Partisan political considerations, of course, rank high on the list; or as Carnegie Mellon's Professor Meltzer puts it: "Read my lips, eat my words." The deficit has been the major blot on the Republican economic record, and clearly puts President Bush on the defensive on his "no new taxes" pledge.

Irving Kristol, the editor of The Public Interest, points to the media bandwagon effect: "The media has been accustomed to organizing coverage around crises, and the deficit is about the only one on hand."

The deficits are also a powerful curb on the "Iron Triangle" of Washington special interests that resist spending cuts and create new spending needs:

Congressmen, who don't score points with constituents by cutting spending. Without the deficit clamor, how could Congress sit still for $1 billion worth of military-base closings? The defict provides the political air cover for a tax increase to ease the budget-cutting pressures.

The financial community, which wants action on the deficit because markets move on gusts of emotion. If enough authorities insist there is a crisis, investors, in turn, may behave cautiously, as if there really was one.

The economics profession, which is, as a whole, in an awkward position if there is no deficit crisis. It is one more confirmation of the deficiencies of the conventional wisdom, but there is no obvious new theory to replace the old one. Educating the political and journalistic elite in fundamental principles has been a long and painstaking process; jettisoning well-established rules is dangerous without new canons of equal clarity to take their place.

The deficit has also become a kind of lighting rod, attracting all the pent-up frustrations of the public at the inability of a divided national executive and legislature to accomplish anything in the modern era of special-interest politics. A sensible farm policy, defense policy, entitlements policy, may all be beyond us, but surely the deficit is a problem of sufficient simplicity and starkness to deal with.

There is, finally, at least one good reason to worry about budget deficits: they are a form of moral hazard. The false crisis over the budget deficit prevents the nation from dealing with the real, deep-seated problems it faces, issues of resource allocation and intergenerational equity. What is the proper role of government in a modern mixed economy? What about the looming problem of caring for our aged? The Social Security trust fund is now running a surplus in the $100 billion range, accounting for much of the recent reduction in the Federal deficit. (Taxes are taxes, and one tax dollar closes a deficit as effectively as any other, regardless of its ultimate purpose.) The long-term question, however, is whether there will be enough of a surplus when the baby-boom generation turns 65.

It is unreasonable to expect fundamental problems such as these to be sensibly addressed in the present cloud of exaggeration and confusion. And they are far too complicated for decisionmaking during a crisis. But there is, after all, no crisis—except for the inevitable crisis of credibility if we lean too long on the button for the siren marked "false alarm."●

## MEATING THE NEED

● Mr. PRYOR. Mr. President, feeding the needy has been, and will continue to be, a battle throughout America. I rise today to share with you the great efforts of a program called Meating the Need.

Second Harvest, the Nation's largest charitable feeding program, and the American Meat Institute have joined forces in a year-long effort to help feed those less fortunate than we.

The American Meat Institute is the largest national trade association representing the meat packing and processing industry. This year AMI has pledged to donate more than 1 million pounds of meat to distribute to the 200 Second Harvest food banks throughout the country. These banks, in turn, will channel it to community feeding programs including shelters and soup kitchens, senior and day-care centers, and food pantries. The one common goal, of course, is to reach the hungry.

I want to bring attention today to the existence of "Meating the Need," an exemplary campaign of tremendous effort to care for our children, the elderly, the unemployed, and the homeless.

Mr. President, I ask that two statements from Second Harvest and the American Meat Institute describing this important program be printed in the RECORD.

The statements follow:

SECOND HARVEST, AMERICAN MEAT INSTITUTE HELP FEED NEEDY WITH MILLION-POUND MEAT DONATION DRIVE

DRIVE KICKS-OFF DURING NATIONAL MEAT MONTH, SECOND HARVEST 10TH ANNIVERSARY

CHICAGO, IL, February 9, 1989.—Second Harvest, the nation's largest charitable feeding program, and the American Meat Institute (AMI) have joined forces in the Second Harvest/AMI "Meating the Need" program, a year-long effort to help feed needy Americans.

According to Philip R. Warth, Jr., president and CEO of Second Harvest, the AMI, the largest national trade association representing the meat packing and processing industry, has challenged its more than 450 members to donate one million pounds of meat to Second Harvest in 1989.

At a press conference at the Greater Chicago Food Depository, one of more than 200 Second Harvest member food banks, AMI president and CEO Manly Molpus announced that AMI member meat companies, alerted to the donation drive only eight weeks ago, have already exceeded the one million pound goal by more than 300,000 pounds. A truck carrying a portion of the initial 1.3 million pound donation arrived at the Depository for unloading.

"The AMI's pledge to donate more than 1.3 million pounds of meat is significant in our fight to feed the needy," said Warth. "We're overwhelmed by the response from AMI member meat companies. The meat will be distributed to Second Harvest food banks across the country, which, in turn, will channel it to charitable feeding programs serving the needy in their communities.

"The donation is particularly significant as February also begins National Meat Month and Second Harvest is celebrating its 10th Anniversary year. Thanks to the AMI, we're off to a great start in our efforts to help the needy in 1989," said Warth.

Second Harvest, based in Chicago, provides food companies with a safe, reliable method of channeling donated food and grocery products to the needy. Because Second Harvest food banks must meet strict guidelines for sanitation and storage, food companies are assured that their products will be "handled with care."

Second Harvest food banks are equipped with or have access to refrigeration storage and transportation facilities to ensure that the perishable meat products are maintained properly.

"Meat is vital to a healthy diet, especially for the poor who generally lack protein in their diets," said Warth. "Meat provides protein to help build red blood cells and muscle. It's especially important in the development and growth of youngsters."

Among the 38,000 agencies served by Second Harvest food banks are shelters and soup kitchens, senior and day-care centers, and food pantries. Food from Second Harvest is made available to children, the elderly, families, the unemployed, and the homeless: people whose only common denominator is hunger.

Because Second Harvest is a non-profit organization, it relies heavily on the generous support of the food industry and other corporations and foundations to provide greater amounts of products and increased technical assistance to its member food banks.

In 1988, Second Harvest distributed over 400 million pounds of food to more than 38,000 charitable feeding programs nationwide.

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MEAT INDUSTRY EXCEEDS MILLION-POUND DONATION GOAL; ANNOUNCEMENT MADE DURING NATIONAL MEAT MONTH

CHICAGO, IL, February 9, 1989.—The American Meat Institute (AMI) and its meat packer and processor members announced today they are "Meating the Need" of the

nation's hungry with a commitment to donate more than one million pounds of nutritious meat to Second Harvest food banks in 1989. The donation announcement coincides with February's National Meat Month campaign and the 10th anniversary of Second Harvest, the nation's largest charitable feeding program.

"We announced a million-pound goal to our industry only eight weeks ago, and already AMI member companies have exceeded the goal by more than 300,000 pounds," said George Bryan, senior vice president of Sara Lee Corp. and a co-chairman of the AMI/Second Harvest "Meating the Need" Project. "Pledges are still coming in. I am really encouraged by such an enthusiastic response."

Citing the shortage of protein in the diets of America's poor, Mosey's Inc. President Donald Silpe said the 1.3 million pounds of meat would supply nutritious protein, iron and B-vitamins to more than 14,000 people each day for a year. "There's no more complete source of protein, vitamins and minerals than meat, and no group is more deserving of our efforts than this nation's poor." Silpe also co-chairs the AMI/Second Harvest Project.

Both Sara Lee and Mosey's have contributed meat products to Second Harvest food banks for many years. Together with 40 other AMI members, they have already pledged 650 tons (1,300,000 pounds) of meat products ranging from fresh ground beef to hams, luncheon meats, pastrami, corned beef, prepared frozen foods and hot dogs. The meat products will be delivered over the course of the year to some 200 local food banks affiliated with the Second Harvest National Food Bank Network.

Bryan and Silpe agreed Second Harvest's national food bank network is one of the nation's most effective and efficient feeding organizations.

"We know that our products are handled correctly and that the meat we donate reaches those who need it in a safe and wholesome state," Silpe said.

"Sara Lee investigated Second Harvest thoroughly," said Bryan. "Its extremely high standards for sanitation and storage mirror those that our industry has set for caring for meat products."

The co-chairman agreed that AMI made an excellent choice when its board of directors approved the association with Second Harvest. This industry-wide philanthropic program affords meat plants in every section of the country an excellent vehicle to make a practical use of products that, for technical reasons, cannot go into regular commerce. For example, mislabeled products that cannot be repackaged are frequently donated to food banks. All products meet USDA requirements for safety and wholesomeness.

This program, they pointed out, also gives the industry a golden opportunity to show it cares about America's less fortunate. "We strongly encourage the meat industry to get behind this program. AMI has given us an opportunity to show our concern, our compassion and, most important, our willingness to be good neighbors," Bryan and Silpe said.

During February, consumers will be hearing a great deal about meat because it's National Meat Month. Retailers from coast-to-coast will be featuring a variety of fresh and processed products in their advertising and with eye-catching point-of-purchase materials.

This year's theme is "Meat: Today's Lean Look!" This theme capsules the progress the industry has made in providing consumers with leaner, better trimmed meat products that fit the diets of today's active people.

AMI, a national trade association, represents all segments of the meat packing and processing industry. Headquartered in Washington, D.C., the Institute conducts economic and scientific research, sponsors a variety of educational programs and provides consumer, public and government relations services on behalf of the meat industry.●

## FEDERAL BUDGET DEFICIT

● Mr. DURENBERGER. Mr. President, as Congress begins the difficult and oftentimes highly partisan task of formulating a budget for the Federal Government, I am pleased to see a new spirit of cooperation overtaking the Budget Committee of the other body. Two distinguished colleagues, who are also two very good friends of mine, are now playing leadership roles in the budget process. Representatives BILL FRENZEL and WILLIS GRADISON have just assumed the two top Republican positions on the House Budget Committee in this 101st Congress.

BILL and WILLIS are extremely knowledgeable, experienced, and committed legislators. They realize the urgency of reducing our Federal budget deficit, and they are eager to work in a bipartisan manner to resolve the deficit problem within the parameters that have been imposed by the competing interests of the Republicans, the Democrats and the Bush administration. I believe that only when the President and both parties in Congress begin working together can we make any real progress toward reducing the Federal budget deficit. And with my friends BILL and WILLIS ready and willing to negotiate, I am confident that this 101st Congress will make a substantial impact on the deficit.

Mr. President, I have had the pleasure of working closely with both BILL and WILLIS over the years—BILL as the "dean" of the Minnesota congressional delegation, and WILLIS due to our shared interest in health-related issues. I look forward to working with them once again on this matter of vital importance to the continued strength of our economy.

At this time, I would like to call to the attention of my colleagues an article that appeared in the Wall Street Journal on Wednesday, March 15. The article describes the attitudes and approaches of Representatives FRENZEL and GRADISON in their roles in the budget process. I believe that these Members should serve as examples to us all, and I ask unanimous consent that a copy of the article be printed in the RECORD following my remarks.

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

[From the Wall Street Journal, Mar. 15, 1989]

NEW TOP REPUBLICANS ON HOUSE BUDGET PANEL SAY THEY SEEK BIPARTISAN SOLUTIONS, NOT SHOWDOWNS

(By John E. Yang)

WASHINGTON.—Rep. Willis Gradison used to welcome fellow Republicans to the House Budget Committee by telling them they wouldn't have much to do but that "it's good theater and you've got great seats for the hearings."

Life in a body that has been dominated by Democrats for nearly two generations tends to create two types of House Republicans. Many become frustrated agitators, less spokesmen for their party's views than obstinate antagonists relentlessly sniping at the majority. Others find ways to participate and gain some influence—no matter how meager—in the legislative process, both because of their skills and knowledge and because Democrats often need their help on tough issues.

The role of the top Republicans on the Budget Committee shifted from that of antagonist to that of participant with last year's retirement of Rep. Delbert Latta of Ohio and the new prominence of Reps. Gradison of Ohio and Bill Frenzel of Minnesota.

"They are keys in trying to develop a bipartisan approach," the new Budget Committee chairman, Rep. Leon Panetta (D., Calif.), says of Reps. Frenzel and Gradison. "They're legislative pragmatists, interested in making the process work. That gives you a head start."

In recent years, the Budget Committee has been one of the most bitterly partisan panels in the House. Led by the pugnacious Rep. Latta, committee Republicans often refused to participate in the process, refused even to produce competing spending plans. During a budget-writing session two years ago, the Republicans wouldn't cast any vote other than "present."

This year, House Republicans picked Mr. Frenzel, a diligent and earnest 18-year veteran of Congress, to succeed Mr. Latta as the panel's ranking GOP member. And House GOP leader Robert Michel appointed Mr. Gradison, a longtime committee member who had expressed interest in the post, to the second minority slot on the panel as the leadership's representative.

Both are veterans of many budget battles past and have been more interested than Mr. Latta in scoring points by helping to shape the final product than through blistering oratory. "They understand that certain members have to talk," says Chairman Panetta, "but ultimately they're working toward an end result."

This year that end result would be a spending plan that meets the Gramm-Rudman law's target of reducing the budget deficit to no more than $110 billion without any new taxes, as President Bush has promised, and without any politically difficult spending cuts, as lawmakers have signaled.

House Republican budget writers think the task is so difficult that the Democrats can't afford not to have them involved. "When you get to the tough stuff, the Democrats need some help," says Mr. Frenzel.

The Minnesota lawmaker says he hasn't been hopeful in the past that lawmakers and the administration could get together to make a significant dent in the federal budget deficit. But this year he puts the chances at 50%—a remarkably optimistic

forecast, considering that he is one of Congress' leading curmudgeons.

"The difference this year is George Bush," he says. "He's made deficit reduction a high priority. . . . We haven't had that from a president before."

The real message from the voters last year wasn't "no new taxes" but "no same old thing," says Rep. Gradison. "The people sent us mixed signals," the Cincinnati lawmaker says. "They told us: 'Balance the budget, don't cut services that are important to me and, by the way, don't raise taxes.' The hidden message is: 'You guys work it out. Just put your partisan differences aside and work it out.' "

Rep. Panetta is already trying hard to achieve that kind of harmony. The full committee has held candid sessions behind closed doors, and Mr. Panetta has briefed Republicans and Democrats alike on his talks with administration budget officials. Mr. Panetta also conferred with Mr. Frenzel before the start of negotiations with White House budget director Richard Darman that began last week and are continuing this week.

"He's doing everything right," Mr. Gradison says of the new chairman. Adds Rep. Frenzel: "The Republicans feel preety good about the way things have been handled."

Messrs. Frenzel and Gradison have much in common. Both are old-line Republicans who were born in the Midwest 60 years ago, educated at Ivy League schools and entered family businesses. Both have steadfastly run against the dominant stream of conservative thought among House Republicans. Both were openly skeptical of supply-side economic theories when they were the rage in the early days of the Reagan administration and are much more moderate on social issues that their New Right colleagues.

In recent years, the frustration of being a minority within a minority seemed to be taking its toll on Mr. Frenzel. His speeches in the House took on a cranky and caustic tone that some characterized as whining. It reached its peak in 1985 when he railed against the seating of the Democratic candidate in a contested House election in Indiana. "This is rape of the system," he thundered.

Interestingly, the leader of the fight for the Democrats at that time was Rep. Panetta. "We went at it a little bit," Rep. Frenzel says. "But that's over now."

When he chooses to be, though, Mr. Frenzel can be an influential player. In 1987, for instance, he worked with House Ways and Means Committee Chairman Dan Rostenkowski (D., Ill.) to make the trade bill more to his and the Reagan administration's liking, only to turn against it after the full House narrowly adopted a stringent amendment sponsored by Rep. Richard Gephardt (D., Mo.).

Indications are that Mr. Frenzel intends to be a player in his current role, too, saying he is eager to work with the Democratic majority. "If we can come to some sort of agreement, we can all help each other," he says.

On the other hand, Mr. Gradison, reasoned and moderate in both his politics and his personality, has consistently been a respected and effective participant in tax-writing matters on the Ways and Means Committee and on spending issues on the Budget Committee.

During the tax-law overhaul in 1985, Mr. Gradison backed moves that went after such traditional bastions of GOP support as investment tax credits. He was such a reliable vote for tax revision that Mr. Rostenkowski praised him as "a rock."

But Rep. Gradison realizes that however much he or Mr. Panetta wants the two sides to work together, the decision isn't theirs alone. "Leon may be more reasonable about these things than some of those around him," he says, "but he's not totally a free agent, just as I'm not totally a free agent. What our leaders think is more important."●

## BUSINESS AND CITIZEN SCHOOL VOLUNTEER ACT

● Mr. GRAHAM. Mr. President, a number of proposals have been put forth regarding the role of the Federal Government in promoting voluntarism. Volunteer service represents an investment of human resources by the participants and in the recipients, and it is an important element of life in the United States.

Most of the legislative proposals being put forth focus on expanding opportunities for our young people to serve their country. One of the most effective ways to demonstrate the merits of voluntarism is to provide our students with role models. When our young people see firsthand how their lives can be enhanced by the efforts of volunteers who come into the classroom, they, too, can begin to understand the many benefits derived from reaching out as a volunteer.

I believe my proposal, the Business and Citizens School Volunteers of America Act, is just the starting point for this effort. This bill provides seed money to State and local educational groups which want to initiate or operate volunteer programs with private citizens and businesses. While numerous volunteer projects are already underway in our Nation's schools, my State, Florida, has learned that the potential source for school volunteers is tremendous. With a small amount of financial assistance and leadership, these resources can be better put to use. Since the State of Florida created a volunteer program office in its Department of Education, the number of districts with school volunteer programs and the overall number of instructional volunteers had doubled.

Mr. President, in this proposal special priority for these grants is given to projects involving senior citizens, a population which has been particularly effective and generous in school volunteer service. Not only do these older volunteers enjoy a renewed sense of usefulness, but they take back to the community a better understanding of the needs and concerns of our young people.

For example, Hy Regan, a former furniture dealer from Deerfield Beach, FL, has been volunteering at Deerfield Park Elementary School for 12 years now, almost 5 hours each week. Hy is just one of approximately 70 senior citizens who are bused from a condominium complex in Broward County to the school each week to share their skills and knowledge with the students, whether it be assisting as substitute teachers or tutoring special students one on one. Hy says, "I get the satisfaction of seeing what I produce. We see the end result in the children, in their lives."

Mr. President, with the disturbing problem of drug abuse among our school-aged children, more and more people are looking for a way to join the war against drugs. This legislation prioritizes funding for projects which would address drug and alcohol abuse.

In Seminole County, FL, Tammy Herman, a reformed addict who began her 16-year habit of drug and alcohol abuse when she was 12, is trying to help middle school and high school students avoid the horrors she has faced. It took the threat of losing her children to get Tammy to straighten out her life.

Tammy visits schools and talks with students about the dangers of drug experimentation. She has coproduced, with a local hospital, a videotape which is also shown in area schools—all a volunteer effort designed to spare kids learning the bleak lessons of drugs the hard way.

During the past decade, this sort of citizen participation in school volunteerism has grown tremendously. Business and private volunteers are today providing a record $1 billion annually in educational services to elementary and secondary schools in the United States.

I am especially proud of the spirit of volunteerism in Florida. More than 140,900 citizens gave over 6 million hours of service to 2,035 Florida public schools last year—time and effort that was worth over $61 million. This figure represents an increase of 40 percent in the last 4 years.

My wife, Adele, has visited volunteer programs in all 67 Florida counties. She has shared with me a number of personal experiences which illustrate the effectiveness of volunteer programs and has been a primary force in shaping my interest in this issue.

Working with professional administrators and teachers, citizen volunteers are invaluable in providing students with individualized attention. These volunteers complement the instructional efforts of the teachers. This sort of interest translates into improved student attitudes and academic performances.

Business volunteers help to mend the gaps which have long existed between the home, the school and the community. By bringing the knowledge and the experience of the workplace into the classroom, businesses can help American students prepare for future careers and create a work

force which will have an edge in the international marketplace.

Mr. President, the Federal Government can and should be a role model for school volunteerism. In Florida, the military has set an excellent example at the Pensacola Naval complex and Whiting Field. Officers and enlisted men and women are heavily involved in the Adopt-a-School Program and the Saturday Scholars Program. Officers and enlistees have tutored over 300 students since the fall of 1986. It is my intention to expand this legislation to promote school volunteerism among Federal employees.

Florida's success with the development of volunteer programs can and should be enjoyed by all States. The Federal Government's limited but meaningful involvement through the Business and Citizen School Volunteers of America Act will be an important enhancement of our public education.

Mr. President, I ask that a brief summary of S. 382 be printed in the RECORD.

The summary follows:

BUSINESS AND CITIZEN SCHOOL VOLUNTEERS OF AMERICA ACT

BACKGROUND

School volunteers provide over $1 billion worth of educational services annually to elementary and secondary schools.

Many State and local educational agencies lack necessary specialized resources and could vastly benefit from volunteer businesses and citizens.

Individualized attention provided by volunteers improves student achievement and attitudes.

The federal government can play a limited but essential role in assisting local education agencies recruit, train, and support volunteers.

WHAT THE LEGISLATION DOES

Authorizes $5 million for grants to partnerships between local schools and nonprofit agencies, other government agencies, businesses, institutions of higher education or interested citizens for organizing, promoting, and utilizing volunteeres in elementary and secondary schools.

Projects may include training for personnel involved in organizing and managing volunteer programs; establishing and operating model projects and exemplary programs; strengthening the capability of State education agencies and nonprofit organizations to provide leadership and assistance to local education agencies in the planning, operation and improvement of volunteer programs; providing technical assistance and information dissemination; and conducting research and program evaluations.

Priority is given for projects which involve older Americans; involve the transfer of high technology skills; focus on drug and alcohol abuse prevention; or focus on school drop out prevention.

Establishes the National Center for Leadership in School Volunteer and Partnership Programs to assist schools in organizing, promoting, and utilizing volunteers in schools. Not less than 20 percent of the funds available in any fiscal year to carry out the Act shall be used for the Center.●

## XAVERIAN BROTHERS' 150TH ANNIVERSARY

● Mr. D'AMATO. Mr. President, I rise today to salute the Xaverian Brothers on their 150th anniversary.

One hundred and fifty years ago, in Bruges, Belgium, Theodore Ryken founded the Xaverian Brothers' Community. Since their founding, the brothers have been committed to helping the poor, infirmed, homeless, and alienated, both in Europe and in America. They have also dedicated themselves to education. They have served the youth attending both elementary and secondary schools, including Holy Name, St. Theresa's, St. Matthew's, Holy Cross, St. Michael's Diocesan High School, and Nazareth High School. The brothers realize that our children are the future, and that education must play a significant role in their development.

The students in Xaverian High School in Brooklyn have also been fortunate enough to receive spiritual and moral guidance from the Xaverian Brothers. In special recognition of the brothers' selfless dedication to the advancement of our youth, the Xaverian High School joins the brothers in their 150th anniversary celebration.

It is with great pleasure that I join the Xaverian High School in their salute to the Xaverian Brothers. I commend the brothers for all of their fine work and dedication in serving the Brooklyn and greater New York City communities.

Again, I wish to convey my congratulations to the Xaverian Brothers on their 150th anniversary, and I wish them the best of luck for another successful 150 years.●

## NATIONAL ENERGY POLICY ACT

● Mr. KOHL. Mr. President, I am pleased to join Senator WIRTH and 32 of my colleagues as a cosponsor of S. 234, the National Energy Policy Act of 1989. I believe that this legislation represents a responsible course of action aimed at curbing global warming.

I am extremely concerned about the cumulative effects of human activities on the Earth's fragile ecosystem. We now know that many of our daily activities contribute to the atmospheric buildup of greenhouse gases, which may drastically alter weather and climate patterns worldwide. Left unchecked, the global warming trend could turn fertile lands into deserts, seriously reducing worldwide food production. Coastal areas, including many major cities, could be flooded by rising sea levels due to glacial melting.

The burning of fossil fuels like coal and oil, rapid deforestation, and worldwide population growth are largely responsible for global warming. When we turn on a light, drive a car, or run our factories, we are contributing to the greenhouse effect.

Obviously, we depend on electricity and automobiles in our everyday lives. With few exceptions, nobody would advocate that we stop driving cars or using electricity. Americans are accustomed to progress, and it would be unrealistic to expect people to sacrifice the amenities to which they have become accustomed. It is also unnecessary. I fully believe that we can maintain—indeed improve—our standard of living while reducing or eliminating global warming.

Will that be easy? Will it be convenient? Probably not. It will require ingenuity, innovation, and maybe some initial inconvenience. But one thing is certain—it won't get any easier the longer we wait. If we begin now, we can make sensible and relatively painless changes to gradually halt global warming, rather than being forced to take drastic measures when the situation has become desperate. With adequate leadtime, I think that we'll develop better, cheaper, and safer ways to fuel our cars, light our buildings, and run our factories. We'll also find better ways to conserve energy—doing more with less.

Until now, the Nation's interest in energy conservation has been directly related to the price of oil. In the 1970's, when prices were high, we turned down our thermostats and bought smaller cars. When prices dropped, so did our concern for energy efficiency. I am hopeful that efforts to combat global warming will finally forge a lasting commitment to energy conservation, which also saves money for consumers and business, reduces our reliance on imported oil, and helps alleviate other environmental problems like smog and acid rain.

Global warming presents us with an enormous challenge—but one which can be overcome. This legislation offers an opportunity to meet that challenge. It encourages increased energy conservation in our buildings and automobiles, research and development of alternative sources of energy, and greater study of the causes and effects of global warming, among other things. While I support some provisions of the bill more than others, I believe that S. 234 in its entirety is a responsible start in the right direction. I look forward to working with my colleagues in the Senate toward its enactment.●

## SENATOR BOB PACKWOOD'S OPPOSITION TO NEW TAXES

● Mr. KASTEN. Mr. President, I want to bring to the attention of the Senate an article in today's Washington Times by our distinguished colleague from Oregon, Senator BOB PACKWOOD, entitled "What Tax-Increasers Really Want."

I believe my colleagues on both sides of the aisle would agree that BOB PACKWOOD is one the Senate's most respected and knowledgeable experts on tax and budget matters. The Senator's article cuts through much of the political rhetoric over the budget deficit—and injects a healthy dose of common sense.

Senator PACKWOOD makes several important points that my colleagues should consider as work to reduce the Federal budget deficit:

First, the principle underlying President Bush's flexible freeze is nothing more than limiting how fast Government spending grows. Since even the Congressional Budget Office is projecting an $86 billion increase in Federal revenues next year, including the deficit simply requires that Government spending grow by a smaller amount.

Second, under Gramm-Rudman any tax increase will only finance a higher level of spending. This is because the deficit target is fixed. Tax increases will not change the $100 billion target. The only thing that will change is the amount of money that Congress can spend.

Third, Tax Freedom Day—the day that Americans finish working to pay taxes to the Federal Government—now falls on May 5. This is the latest day upon which Tax Freedom Day has fallen.

Mr. President, I urge my colleagues to read Senator PACKWOOD's article and ask that his article be printed in the RECORD following my remarks.

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

[From the Washington Times, Mar. 17, 1989]

WHAT TAX-INCREASERS REALLY WANT

(By Bob Packwood)

President George Bush's commitment to balancing the budget without a tax increase has been criticized ever since he first unveiled the flexible freeze during the presidential campaign. Massachusetts Gov. Michael Dukakis labeled the proposal "an economic slurpee," while more recent comments have called the freeze misleading. Furthermore, we are told that the flexible freeze is based on ridiculously optimistic economic assumptions.

Opponents assert that Mr. Bush's budget relies on the infamous "rosy scenario" of 3.2 percent growth. This charge, similar to those typically used against President Reagan's budgets, is not supported by historical analysis. From 1948 through 1988, the economy has averaged real growth of 3.25 percent a year, and that 40-year period includes eight recessions.

Indeed, since the economy has grown by about 4 percent annually for the last six years, the President is actually projecting that economic growth will be about 20 percent slower in the near future than it has been in the immediate past. Hardly a pollyanna outlook. Only excessively restrictive monetary policy by the Federal Reserve Board of Governors could derail the economy.

What about the charge that Mr. Bush's budget contradicts his call for a "kinder, gentler" nation by proposing "harsher, meaner" budget cuts?

Unfortunately, the jury has made a decision on the Bush plan without examining the evidence. No spending cuts are required to reduce the deficit.

The principle underlying the flexible freeze is nothing more complicated than limiting how fast government spending grows. Since even the Congressional Budget Office is projecting an $86 billion increase in federal revenues next year, reducing the deficit simply requires that government spending grow by a smaller amount.

The Bush plan meets this requirement by devoting a portion of the $86 billion to deficit reduction, with the remaining amount to be used for increased federal spending. As the numbers clearly show, the deficit can be reduced without cutting spending, but rest assured that the special interests will complain about budget cuts.

How does a spending increase turn into a budget cut?

Easy. Congressional budget accounting defines a budget cut as spending less than you planned to spend, as opposed to spending less than you did the previous year. In other words, if you were planning to increase spending by 7 percent, but only got to increase spending 3 percent, congressional accounting defines that 3 percent increase as a 4 percent cut!

Little wonder that so many Americans think the budget was cut during the Reagan years, even though actual spending increased more than 90 percent from 1980–1988.

Of course, if a businessman tried to do the same thing by advertising a sale because he raised prices less than he was planning to, the government would probably arrest him for fraud. In fact, one local retailer has been charged for just such a practice.

Advocates of tax increases are not really interested in deficit reduction. They want more spending. Under the Gramm-Rudman-Hollings deficit-reduction law, the deficit target is already determined. That figure, $100 billion in 1990, does not change if Congress raises taxes. The only thing that changes is the amount of money Congress can spend.

The only way a tax increase would reduce the deficit is to amend Gramm-Rudman-Hollings so that the deficit targets were automatically reduced by the amount taxes are raised.

For instance, if a $20 billion tax increase were enacted, the $100 billion target for 1990 would fall to $80 billion.

If the tax-increasers were serious about deficit reduction, they would gladly support such a change in the law, but don't hold your breath.

According to the Tax Foundation, Americans now work until May 5 just to pay taxes, the latest date upon which "Tax Freedom Day" has fallen. The tax burden on American citizens and businesses has been increased over and over again since 1982. Each time, promises to restrain the growth of federal spending have gone largely unfulfilled. Let's not travel down that barren path again.●

## THE LADY WASHINGTON

● Mr. ADAMS. Mr. President, recently in Aberdeen, WA, the *Lady Washington*, an historic ship, was dedicated in conjunction with our State's centennial celebrations. The *Lady Washington* is a recreation of the ship used by Capt. Robert Gray when he discovered the beautiful Grays Harbor Area. I would like to extend my congratulations to the people of Grays Harbor who dedicated their time, energy, and resources into the building of this vessel.

While this ship will remind visitors of our rich northwest history, it will also help visitors come to understand the beauty and promising future of the Grays Harbor Area. This ship is a symbol of the spirit of the people of the Grays Harbor community; they have seen some tough times but they will always weather the storm and find a safe harbor in the days to come.

Mr. President, I ask to have printed in the RECORD at this time a copy of an article from yesterday's Journal of Commerce which discusses the *Lady Washington* and its significance.

The article follows:

[From the Journal of Commerce, Mar. 16, 1989]

REPLICA OF A HISTORIC SAILING VESSEL TO PROMOTE THE GRAYS HARBOR REGION

(By John Davies)

ABERDEEN, WASH.—A replica of the little ship from Boston that almost got Britain and Spain into a shooting war over protectionism slid down the ways and near the mouth of the Chehalis River.

The Lady Washington, a full-sized duplicate of the 112-foot ship Capt. Robert Gray used in establishing U.S. claims to the Pacific Northwest, bobbed quietly on the high tide.

"Now all we have to do is put up the masts and the rigging," said Tom Fisher, executive director of the Grays Harbor Historical Seaport Authority, which built the $1.8 million ship.

The vessel, a re-creation of the Lady Washington, the first U.S. ship to circle the globe, will become the Grays Harbor region's showpiece for promotion of trade and tourism.

Once the ship is completed next month, it will leave Capt. Gray's namesake port to tour cities along Puget Sound ports. Its crew then will start preparing for a voyage down the West Coast and across the Pacific to the Far East, where the original Lady Washington delivered sea otter pelts to China for eventual distribution in Japan.

In the meantime, the seaport authority intends to begin work almost immediately on the construction of even larger full-scale replica, this one of Capt. Gray's Columbia Rediviva. The Columbia River in Oregon was named after the ship, in recognition of Capt. Gray's safe passage through its treacherous entrance on May 11, 1792.

Mr. Fisher said the seaport authority hopes to turn the two ships into the focal point of a revival of Aberdeen and the surrounding Grays Harbor area. With heavy reliance on export-oriented logging and fishing, the regional economy became depressed during the years of the strong dollar and is only now beginning to edge upward.

The seaport authority, similar to ones in California, Oregon and Massachusetts, wants to build a maritime museum, with the Columbia Rediviva as its centerpiece. The complex would include a yard specializing in

wooden ships and programs for young people to learn nearly forgotten nautical skills, Mr. Fisher said.

The seaport director said he wants to revive the kind of spirit that Capt. Gray's company showed in challenging the most powerful naval power on earth, only to walk away with dominance of a global trading enterprise.

Capt. Gray, a Rhode Island shipmaster working for six merchants from Boston and New York, sailed in 1787 as commander of the Lady Washington, one of two U.S. ships carrying metal trade tools to Indians on the Northwest Coast to exchange for otter furs, which could then be resold in China.

By chance, he arrived at Nootka Sound on Vancouver Island shortly after a Spanish military expedition was sent to Nootka to block Russian plans to expand south from Alaska. The Spanish commander, Esteban Martinez, also had orders to seize British traders under a law that closed Spanish ports on the West Coast to calls by European ships.

In the months that followed, the Lady Washington helped the Spanish do just that. The ship not only seized ships from a country with which the fledgling United States had been at war only a few years earlier, but eliminated a trade rival in the process.

British demands on the Spanish government for compensation pushed England and Spain to the brink of war, but Spain ultimately relented and agreed that either nation should be allowed access north of the present dividing line between Oregon and California.

The Lady Washington sold its furs in China, continued around the world to Boston to resupply, then again headed for the Northwest. In his search for a fresh supply of furs, Capt. Gray arrived off the mouth of the Oregon River during a heavy runoff of silt that marked the channel, and on a tide high enough to get his ships safely across.

Capt. Gray is almost universally credited with the discovery of Columbia River, and his trade on the north side of the river played a role in later decisions to set the border between Canada and the United States at its current location. The British government and the Hudson Bay Co. had sought to make the Columbia River itself the border between U.S. and British territory.

Ironically, some historians believe British traders may have been operating on the Columbia River earlier than Capt. Gray. Capt. James Baker in the British schooner Jenny, for example, safely guided another British ship out of the river shortly after Capt. Gray's first call.

Capt. Baker, working for Sydenham Teast of Bristol, England, acknowledged that he had been in the river earlier in 1792. But Mr. Teast's captains were under orders not to disclose details of their voyages. So the precise date of Capt. Baker's first call on the Columbia River is not known.

The British government had granted monopoly trade rights for Pacific areas to the East India Co. and the South Sea Co., which prompted many British traders to re-flag their ships as Austrian or Portuguese vessels, or to resort to secrecy.

"We would like to be able to carry some of that maritime history into the present and the future," Mr. Fisher said. The length of time that takes, he said, will depend on how successful the seaport authority is in raising funds, and on how quickly it can develop a collection of maritime artifacts for its museum.●

## PROMOTING THE USE OF ALKALINE PAPER IN THE PRINTING OF VALUED DOCUMENTS

● Mr. STEVENS. Mr. President, as you and the Members know I am a sponsor of Senate Joint Resolution 57, a joint resolution which promotes the use of alkaline paper in the publication of documents of enduring value.

This Nation, and indeed the world, is facing a crisis in terms of the disintegration and the ultimate loss of images and the written word due to the historical and still prevalent use of acidic paper. Only recently have efforts been made to use nonacidic, or alkaline, paper in the publication of books, documents, posters, and so forth. The Library of Congress is instituting a program to preserve our written and pictorial heritage including such items as a recently discovered college term paper of James Madison, the personal papers of Walt Whitman, as well as a treasure of posters, paintings, and films. These efforts must continue but the monetary cost is high.

Part of the solution to the problem of preserving public documents as well as reducing the future costs of preservation, is to convince the paper industry to convert existing paper production to that of alkaline paper. This conversion would ultimately be in the best interests of the paper industry. In the process of convertng production to that of alkaline paper, the paper industry's initial costs for retooling machinery would be offset by the long-term gains in terms of saving the taxpayers money and preserving our Nation's heritage. Over time, the paper manufacturer, the publishing industry, and the taxpayers will benefit from this conversion to nonacidic paper production.

The Government Printing Office should be leading this conversion effort; however, only one-fourth of the paper used by GPO is alkaline paper. This joint resolution would send a strong signal to the Public Printer that a significantly greater percentage of their planned usage shoud be allocated for the purchase of alkaline paper. This joint resolution would be, I believe, the stimulus necessary for the increase in the production of this type of paper and thus for its widespread use in the private sector.

I urge my colleagues to join me in cosponsoring S.J. Res. 57 in the effort to preserve our Nation's heritage and the written word.●

## AN EXCEPTIONAL BLACK AMERICAN: REV. JAMES PETERS, JR.

● Mr. WIRTH. Mr. President, black Americans have played a vital role in the development of our Nation. The history of black Americans is one of honor in the face of hardships, courage in the midst of injustice, and faith in the wake of defeat. In a nation that proclaimed liberty and justice for all, too many black Americans lived for too many years with neither.

Last month we celebrated Black History Month, a time when we recognize the heritage, achievements, and contributions of black Americans. One such exceptional individual I would like to recognize today is the Reverend James Peters, Jr., pastor of Denver's New Hope Baptist Church, head of the Colorado Civil Rights Commission, and a political activist whose commitment spans more than three decades.

Reverend Peters has fought against poverty and injustice, walked for equality, and worked to make a positive change in this community we call America. From the historic early battle over voting rights and passage of the 1968 Civil Rights Act to today's continuing work to eradicate poverty and strengthen the family institution, Reverend Peters has labored relentlessly to secure equality and justice for all citizens.

Mr. President, I ask that a recent article from the Rocky Mountain News, titled "Prayer and politics: Rev. Peters Builds Civil Rights on Spiritual Framework," be printed in the RECORD. This article takes a close look at this gifted and dedicated community leader and his vital work, and I commend it to my colleagues.

The article follows:

[From the Rocky Mountain News, Feb. 12, 1989]

PRAYER AND POLITICS: REVEREND PETERS BUILDS CIVIL RIGHTS ON SPIRITUAL FRAMEWORK

(By Terry Mattingly)

As a young man in 1954, the Rev. James Peters Jr. sat in the rain on the U.S. Supreme Court steps, praying God would guide the justices to ban racial segregation.

Years later, Peters marched and preached in the civil rights movement with the Rev. Martin Luther King Jr., helping build the Southern Christian Leadership Conference.

A decade ago, Peters came to Denver's New Hope Baptist Church. Today he is a powerful political activist and leads the Colorado Civil Rights Commission.

Peters believes he has seen some of his prayers answered. He prays others will be answered. Someday.

"I thanked God for that court decision and I still do," Peters said, referring to the 1954 decision. "Yet, we still have segregated schools and they're getting worse. That's true, right here in Denver * * *

"It's frustrating. How far have we really come?"

A wave of statistics threatens to swamp flames of hope fanned in black pulpits. How Peters and other black religious and political leaders attack a list of social problems will affect everyone in Denver and the nation.

Peters knows all about the numbers.

Unemployment among black adults in Northeast Denver is 20%, the citywide adult rate 5.9%. For black teens in Northeast

Denver the unemployment rate is 40%, the citywide rate for teens is 15.3%. About 40% of black families live below the poverty line.

Nationwide, 90% of all babies of black teen-age inner-city mothers are born out of wedlock. The state birthrate for black teenagers is three times that for whites.

Blacks make up 12% of Denver's population, but are arrested in 42.3% of the city's violent crimes—a statistic often linked with drug abuse.

Today, the black church must walk the line between realism and despair, Peters said. The last thing people need is to lose hope. "In his 'I Have A Dream' speech, Martin described how some people are denied the right to vote and others believe they have nothing to vote for," he said.

"The black church still has to address that issue. Too many people live their lives thinking—I don't matter. I can't change and I can't change anything."

But Peters said some of his dreams have become "nightmares because our problems seem overwhelming. * * * After a lifetime of struggle in this movement, it's still a struggle."

A leader of Peters' ability will adapt to the harsh realities of an age when hard times and tight budgets make progress difficult, said Gov. Roy Romer. The governor will speak at New Hope Baptist's 10:45 a.m. service Feb. 19 as part of its two-week celebration of Peters' 10th anniversary.

"He shouldn't be depressed about how things are, but he can be realistic" Romer said. "Granted, it's tough sledding. * * * But you count on people like James Peters. The black church will always have that kind of important role to play. It's a rock people can organize around."

It's hard to understand the black church's political clout without looking at its past, before the civil rights movement.

Government offered few community services or open doors, so the church stepped in. Black lawyers, doctors, teachers and businessmen worked—day after day—in white institutions. They had to "get along," Peters said. "They couldn't afford to be civil rights leaders."

No so for the black preacher, whose salary came from the pews. The preacher had freedom. "If someone had a problem with welfare or the government, it was the black preacher who could go in and ask questions," he said. "He had nothing to risk."

The civil rights movement unleashed the black church's grass-roots clout, poignant symbols and moral vision in a political context. But with victories came a burden.

A common stereotype: The black church is now more a political party than a church. In the media, it's news when black worshippers pass the plate for the Rev. Jesse Jackson. It isn't news when churches help the elderly or the needy.

Peters said black church leaders never believed it was enough to register voters. But some were slow to proclaim that many social problems that kill black dreams are rooted in spiritual problems only the church can address.

"We do believe black people and others in America are disenfranchised in many ways. We have to speak to that," Peters said. "But clearly our first job here is saving souls."

Here is another painful reality.

True, the black church does not have financial resources to solve massive problems—such as gang violence. True, the church knows the government either cannot or will not pour endless resources into the problems of black people.

Now black religious leaders know another truth—many blacks never darken the doors of their churches. It's time, Peters said, to again stress evangelism and religious conversion—to pull people back into the pews.

"That is our greatest need, right now," he said. "The church was the major influence on black life 20 or 30 years ago. That's not true today."

While church families are not immune to problems, most troubled young people who join gangs or become pregnant "haven't been to church in 10, 15 years, if they have ever been to church," he said. "We have to find ways to reach those people. We simply have to."

Some might see new efforts to trumpet "spiritual solutions" as a retreat. That would be true, Peters said, if the black church gave up all attempts to meet the needs of the poor and shape the political order.

What the church must regain, he said, is a boldness in declaring that "there is a spiritual framework to all these problems. We must say, 'Because I am a child of God, I want to be a friend of yours. * * *

"Our churches have to be more than parking lots. They should be filling stations. * * * If we don't care for people, then we're not a church—we're just a social club. We're just a sophisticated society of sanctified snobs."

Peters said he dreams that, 10 years from now, every church in Denver will have new programs that mix tough moral teaching with practical help.

New Hope Baptist has begun a project based on bar mitzvah and bat mitzvah programs for Jewish children. As "Orita pilgrims"—the name comes from an African language word for "journey"—young people make "a spiritual journey into adulthood", Peters said.

In addition to religious instruction and classes in black history, participants learn how to follow a family budget, to open a bank account, to handle personal hygiene, to face sexual changes, to apply for a job.

"These kinds of programs need to be going on right there in the church as part of the weekly calendar," Peters said, his voice rising with conviction.

This may sound conservative, coming from a preacher often identified with liberal Democratic causes. There's more. "We're going to have to go back to some of those values—values that some people would even call 'fundamentalist' values," Peters said.

"I'm talking about the sanctity and sacredness of the home. The need to condemn—clearly—any dependence on drugs or alcohol. We have to teach * * * that girls have to be responsible for their bodies and should be sensitive to the fact they can become mothers."

Some kinds of personal behavior are, quite simply, wrecking black families, he said. "So the church needs to—I know this sounds old-fashioned—speak out against sin, against doing the kinds of things that destroy people."

A fresh emphasis on the pews, Peters stressed, does not mean abandoning the ballot box.

Last Easter he sat in Denver's First Baptist Church and listened while an old friend—the Rev. Jesse Jackson—erased the line between religion and politics.

The media later offered up all the familiar images of black Baptist politics. Many observers raised church-state questions; saying the state should take a fresh look at the tax-exempt status of many black churches.

"All that gave me no problems, whatsoever," Peters said. "I firmly believe that Jesse Jackson's ministry is social and political activism * * *. I see an urgent and pressing need to support that kind of ministry."

In seminary, he said, his teachers said the church shouldn't get involved in politics unless there is a moral issue involved. "Well, what's more immoral than sick people not being able to go to the hospital? * * * I'm for trying to solve the problems of the poor, and that is Jesse's ministry.

Political activism in the black church makes government uncomfortable. So be it, Peters said. Early in the civil rights movement, the government in Alabama outlawed black political groups. Preachers simply carried on—doing the same kind of work in Sunday school classes.

"I'm sure the IRS will complain and make us do things differently * * *. Well, we'll do things differently—but we'll do them," Peters said. "I don't object to white churches doing the same things. Believe me, they do.

"What about Jerry Falwell? I don't know of anybody who did more work for George Bush than Jerry Falwell."

The past matters. When black church leaders get together to talk, they often end up comparing their efforts today with the triumphs of the civil rights era.

"It's important that James Peters brings his experiences and his connections to the past with him," said the Rev. Dan Hopkins of Holy Redeemer Episcopal Church, the young president of the Greater East Denver Ministerial Alliance."

"He was there then, and he's here now.

"He helps create a bridge that some of us today can walk across."

It's crucial that Peters is flexible enough to adapt to changing times, Hopkins said. Very early, the pastor of New Hope Baptist began saying it was important to again stress the word "church" in the phrase "black church."

Ultimately, Peters said, the church must believe a lively faith will motivate someone to work for justice.

"All the time I have people say to me, 'Are you preaching about civil rights? I say, 'No, I'm preaching the Gospel of Jesus Christ,'" Peters said.

"Some people are blinded because they can't see people as people. Their vision is clear when they're looking at trees and flowers and sky. But when they're looking at man—God's highest creation—their vision gets foggy.

"We have to be changed, so we can share Jesus' concern about people in prison, people who don't have clothing, pregnant teenagers, women who are not getting equal pay, the handicapped, the elderly, people with drug problems."

Some people will hear this message and call it the Gospel. Others will call it politics: Peters isn't worried.

"I think I have a right to talk about politics in my pulpit * * *. I see that as the same thing I was doing back in 1954, sitting on the steps of the Supreme Court * * *.

"I wasn't there as a politician. I was there to pray. I wanted God to tell our government, 'Let my people go.'"●

## GREEK INDEPENDENCE DAY

● Mr. D'AMATO. Mr. President, I rise today to voice my support for Greek Independence Day, which will be celebrated on March 25.

This day marks the 168th anniversary of the initiation of Greek independence by Archbishop Gernanos. For 9 years Greek patriots fought their Ottoman oppressors for independence. The valiant efforts of those Greek freedom fighters served as a catalyst for the nationalist movement throughout the Balkans. The continued commitment of the Greek citizenry to the ideals of independence and democracy can serve as a source of inspiration to all of us.

The accomplishments of the more than 600,000 Americans of Greek origin have been no less impressive. Dedicated to self-improvement and achievement, Greek-Americans have been active in all aspects of American life, education, the arts, government, and commerce. The achievements of Greek-Americans in fields of shipping, banking, food services, and entertainment have been particularly noteworthy. The Greek word "philotimo" best expresses what is considered by Greeks of Grecian and American citizenry to be their primary virtue: A sense of honor and self-respect.

Mr. President, I believe that all Americans should celebrate Greek Independence Day. As the poet Percy Bysshe Shelly once said, "We are all Greeks. Our laws, our literature, our religion, our art, have their roots in Greece." In light of the achievements of the Greek people, I was pleased to join as a cosponsor of the joint resolution, proclaiming March 25 "Greek Independence Day."●

## GREEK INDEPENDENCE DAY

● Mr. BIDEN. Mr. President, nearly 168 years ago, on March 25, the Greek people declared their independence from the Ottoman Empire after more than 400 years of repression and deprivation at the hands of the Turks. Using the U.S. Declaration of Independence and the American Revolution as their models, the Greeks fought valiantly and won their freedom in 1830.

Just as the American Revolution served as an important role model for Greek Independence, the democratic ideals of ancient Greece proved to be an essential inspiration for our own society. As Thomas Jefferson so eloquently stated, "to the ancient Greeks * * * we are all indebted for the light which led ourselves out of gothic darkness."

Clearly, our two societies are inextricably linked through shared history and values. First, the ancient Greeks inspired the Founding Fathers, then we Americans were able to return this debt by inspiring the Greek revolutionaries of the early 1800's. Beyond providing spiritual inspiration, many Americans lent themselves to the cause of Greek freedom by sailing to Greece to fight in its war of independence.

Since then, the United States and Greece have deepened their kinship. In recent times, Greece has stood right alongside the United States in the struggle against totalitarianism and communism. Sixty thousand Greeks died fighting in World War II, and shortly after, in a struggle to preserve their democratic way of life, Greeks successfully defeated Communist rebels seeking the overthrow of their government.

Just as the world is indebted to the Greeks for their valor, so too are Americans grateful to Greek-Americans for the many contributions they have made to our society. Americans of Greek descent have been tremendously successful in all walks of life—from politics to medicine to the arts—and have enriched all facets of American society.

I want to take this opportunity to express my gratitude and respect for the Greek people and congratulate them on what is their Forth of July. As Percy Bysshe Shelly once wrote, "We are all Greeks! Our laws, our literature, our religion, our art, have their roots in Greece." On Greek Independence Day, this is especially true.●

## AMAZON RAIN FOREST MYTH AND REALITY

● Mr. WIRTH. Mr. President, last January I led a congressional delegation trip to several Latin American countries. We were accompanied by Dr. Thomas E. Lovejoy, Assistant Secretary for External Affairs of the Smithsonian Institution, whose expertise and assistance were invaluable to the entire delegation.

Dr. Lovejoy is one of the world's foremost ecologists and is an expert on tropical forests. His Ph.D. dissertation at Yale University was a pioneering study of the birdlife in tropical rain forests. From Yale, Dr. Lovejoy went to the World Wildlife Fund-U.S. where he founded the popular "Nature" television series of educational programs viewed by millions of people around the world. He also originated and is coprincipal investigator of the Minimum Critical Size of Ecosystems project, one of the most ambitious ecological field experiments ever attempted. This joint effort of World Wildlife Fund-U.S. and the Instituto Nacional de Pesquisas da Amazonia of Brazil is providing information being used worldwide to set aside natural areas meeting at least the minimum critical size necessary to prevent ecosystem destruction.

Another highly significant contribution by Dr. Lovejoy to improving the world environment is the debt-for-nature swap concept, which links the reduction of Third World debt with conservation of tropical ecosystems. To date, debt-for-nature swaps have been arranged in Ecuador, Bolivia, Costa Rica, and the Philippines, and efforts are ongoing to arrange programs with a number of other developing countries in Latin America and Africa.

In his current position at the Smithsonian, Dr. Lovejoy continues to use his expertise and his considerable energies to try to make the world a better place. He is doing this by helping to educate the public and policymakers such as myself about the tropical rain forests of the world, their special resources, and the perils those resources now face.

Today, an article by Dr. Lovejoy explaining some of the myths and realities of the Amazon forest is being published by the newspaper Folha de Sao Paulo, in Sao Paulo, Brazil. I am confident that my colleagues will find this article to be highly informative and I ask that the article be printed in the RECORD.

The article follows:

AMAZONIAN PERIL: MYTH AND REALITY [1]

(By Thomas E. Lovejoy)

The Amazon forest, both the world's largest tropical forest and the greatest of all wildernesses, has long stirred the imagination with its vastness, remoteness and largely unknown biology. It is little surprising that there are many myths and misunderstandings starting with the Amazon women themselves.

The exuberance of the Amazon vegetation is the consequence of constant conditions of warmth and moisture. These are conditions highly favorable to life and living processes, so it is entirely logical that the Amazon forest and its multitude of species are essentially the greatest expression of life on earth.

What seems surprising is that these forests exist mostly on poor soils, and in some instances, on some of the poorest soils on earth. This is possible because the very same moisture and warmth so favorable to the profusion of life is also highly favorable to processes of decomposition. As a consequence organic matter decomposes rapidly and nutrients are taken directly back into the living forest, with no build up of a significant soil layer. This paradox of a rich biological formation on poor soils has on many occasions led to the false conclusion that the Amazon would be a fabulous place for conventional agriculture. There have been many consequent failures, of which the TransAmazon colonization is perhaps the most notable.

All Amazon soils are not poor, however; perhaps 10% of Brazilian Amazonia has soil suitable for agriculture. Some of this is terra rocha, the focus of development in Rondonia. Even in this case agriculture is not easy; the climate is best suited for perennial crops, primarily tree crops. Some indigenous tree products, such as the delicious capuacu fruit, have great economic potential.

Indians and caboclos have, of course, been practicing agriculture successfully in Amazonia for millennia and centuries respectively. What is their secret? Their secret in fact

[1] For the Folha de Sao Paulo, 17 March 1989.

is that they practice an agriculture attuned to the forest's ecology. Clearings are small, a hectare or two. The cut and burned forest provides a brief pulse of fertilizer, but as rain washes the ashes away they do not go far—only into the surrounding forest. When it is time to move on and repeat the slash and burn cycle because the plot is exhausted, the clearing left is not much larger than a major tree fall. The forest can repair itself and the large seeded mature forest trees don't have long distances for their seeds to disperse. This kind of agriculture works as long as population densities are low; when the ratio of people to forest land rises this system degrades the ecology.

In the large clearings, which many current development projects create, natural forest processes cannot be effective. There is no seed bank in the soil as in temperate forests where seeds can remain viable for hundreds of years. In the tropics seed viability is more a matter of weeks and big seeded canopy trees disperse very slowly. Consequently there cannot be an analogue in tropical forests to New England which was largely deforested two hundred years ago but recovered naturally with little loss of biological diversity. In large tropical deforested areas, it is possible to encourage some form of forest recovery but it requires labor intensive care. Rio de Janeiro's Tijuca forest is largely a planted forest. But it must be remembered that extinct species can never be replaced.

The alluvial soils of the varzea or floodplain areas are suitable for annual crops during those months when they are not flooded. But even here the answer is not simple because the floodplain forests provide critical support for the important Amazon fishery during the high water months of the year. There is a major nutrient transfer from the terrestrial to the aquatic ecosystem as fruits and seed fall into the water. Some 75% of the commercial fish species depend on this transfer. Consequently, portions of the floodplain need to remain in forest to maintain this important food source. *Already* the fishery is in decline primarily because of overfishing.

The main economic value of the Amazon, therefore, is not as conventional agriculture. But equally mythical as the notion of Amazonia as the beadbasket of the world is the idea that the forest itself is without value. The traditions of extraction of products like rubber and Brazil nuts have long produced income and there are certainly other products to be harvested in this fashion. The forest is a great source of new pharmaceutical products. Some of these are already well known to Indian shamans who have for millennia depended on the forest for medicine and other natural products such as pesticides. The Amazon is, in fact the world's largest pharmaceutical and biochemical factory.

There are, of course, major mineral resources in Amazonia and they can bring major economic return. But mining, as roadbuilding, while often bring in themselves, bring access to forest so colonization or economic pressure can bring devastation on their heels. One can see the potential for devastation in what happened along the railroad from Carajas to São Luis. One can also see that protection *can* be achieved in the example of the 300,000 ha tract at Carajas which CVRD has managed for the last decade and more.

In the end, the greatest value of the forest is as a genetic stock. We are on the threshold of the age of genetic engineering, a science of enormous potential which nonetheless depends on rearranging existing genes, not constructing new ones. The Amazon has probably 30% of the world's genetic stock which is why I think of that forest as Brazil's ultimate wealth.

The Amazon forest also will be the source for important growth of the life sciences. It is, in a sense, an important part—again about 30%—of the natural library about how living systems work. An interesting example is the biology of the jararaca which kills its prey with a venom that reduces their blood pressure to zero. Studies of how this worked revealed an entirely unknown system of regulation of blood pressure in people. This in turn inspired development of the current preferred prescription drug for hypertension—capoten. It will be important to protect the value of this biological patrimony for the benefit of Brazil, but it will need to be done in a way that does not discourage international collaboration in research. Science progresses most successfully when there is a multiplicity of view point and effort.

The tremendous wealth of plant and animal species is in many ways the most important part of what is at stake with predatory development in the Amazon. Each species is unique and irreplaceable; once extinct it is gone forever and with it all its potential to support human society. It is an irony that at this moment of global environmental crisis that science can tell us the distance from the earth to the moon to within centimeters but can't say whether there are three, ten or thirty million species on earth. Every time anyone looks at the tropical forest the estimate of total species on the planet rises. And each time the percent of total species in tropical forests and the Amazon rises. That thirty percent of all plant and animal species occur in Amazonia is probably a conservative estimate.

This imprecision about the number of plant and animal species makes it hard to say how many species are being lost in the Amazon. At the rate at which deforestation has taken place in the Amazon in recent years (20% of Rondonia alone in about 5 years), it is likely, in my estimate, that tens of thousands of species are going to extinction each year. Each species is a unique resource with perhaps considerable potential to enrich Brazil.

The multitude of species which constitute the forest are also engaged in regional and global processes. This is recognized in the myth that the Amazon is a major producer of oxygen for the world—the so-called lungs of the world. The reality is that a mature forest of any sort consumes through its animal life and respiratory processes about as much oxygen as its plants produce.

Nonetheless, the forests are important in another way—namely as a store of carbon. The tropical forests of the world hold a pool of carbon of 350 billion tons—roughly equal to half of all the carbon in the atmosphere. The carbon cycling systems of the planet are overloaded and carbon is accumulating in the atmosphere where it traps radiant heat and contributes to the warming of the earth.

The so-called greenhouse effect is the least controversial theory of atmospheric sciences. It seems the planet is already 0.5° C higher than a century ago. This may seem a small amount but in planetary ecology it is disturbingly large. Climatic change is likely to be greater in higher latitudes—Canada or Tierra de Fuego—but no region will be immune to changes in rainfall or wind patterns which could easily lead to agricultural failure. And sea level rise will be as much a problem for the beaches of Copacabana as for Venice or Bangkok.

In 1954 the pioneering ecologist G. Evelyn Hutchinson estimated about half the annual contribution of $CO_2$ build-up in the atmosphere came from deforestation with the other half coming from the burning of fossil fuels. Since then fossil fuel burning has increased enormously, but deforestation has increased also. How much does Amazon burning contribute to the annual excess accumulation of $CO_2$ and thus the greenhouse effect? The numbers are still being refined but I would think 10% is not an excessively high number. It would be wrong to argue against no burning at all. But the reality is that the vast majority of burning has been for short term gain, often with economic subsidy (now suspended), and that nobody is served well by it. Indeed as the world gropes for solutions to the growing greenhouse effect, curtailing forest burning and reforestation in various locations north and south about the planet are critical elements.

The forest is the product of one of the most remarkable of regional processes—revealed by the research of Prof. Eneas Salati and his colleagues. As air moves west from the Atlantic to the Andes in the Amazon basin its moisture content is continually renewed by evaporation and transpiration of the trees themselves. Roughly 50% of Amazonian rainfall is internally generated and dependent on the forest. Remove the forest and what happens? Again it is hard to be precise but at some point rainfall will begin to decline. Preliminary figures for Rondonia suggest this may already be happening. The implications for the remaining Amazon forest is the prospect of an irreversible drying trend which would alter the ecology of the forest, change the vegetation, and affect the greatest stock of generic resources of the planet. Not just Amazonia will be affected but also Central Brazil, which will suffer reduced rainfall. Isotope studies have shown that moisture from Amazonia can be traced to the far north and south of the continent. The Amazon forest is an anchor of continental and global climate even if some of the linkages are obscure.

How much has the Brazilian Amazon already been affected? Again precise figures are lacking but most scientists involved think about 15% to 20% of the forest has been deforested. Figures are often presented as a percent of legal Amazonia which is only 58% forest itself.

There is no question that a more precise estimate is needed. But it is equally clear that the real economic potential of Amazonia for Brazil lies in its biology, and that any sustainable development will be respectful of that. It is a myth to think otherwise. The potential of the hileia is considerable but it takes a sophisticated and sensitive approach. The challenge is to make it a reality.●

## ACT FOR BETTER CHILD CARE SERVICES OF 1989—S. 5

● Mr. GLENN. Mr. President, I rise today to cosponsor the legislation introducted by Senator DODD, the Act for Better Child Care Services of 1989—the ABC bill. There is no question that we need a national child care program. Sixty percent of all mothers

with children under 14 are now in the labor force and this ratio will continue to climb. It is estimated that more than half of the children in a day care setting are in unregulated child care slots. The ABC bill includes several key components for a successful child care program. These include subsidized child care for low-income families, Federal standards for child care providers, and support for programs that will increase the supply and improve the quality of child care.

Although I support the ABC bill as it currently stands after recent committee markup, I was concerned about two provisions of the bill as it was originally introduced. before I discuss these concerns, I would like to commend the Labor and Human Resources Committee Chairman, Senator KENNEDY, and the chairman of the Subcommittee on Children, Families, Drugs and Alcoholism, Senator DODD, for their successful efforts to reach agreement among competing groups on some very sensitive issues. I believe we have a much stronger piece of child care legislation as a result of their hard work.

My first concern was about the provision that allowed vouchers as a funding mechanism. We must be very careful to ensure that we do not establish a dangerous precedent that could eventually lead to the use of vouchers in our Nation's educational system. We must also ensure that the States maintain the ability to monitor and establish necessary agreements with the organizations that are receiving public funds. I was pleased to see Senator KENNEDY add an amendment that provides for a written agreement between States and providers before funding certificates are honored. The passage of this amendment is key to my support for the ABC bill.

Second, I was concerned, along with many others, about the church-state language as originally introduced. The bill did not address the question of religious preference in hiring by organizations that provide publicly funded child care services. Senator DODD amended the bill to provide much more extensive language delineating what hiring preferences are acceptable and when they are acceptable, which strengthens the church-state provision of the bill.

Mr. President, in closing I would like to emphasize again how impressed I am with the effort by Senators KENNEDY and DODD to bring competing interests together under the ABC bill. I believe that, because of their commitment, the legislation we now have will go the distance.●

## TV-MARTI

● Mr. HOLLINGS. Mr. President, on March 3, 1989, I met with Bruce S. Gelb, who has been designated by President Bush to be the new Director of the United States Information Agency. During our meeting, Mr. Gelb and I discussed television broadcasting to Cuba, or TV-Marti, as a parallel to the highly successful radio program. Mr. Gelb has evidenced his personal support of TV-Marti in a letter to me dated March 14, 1989, that I ask to have printed in the RECORD.

Mr. President, I also ask that the distinguished junior Senator from Minnesota, Mr. BOSCHWITZ, be added as a cosponsor of S. 375, as well as the Republican leader, the senior Senator from Kansas, Mr. DOLE. S.375 is a bill I introduced on February 8, 1989, to provide for television broadcasting of accurate information to the people of Cuba. We now have 18 sponsors of the bill and after the recess I expect there will be considerably more.

The letter follows:

U.S. INFORMATION AGENCY,
*Washington, DC., March 14, 1989.*

Hon. ERNEST F. HOLLINGS,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR HOLLINGS: I appreciated the opportunity to meet you on Friday, March 3. I can assure you that we are very interested in seeing TV Marti come on-line. It has the potential to be a worthy parallel to Radio Marti which is playing such an important role in communicating to the Cuban peoples. The Agency will be working as rapidly as possible to complete the various tests necessary before we can convert this dream into a reality. Your support for the concept is very helpful.

Thank you again for your time and I look forward to the opportunity of having regular consultations with you and your colleagues on the Senate Appropriations Committee.

Sincerely,

BRUCE S. GELB,
*Director-designate.*●

## ST. PATRICK'S DAY 1989

● Mr. SIMON. Mr. President, on this St. Patrick's Day I wish to pay tribute to the many contributions Irish-Americans have made to America, but also to restate my desire for peace and justice in Northern Ireland. For far too long violence has rocked Ireland and disrupted attempts to bring justice and economic growth to the Irish people. On this St. Patrick's Day, I appeal to all to stop the violence and agree to a just and fair political settlement of this brutal conflict.

It is not just conflict in Ulster that is troubling. Unemployment in Ireland is the highest in Western Europe and has resulted in the emigration of many thousands of Ireland's young people. For the economic problems of the Irish people to be solved, a solution to the violent conflict which has sapped Ireland of its resources and youth must be found.

Once a year, a great many of the world's people turn their thoughts to Ireland as they think of the festivities associated with St. Patrick's Day. And in the United States, Irish-Americans have good reason to celebrate: Irish immigrants and the sons and daughters of these immigrants have made their mark in every corner of our land, in every field of endeavor.

But beyond the celebrations, I hope that this St. Patrick's Day becomes the day when violence is laid aside and peace with justice is established in Ireland.●

## AFRICA TRIP REPORT

● Mr. SIMON. Mr. President, in January I went on an official visit to Zambia, Malawi, Zimbabwe, and Nigeria, and made short transit stops at Cape Verde and Gabon. My main purposes were to: First, cochair the African-American Institute Annual Conference in Lusaka, Zambia; second, examine the transportation and refugee situation in Malawi; third, review the political and economic situation in Zimbabwe; and fourth, review Nigeria's economic situation, particularly the effects of its structural adjustment program, the process toward civilian rule, and the drug-trafficking problem.

On this trip, I was joined by Congressman CHARLES RANGEL of New York, who has particular expertise with the drug problem because of his leadership on the Select Committee on Drugs in the House; by Congressman JACK BUECHNER of Missouri, who has shown a real interest in international issues; and Congressman DONALD PAYNE of New Jersey, a new Member of the House and of the Foreign Affairs Subcommittee on Africa, who has worked on refugee problems in the past and shows real leadership qualities; and Ambassador Herman Cohen who was, until the change in administration, the Africa specialist for the National Security Council.

During the visits we met with a broad range of individuals including U.S. Embassy officials, African leaders from all over the continent, representatives of international organizations, resident government officials from Europe and Japan Mozambican refugees, and the heads of state of Zambia, Malawi, and Zimbabwe.

### CAPE VERDE

A former Portuguese colony and transshipment point, Cape Verde is an arid desert country of approximately 340,000 people spread among a small chain of islands. Historically, Cape Verde has had a strong relationship with the United States, with many native Cape Verdeans having immigrated to the United States. A substantial amount of Cape Verde's foreign exchange comes from Cape Verdean-Americans.

One of the particularly important concerns I have centers around the critical need in Cape Verde for the ca-

pacity to turn salt water into fresh water. I was disappointed to find that we have not successfully established a desalination project there. Since visiting Cape Verde, I have had a chance to read an Agency for International Development [AID] report on our efforts to assist in a desalination project, and it is fairly clear that some real mistakes were made. But the need remains to do research in this area and to move ahead in Cape Verde. I hope we will pursue this. Somehow, we must find a way to put this technology to good use in Cape Verde.

AFRICAN-AMERICAN INSTITUTE 19TH ANNUAL CONFERENCE, LUSAKA, ZAMBIA

The Honorable Luke Mwananshiku, Foreign Minister of Zambia, and I cochaired the 19th African-American Institute Conference. This conference, held annually (and alternating between the United States and Africa) is a rare opportunity to discuss issues concerning Africa and the U.S. role in supporting African nations with African leaders from all over the continent, representatives from U.S. Government, academic, and business communities, as well as U.S. media representatives.

The agenda of the conference focused on two key issues: the serious economic problems of African nations and approaches to address those problems; and, the problem of apartheid in South Africa and its impact on the prospects for peace and stability in the southern African region.

On the economic front, African nations generally are attempting to confront their serious economic problems. For many, the effects of austere structural adjustment programs are made more severe by population growth and the burden of external debt. These factors make African nations more fragile politically and vulnerable to social and economic unrest. Participants suggested some of the approaches that African nations might take to improve their circumstances. One African leader highlighted the importance of investing in agri-industrial activities. Ethanol, for example, could be produced in a small-scale plant, using sugar from the local community and converting it into fuel.

There were several representatives of American industry at the meeting, and one of them, Byron DeHaan of Caterpillar, gave a candid appraisal of the problems in Africa as seen from the perspective of the private sector. It was a significant contribution to the Institute's meeting. He highlighted the importance of debt relief, recognition by African governments that the private sector can contribute in a positive way, reduction of trade barriers, and investment in young people as a strong national resource.

The decline of African educational institutions was touched upon and followed a comprehensive World Bank study on the subject. Many African universities suffer from inadequate facilities, lack of financial resources, and inadequate sources of current information in any given field. It is not unusual, for instance, for a university library's most current journal to be 2 or 3 years old. On a more basic level, illiteracy continues to be a crippling problem in many African nations. A UNICEF representative pointed out that literacy of women is particularly important. Studies in African countries, Botswana for instance, show that the incidence of malnutrition declines rapidly where the education of women rises.

Much of the conference was devoted to a discussion of the current situation in southern and South Africa. The panel on southern Africa focused on the recent Angola-Cuba-South Africa agreement—the Tripartite Agreement—which triggers the Namibia independence process outlined in United Nations Security Council Resolution 435. Conference participants primarily expressed their concerns that South Africa would seek to undermine the process, beginning with efforts to reduce the number of U.N. troops overseeing the independence process from the level originally anticipated in 1978 when resolution 435 was passed.

The panel on South Africa included a number of key black and white South Africans. In addition to highlighting the importance of effective international economic sanctions against apartheid, the panel also focused on the changes occurring in the South African Government under the ruling National Party and in South Africa's black communities. One participant focused on the state's assumption that it can control any threat and the contradiction that attempts to control and coopt have resulted in massive political organization and more unacceptability of state structures.

One participant noted that in South Africa's black townships the rent boycotts continue to be 75 percent effective, with the Government having succeeded in stopping the boycott in areas where army troops were assigned. In the recent October 26 local elections, most blacks chose not to vote at all for local officials running for Government-sponsored township councils. We were reminded that Government suggestions of high black participation in the elections—about 25 percent—were based on the number of registered voters, not the number of eligible voters living in the townships. South Africa, one participant said, is the only place in the world where representatives cannot live in the same place with their constituents. Local Government officials live in Government camps. Finally, one participant raised the key point that the Government "won't be able to capture and control the minds of the black youth" and must undo the causes of the violence.

At the end of the conference, African leaders left us with a number of concerns. First, with respect to the implementation of the Tripartite Agreement, there was a consensus that the size of the U.N. peacekeeping force be kept at 7,500 troops, not reduced to the proposed 4,500 troops. Second, there is a fear, based on South Africa's history of betraying past agreements, that the South African Government will erect a series of obstacles to thwart this effort for peace. As one African leader put it, "We hope there are no artificial measures to delay implementation of U.N. Security Council Resolution 435." The primary concern is that South Africa will try to dominate the new Namibian Government or manipulate the independence process so that a government supportive of South Africa's agenda can emerge. For this reason, African leaders overwhelmingly stressed the importance of not veering away from the terms of resolution 435. Third, there was broad concern about then President-elect Bush's letter to Jonas Savimbi pledging continued support to UNITA in the Bush administration. This letter dampened the hopes of many African leaders that the new administration would take another look at policy toward Angola. Furthermore, the issuance of the letter prior to President Bush's inauguration and before he had set out an overall policy toward Africa, lent an air of heightened urgency to the appeal on the part of African leaders that we seriously reconsider our current policy toward UNITA.

I had a number of impressions at the end of the conference. First, the fact that a U.S. congressional delegation came to Zambia was viewed as important. There is too little congressional interest in and travel to African nations so that when it does occur, it is a great boost to both our relations with African nations and our understanding of them. Second, the United States spends 34 times more on defense than on development assistance to economically disadvantaged countries. The needs in a continent like Africa deserve greater attention. Third, greater adequacy in foreign language is central to our ability to build strong relations with African nations, as with other nations, specifically in the Lusophone and Francophone nations. Fourth, speaking as one from a nation that has not made wise budgetary and economic decisions, I am aware that African nations cannot afford to make unwise decisions on the economic front. Many African nations are facing up to that challenge at great social and political cost, as was particularly evident during my visit to Nigeria. Fifth, the United States and African

nations need to work together for concrete goals and to be more creative in our approach. For instance, if we decide that, in the next 10 years, we are going to eradicate illiteracy in Africa, that is a clear and concrete goal we can work toward. Sixth is the sad fact that, as Rev. Jesse Jackson pointed out in his address to the conference plenary, Americans still largely view Africa as the world of Tarzan. As one American conference participant said, "the heel of history has been on this [the African] continent." The conference participants candidly discussed the factor of race in our own inability to move forward on an improved Africa agenda.

Although the conference agenda focused on Africa's economic problems and southern and South Africa, there was not much discussion of the Horn of Africa in a time when humanitarian disaster and civil conflicts in Sudan, Somalia, and Ethiopia are of crisis proportions.

Lastly, the conference gave a glimpse of the expectations for the next U.S. administration with respect to Africa. The message from Africans was to address seriously the apartheid issue, continue to support those nations bordering South Africa, help ensure an unencumbered process for Namibian independence, and understand the pressures African nations face in moving forward on their economic problems. Africans overwhelmingly look for an improved, strengthened relationship with the United States. For too long, the United States has operated under the assumption that European nations should provide the bulk of support and aid to African nations, because of their historical ties as colonial powers. We should be beyond that kind of thinking. We now provide only about 7 percent of our foreign aid budget to sub-Saharan African nations, who have about 350 million of the developing world's people.

ZAMBIA

Zambia's economy continues to face serious problems, and tends to be financed through borrowing. Zambia owes $5–$6 billion in external debt but earns only about $800 million a year in foreign exchange. The economy continues to rely primarily on the State-owned copper industry, which is the only significant source of foreign exchange. Although copper prices are higher now, copper production is down and the industry needs to be modernized.

Economic reform is both necessary and problematic. In May 1987, due to the steep decline in copper prices, lack of sufficient foreign exchange earnings, food shortages and riots in the copperbelt, Zambia abandoned its International Monetary Fund Program and suspended the bulk of its debt payments. As a result, Zambia has lost support from major lenders and donors. The World Bank, for instance, maintains only one project from a previous $500 million effort in Zambia. Moreover, with its 3.7 percent annual population growth, Zambia's economic problems will become more difficult without economic growth.

Overall, Zambia needs to find a way to restimulate the economic reform process, increase its managerial and technical capabilities, and harness its great agricultural potential. Zambia is beginning to recognize and respond to these problems. One representative of the donor community indicated that Zambia's new budget, if implemented, will go a long way to putting things on the right track. In our meeting with President Kaunda it was clear that Zambia welcomes foreign investment and is open to the prospect of joint ventures with United States companies. And, after a 2-year break, the World Bank and International Monetary Fund are renewing discussions with Zambia and coming back to take another look at the situation and possibilities for future activities.

Zambia is also confronted with a serious AIDS problem. According to United States Embassy officials, 13 percent of those tested test positive for AIDS, and about 50 percent of the hospital beds in Zambia are occupied by AIDS patients. In the near future, anywhere from 600,000 to 1 million will die of AIDS in Zambia. The Zambian Government, having recognized the scope of the problem, has put together a nationwide AIDS education program, which includes a strong outreach effort.

Zambia has always had a key role in regional politics, having been among the first of the southern African nations to gain independence. President Kaunda is currently the President of the Frontline States. The government continues to advocate strongly the international imposition of effective economic sanctions against South Africa, and to oppose United States Government assistance to UNITA. And the message on the Namibian independence process is that the international community must ensure that United Nations forces are adequate to allow an unencumbered election process, particularly since the South Africans have greatly increased their forces in Namibia over the past decade.

MALAWI

Malawi, a nation of about 7½ million people, has opened its borders to 622,000 traumatized Mozambicans fleeing the fighting in Mozambique. Mozambican refugees now comprise about 8 percent of Malawi's total population. In the United States, a proportionately equivalent number would be about 20 million refugees. How would we respond to that situation? In Malawi, refugees come over the border every day at a high rate.

I visited the Mankhokwe refugee camp in Nsanje District at the southernmost tip of Malawi. In that area, the numbers of Mozambicans outnumber the total Malawian population, and natural resources—water and forests—are being rapidly depleted by the demands of this growing population.

It was a very dramatic experience. I have visited a number of refugee camps in all parts of the world, but they did not compare to this. There were 40,000 people at that camp—8,000 of them children—some of whom walked 300 miles to get there. I talked with a number of refugees, including some that had come over the border that day. One family had traveled 100 miles at night on foot whenever they felt it was safe. One man, his tattered shirt buttoned to the collar, came from Mozambique's Tete Province, one of several areas where antigovernment insurgents are waging a guerrilla war by terrorizing the local population. He told me that the Renamo forces—South-African-backed insurgents fighting the government in Mozambique—made him carry things, made him a porter. He was tired of not having food and waited for a whole month to cross the Zambezi River into Malawi. When I asked him if he wanted to return to Mozambique, he said yes, but he did not want to cope with their guns.

Some of the refugees also gave accounts of Frelimo—Mozambican government—forces coming into villages in military clearing operations, pushing people out of the villages and suspecting those who remain of complicity with Renamo forces. From these accounts, Frelimo does not appear to be making progress in returning Tete and Zambezia Provinces to elementary order and governability. The Mozambicans then are being pushed by both sides of the conflict.

I walked into a shed where dozens of little babies were suffering from severe malnutrition. I saw children, clothed in rags, playing with a soccer ball made of rags.

I have visited refugee camps in a variety of places around the world over the years, but I have never seen this many people gathered in one camp. And their problems are overwhelming.

We need to increase our bilateral aid to help these refugees and the Malawian Government's efforts for them. These refugees suffer malnutrition and many arrive suffering from diarrhea and measles. Psychological trauma is also a serious problem. The United Nations High Commissioner for Refugees, the Malawian Government, and private voluntary organizations are involved. We need a more comprehensive effort. Despite their hardships, it was extraordinary and encouraging that these refugees had hope for their future. If they can get

some help, they can become productive and self-supporting. And we need to focus on the causes of the conflict in Mozambique, and try to resolve the conflict politically. In the long run, the refugee problem in Malawi will be resolved only by promoting peace in Mozambique.

I was disturbed to hear reports that a few private United States citizens are apparently supporting the Renamo forces against the government in Mozambique. These efforts undermine our own policy and efforts to end the war in Mozambique. Moreover, in light of the horrifying information about Renamo activity in the Gersony report—a report on the Mozambique situation done for the State Department's Bureau of Refugees by Robert Gersony—we should be very concerned that Americans are involved with a group that Ambassador Cohen described at the conference as "a monster a la the Khmer Rouge." I hope the reports I received are incorrect about American citizens being involved.

With respect to transportation, Malawi suffers a great deal from not having access to the inoperative Nacala railway line, which runs through Mozambique and connects Malawi to the Indian Ocean. Progress on rehabilitating the line have come to a standstill in spite of high expectations just 2 years ago. Attempts to rehabilitate the line by the Malawi Government and an international consortium have been thwarted by the war in Mozambique and insufficient resources. Malawi loses anywhere from $50 million to $100 million a year transporting its imports and exports through the substantially more expensive South African railway routes. Approximately 43 percent of Malawi's total earnings goes into using these longer routes.

Generally the situation in Malawi itself is quite good. Largely a nation of subsistence farmers, Malawi appears to be able to meet the basic needs of its people. Its government, not fraught with the problems of corruption, is headed by a strong leader who rules with a tough hand. I did raise the question of human rights with several officials.

ZIMBABWE

I am pleased that United States-Zimbabwe relations have improved after several difficult years. The low point in relations was sparked on July 4, 1986 when former President Jimmy Carter, responding to highly critical remarks by Zimbabwe's Foreign Minister, walked out of a United States independence day celebration in Harare. Now relations are on a good note and I hope they will continue to improve. The delegation had a useful discussion with President Mugabe, which, in general, covered the South African situation, the Mozambican situation, and United States-Zimbabwe relations.

Zimbabwe, flanked by Mozambique to the east, Botswana and Namibia to the west, and South Africa on the south, is both a political and economic hub in the region. Once governed under minority rule and faced with internal racial disrimination, Zimbabwe is an outspoken and vigorous critic of apartheid in South Africa and its illegal occupation of Namibia. The most significant regional initiative pursued by Zimbabwe is the stationing of Zimbabwean troops in Mozambique as part of a joint effort to protect the Beira Corridor transportation routes linking Zimbabwe to the Indian Ocean, from attacks by Renamo.

Zimbabwe continues to suffer from its position as a landlocked nation with respect to the basic need to transport and receive goods. Although Zimbabwe has excellent internal transportation networks, the cost of transporting goods in and out of Zimbabwe continues to be very high because of less than optimal regional transportation routes outside of South Africa. And because of South Africa's destabilizing efforts in the region and disruption of these alternate transportation routes, Zimbabwe has been forced to use South African transportation routes. As a result of private sector initiatives and government assistance, however, the States in the region are beginning to rehabilitate and improve existing transportation routes in the region outside of South Africa.

Zimbabwe's is a highly managed and diverse economy, with the largest private sector in the region outside of South Africa. As the only food exporter of the frontline States, Zimbabwe helps to supply much needed food, primarily corn, to its neighbors.

According to the Beira Corridor Group—a group of private, businessmen rehabilitating the rail line—in the early 1980's, over 90 percent of Zimbabwean trade went through South Africa. Today, less than 50 percent goes through those routes, in large part a result of the use of rehabilitated and improved transportation routes through neighboring States. The most notable of these is the Beira Corridor in Mozambique, which now carries 25 percent of Zimbabwe's trade. The Tazara Railroad in Tanzania carries 18 percent.

Eight percent of Zimbabwe's export earnings go to the cost of transporting goods through South Africa. In Zambia that percentage is 12 percent and in Malawi, 32 percent. In addition, the cost of Zimbabwe's military presence along the Beira Corridor remains high, not to mention the additional threat of Renamo retaliation inside Zimbabwe. The military situation on these alternate lines has worsened over the past year, with over 120 attacks on the Beira line alone.

NIGERIA

United States-Nigerian relations are about as good as they have been in some time. Nigeria, Africa's most populous nation—with 100 million people—hosts one of our largest diplomatic missions. In addition to our official diplomatic team, representatives from the Departments of Agriculture and Commerce, as well as the U.S. Information Agency, the Drug Enforcement Agency, and the Agency for International Development are present.

The United States is Nigeria's biggest oil customer, representing $3-$5 billion in Nigeria's export earnings. Nigeria is the fifth largest oil supplier to the United States.

Nigeria, once oil-rich, has fallen into a period of economic decline and is no longer a middle income nation. In 1980 Nigeria's annual per capita income was about $1,000 per year, and now is down to about $200 per person. Since the imposition of the structural adjustment program in June 1986, average Nigerians have felt the crushing weight of the devaluation of the naira, with the prices of basic necessities skyrocketing beyond the means of many. Economic progress is slow; many urban poor are unemployed; and the middle class is suffering.

Nigeria is a big country with big demands, and is now hoping to become eligible for concessional aid, that is, low or no-interest loans from bilateral and multilateral donors. Recently, the United Kingdom pledged $100 million for Nigeria and challenged the international community to match that pledge. The United States has offered to put in $25 million.

Much to the credit of Nigeria, they are facing their economic problems and taking the steps that are necessary to rebound. I was, frankly, impressed by what they are doing in the economic area.

Nigeria continues to press ahead on a transfer to civilian rule. Governed by a benign military, Nigeria is engaged in a highly-engineered, step-by-step process leading to civilian rule in 1992. There is a great desire for democracy in Nigeria, and a dynamism that makes autocratic and military rule unsustainable. Nigeria continues, after failing twice, to experiment with a form of democracy very similar to our own. For Nigeria, this involves structuring partisan politics to successfully manage political competition and to reduce religious tensions and regional rivalries. President Babangida has banned all those who have held office in the past 28 years from running for elective office. Local elections will be held this year and State elections next year.

Religious and ethnic rivalries complicate governing Nigeria. Even determining accurate figures on the per-

centage of Nigerians in any given group becomes a controversial issue. Nigeria has not been able to conduct a reliable census because of the risk of inflated figures on ethnic and religious groups competing for a larger share of the Federal funding pie.

Nigeria continues to cope with a growing narcotics problem, with an increase in the number of drug dealers and growing evidence of corruption with drugs in government circles. Nigeria remains a major transshipment point for heroin emenating from Pakistan, Afghanistan, and India. Poor, uneducated Nigerians, eager for money, are prime candidates for couriers to and from Pakistan. More educated Nigerians are recruited to take narcotics to Europe and the United States. And most arrests have been made by police action outside of Nigeria. This remains a major problem in United States-Nigerian relations.

We have stepped up our drug enforcement assistance, but we continue to be mired in bureaucratic inefficiency, red tape, and jurisdictional squabbles. Somehow, we must work more effectively together with Nigeria on this problem that seriously affects both Nations.

Nigeria has led the fight against international dumping of toxic wastes and has pressed for stricter controls in the United Nations, particularly through the U.N. Environment Program, and the International Atomic Energy Agency. An Italian company, found illegally dumping in Nigeria, faced stiff costs as a result of Nigeria's insistence that the waste products be removed from the country.

Each time I visit Africa, I come back with the feeling that the problems that continent faces could be lessened if there were more people in the United States, in Western Europe, and in Japan who would take an interest in the future of that continent with all its potential.●

## AIR SAFETY

● Mr. SIMON. Mr. President, I rise today to speak about another aviation problem beyond the conflict between labor and management at Eastern. The other problem plaguing air travelers everywhere is the whole question of aviation security.

After a terrorist bomb brought down Pan Am flight 103, killing 270 people in the air and on the ground, I asked my staff to take a look at FAA's research and development funding for explosives detection. Plastique and other nonmetallic explosives are very hard to detect, and FAA has had a program to examine new technologies for most of this decade. Clearly, this is one area where we cannot afford to skimp. Fighting terrorism in the skies will take some additional resources, but it will be money well spent.

I learned that FAA's aviation security R&D program has been funded at a fairly small level for some time now. After reaching a high of $13.3 million in fiscal year 1987, we are now spending about half that, $7.6 million, this fiscal year. Compare this to the Defense Department's R&D budget: $37.5 billion, about 5,000 times more money than we spend on aviation security R&D. I support a great deal of this defense spending, but I would suggest that our priorities may be a bit skewed. We are fighting a war against terrorism without the necessary resources. We don't need a lot more money, but there is an urgent need for more.

Mr. President, I will shortly be dropping in a bill to provide an additional $8 million for this current fiscal year 1989 for aviation security R&D, which I intend to offer as an amendment when FAA's supplemental appropriation comes to the floor. In particular, this money will be used by FAA to accelerate its explosives detection program in two areas: thermal neutron analysis and vapor detection. The money will be used to improve and get to market as quickly as possible extremely sensitive devices for the screening of luggage and individuals.

Since the downing of Pan Am flight 103, these technologies have been the subject of many press accounts. The FAA has had good experimental results with test devices in these areas, and the additional $8 million will allow expanded research to be done to increase the sensitivity of these machines and to get prototypes to market much quicker than would otherwise be the case.

The traveling public has a right to safe skies. It is part of our responsibility in Government to do all we can to assure the highest level of safety possible. New technology is only a part of the equation. It is clear that without skilled people, the best machines in the world will not do the job. But as a first step, let's get on with the job of developing these new technologies as quickly and efficiently as we can.●

## THE STAFFORD STUDENT LOAN DEFAULT PREVENTION AND MANAGEMENT ACT

● Mr. SIMON. Mr. President, I join my friend and colleague Senator PELL in cosponsoring the Stafford Student Loan Default Prevention and Management Act. The problem of default on student loans continues to grow. In 1978 the cost of student loan defaults was $224 million. In fiscal year 1988 the cost was estimated at $1.6 billion and we face a projected $2 billion default payment in fiscal year 1990.

Student loan default expenditures have become the fourth largest expenditure in the education budget. I do not believe that spending more on student loan default costs than on early childhood education and prevention programs is a wise use of our limited Federal resources. Congress must take some responsibility, however, for the current situation. The responsibility for paying for a college education has increasingly become a student rather than a parental responsibility. As this shift has occurred, so has the increasing reliance of students on loan programs, rather than on grant or work assistance programs, to pay for the rising cost of college. Since 1980 college costs have increased 77 percent nationwide. The 1980 maximum Pell grant covered 41 percent of the average tutition bill. Today a maximum Pell grant of $2,300 covers only 29 percent of such costs.

I have always believed that the root cause of the increase in student loan defaults was the rapid increase in student borrowing after the 1978 passage of the Middle Income Student Assistance Act—Public Law 95-566—and the increase provided in the special allowance payment to lenders in 1979. MISSA lifted the family income gap for participation in the GSL Program. This increased the number of students participating and caused the cumulative loan volume to increase dramatically. While the default rate stayed relatively consistent, students were and continue to acquire higher debt levels in pursuit of postsecondary education.

Increased default costs have caused sluggish or negative growth in funding for Pell grants and the supplemental grant programs. Most low-income students are increasingly dependent on guaranteed student loans. Federal policy is sending a mixed message by encouraging colleges and universities to provide access to low-income students while also encouraging borrowing by all students. Unfortunately, those who are the hardest to serve, hardest to reach and need the most financial assistance are being shut out by Federal policies like the adoption of automatic triggers. These triggers exclude institutions from eligibility because they enroll large numbers of low-income students who, by definition, have lower earning potential. The assumption underlying this proposal seems to be that the elimination of certain types of students and institutions will make the loan default problem go away. This notion—which assumes there is a monolithic private career shcool or community college borrower who defaults—is largely false and based on the limited data we have available.

We need to identify where highest default costs are taking place rather than simply where the highest default rates exist. Reducing institutional default rates may not necessarily reduce our enormous default obligation. The

establishment of the national student loan data system, however, will help significantly in fully understanding the loan problem and where the largest costs are occurring.

The legislation being considered by the Senate is an important step toward reducing and controlling the student loan default problem. But legislation must be a last resort. On November 9, 1988, I wrote to Secretary of Education Cavazos to express my view that he should use the regulatory process to address the student loan default issue. After consulting with the Congress and the higher education community, I trust that he will. The regulatory process provides a much more flexible mechanism for dealing with loan defaults.

Secretary Cavazos has not used all the tools available to him to improve the situation. He has, however, already moved aggressively to obtain the education community's input and to increase the number of personnel needed to effectively monitor problem schools. We must work to fully understand the problem, resolve the conflict between providing access for low and many middle income students and excessive borrowing to pay college costs, and sharpen our monitoring of problem schools as well as our collection effort where possible.

I want to commend Senator PELL and his staff for their work on this bill. The labor and Human Resources Committee expressed strong bipartisan support of this legislation in the 100th Congress. I ask my colleagues to follow the committee's example and ensure prompt passage of this bill in the 101st Congress should that become necessary.●

## REPORT OF THE COMMITTEE ON FINANCE

● Mr. BENTSEN. Mr. President, pursuant to paragraph 8 of rule XXVI of the Standing Rules of the Senate, I herewith submit the report of the Committee on Finance and ask that it be printed in the RECORD.

The report follows:

REPORT OF THE COMMITTEE ON FINANCE

[Pursuant to paragraph 8 of rule XXVI of the Standing Rules of the Senate]

FOREWORD

This report by the Committee on Finance on its legislative review activity during the 100th Congress is submitted pursuant to paragraph 8 of rule XXVI of the Standing Rules of the Senate. The rule requires standing committees of the Senate to "review and study, on a continuing basis the application, administration, and execution" of laws within their jurisdiction and to submit biennial reports to the Senate. The full text of paragraph 8 follows:

"8. (a) In order to assist the Senate in—

"(1) its analysis, appraisal, and evaluation of the application, administration, and execution of the laws enacted by the Congress, and

"(2) its formulation, consideration, and enactment of such modifications of or changes in those laws, and of such additional legislation, as may be necessary or appropriate.

each standing committee (except the Committees on Appropriations and the Budget), shall review and study, on a continuing basis the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the legislative jurisdiction of that committee. Such committees may carry out the required analysis, appraisal, and evaluation themselves, or by contract, or may require a Government agency to do so and furnish a report thereon to the Senate. Such committees may rely on such techniques as pilot testing, analysis of costs in comparison with benefits, or provision for evaluation after a defined period of time.

"(b) In each odd-numbered year, each such committee shall submit, not later than March 31, to the Senate, a report on the activities of that committee under this paragraph during the Congress ending at noon on January 3 of such year."

The Committee on Finance, in the course of its work, publishes additional committee prints reporting on various aspects of legislation within its jurisdiction. Copies of those committee prints, as well as additional copies of the instant report, can be obtained from the office of the committee, room SD-205 Dirksen Senate Office Building, Washington, D.C. 20510. Written requests should be accompanied by a return address label.

REPORT OF LEGISLATIVE REVIEW ACTIVITY OF THE COMMITTEE ON FINANCE DURING THE 100TH CONGRESS

Rule XXV of the Standing Rules of the U.S. Senate provides that at the commencement of each Congress there shall be appointed a—"Committee on Finance," to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Bonded debt of the United States, except as provided in the Congressional Budget Act of 1974.
2. Customs, collection districts, and ports of entry and delivery.
3. Deposit of public moneys.
4. General revenue sharing.
5. Health programs under the Social Security Act and health programs financed by a specific tax or trust fund.
6. National social security.
7. Reciprocal trade agreements.
8. Revenue measures generally, except as provided in the Congressional Budget Act of 1974.
9. Revenue measures relating to the insular possessions.
10. Tariffs and import quotas, and matters related thereto.
11. Transportation of dutiable goods.

LEGISLATIVE REVIEW OF INTERNAL REVENUE LAWS

During the 100th Congress, the Senate Finance Committee focused on two major tax areas: enacting revenue provisions as a part of the budget reconciliation process; and completing action on technical corrections to the Tax Reform Act of 1986.

*Budget reconciliation*

The budget resolution for fiscal year 1988 directed the Finance Committee to raise $19 billion in additional revenues. On October 16, 1987, the Finance Committee submitted to the Budget Committee its recommendations, which would have increased revenues by $11.5 billion in fiscal year 1988 and $51 billion over three years. The principal revenue raising provisions in the Committee's original submission were: repealing the completed contract method of accounting; repealing the installment sales method for dealers; repealing the vacation pay reserve; corporate estimated tax reform; eliminating the wage base cap on the Medicare payroll tax; modifying the pension plan full funding limitation; extending the federal unemployment (FUTA) tax; extending the telephone excise tax; extending the customs user fee; increasing user fees for the Bureau of Alcohol, Tobacco and Firearms; freezing estate and gift tax rates; limiting the ESOP estate tax deduction; increasing Public Benefit Guaranty Corporation premiums, and extending the tax refund offset program. The Committee also agreed to include legislation making technical corrections to the tax reform act, as well as other miscellaneous tax changes, in the budget reconciliation bill. The major miscellaneous tax provisions were: exempting mutual fund shareholder expenses from the 2 percent floor on miscellaneous deductions; allowing U.S. companies to allocate 67 percent of their research and development expenses to U.S. sources; adopting a series of taxpayer protections under a Taxpayer Bill of Rights, and allowing partnerships to retain a fiscal tax year.

Following the budget summit agreement between the Congress and the White House, the Finance Committee revised its revenue package to meet the lower targets. On December 3, the Committee adopted a package to provide additional revenues of $9 billion in fiscal year 1988 and $14 billion in 1989. The most significant change from the October submission was that the Committee deleted the proposed repeal of the Medicare wage base. The Committee also expanded the application of the FICA tax. Under the terms of the budget summit agreement, the technical corrections bill and other miscellaneous tax changes were dropped from the bill.

The budget reconciliation bill was adopted by the Senate on December 11. The conference report was adopted on December 21. The reconciliation bill covered both fiscal years 1988 and 1989.

*Technical Corrections to the Tax Reform Act*

The 99th Congress failed to complete final action on legislation to make enrolling and other technical changes to the Tax Reform Act of 1986 prior to adjournment. On June 10, 1987, the Chairmen of the Finance Committee and Ways and Means Committee introduced identical legislation to make technical corrections to the Tax Reform Act. The intent of the bills was to make clerical changes and resolve uncertainties about the application of the next tax law.

The technical corrections bill was originally included in the Finance Committee's submission to the Senate Budget Committee in October, 1987 to be included in the fiscal year 1988 budget reconciliation bill. Subsequently, in the budget summit agreement between the White House and the Congress, all tax provisions extraneous to deficit reduction were dropped. Consequently, the technical corrections provisions and other miscellaneous tax changes were stricken from the reconciliation bill, prior to its consideration by the full Senate.

On March 31, 1988, the Chairmen of the Finance and Ways and Means Committees re-introduced companion technical corrections bills. On July 26, the Finance Committee marked up and reported out the technical corrections bill. To the core bill, the

Committee added the following provisions: modifications to the diesel tax excise tax collection procedures for tax-exempt users (as reported by the Committee on March 18 and 21); modifications and corrections of other tax provisions, including corporate estimated tax payments and income from Indian fishing rights (H.R. 2792); railroad retirement and unemployment reform (H.R. 2167); and technical Social Security Act amendments.

When the technical corrections bill was considered by the full Senate in September, the Committee offered a comprehensive amendment in the nature of a substitute making additional tax changes. The highlights of the Committee amendment were: extension of the expiring tax provisions, including mortgage revenue bonds, employer-provided educational assistance, the research and development credit, the low income housing tax credit, and the targeted jobs tax credit; the Taxpayer Bill of Rights; and repeal of the uniform capitalization rules for free-lance authors, photographers and artists as well as producers of livestock. To offset the revenue loss from these provisions, the Committee recommended: accelerating corporate estimated tax payments; modifying the treatment of single premium and other investment oriented life insurance contracts; repealing the special loss rules for Alaska Native Corporations, and other smaller tax changes. The Senate also adopted a Committee perfecting amendment that made additional miscellaneous corrections and modifications to the tax reform act.

The Senate passed the technical corrections bill on October 11. The conference report was adopted on October 21.

LEGISLATIVE REVIEW OF INTERNATIONAL TRADE

During the 100th Congress, the principal legislative activity of the committee with respect to international trade related to its consideration of major trade law reform, culminating in the passage of the Omnibus Trade and Competitiveness Act of 1988. The committee also developed legislation to approve and implement the U.S.-Canada Free Trade Agreement. In addition, in its role of overseeing the customs laws of the United States, the committee examined the management of the U.S. Customs Service as well as other trade agencies.

Legislatively, the principal activities of the committee on international trade matters included the following:

(1) S. 490, to authorize negotiations of reciprocal trade agreements and to strengthen United States trade laws. This act was incorporated into S. 1420, the Senate substitute for H.R. 3, an act to enhance the competitiveness of American industry. H.R. 3 was subsequently vetoed by the President. A modified version of the bill was introduced in the House as H.R. 4848 on July 25, 1988. H.R. 4848 was approved by the Senate and became Public Law 100-418.

(2) H.R. 5090, to approve and implement the United States-Canada Free Trade Agreement. This Act became Public Law 100-449.

(3) S. 2662, to remedy injury to the U.S. textile and apparel industries caused by increased imports. A House version of this bill was approved by both Houses of Congress, but was subsequently vetoed by the President. The House did not override the President's veto.

(4) The committee considered legislation to authorize appropriations for fiscal years 1988 and 1989 for the Office of the U.S. Trade Representative, the U.S. International Trade Commission and the U.S. Customs Service. Authorizations for these agencies for FY 1988 were incorporated into the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203). Authorizations for FY 1990 were passed by the Senate (S. 2595), but no action was taken by the House.

(5) The committee considered the nomination of various officials with direct responsibilities in the area of international trade. The individuals whose nominations were considered are shown in the list of committee hearings at the end of this document.

LEGISLATIVE REVIEW OF PROGRAMS UNDER THE SOCIAL SECURITY ACT

*Old-Age Survivors and Disability Insurance Program*

During the 100th Congress, the Committee continued to monitor the financial condition of the Old-age, Survivors, and Disability Insurance Trust funds. The short-range status of these funds continued to improve more rapidly than had been anticipated at the time of the 1983 amendments, and the trustees of these funds also reported in 1987 and again in 1988 that the OASDI programs are, on a combined basis, in close actuarial balance over the 75-year projection period. The Subcommittee on Social Security and Family Policy held two hearings in 1988 to review the long-term status of the trust funds.

During the course of the 100th Congress a number of proposals relating to the OASDI programs were acted on as amendments to the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) and the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647). Included in these bills were: provisions which extended social security coverage to types of employment previously not covered; an extension of the reentitlement period during which individuals receiving disability benefits may return to benefit status if their attempts at reemployment prove unsuccessful; a provision for interim benefits in certain cases where benefits are unduly delayed during the appeals process; and a provision limiting the "windfall offset" provision as it applies to individuals with more than 20 years of social security covered employment.

*Supplemental security income*

In developing the Finance Committee portion of the Omnibus Budget Reconciliation Act of 1987, the Committee included a number of provisions related to the Supplemental Security Income (SSI) program for the needy aged, blind, and disabled. These provisions included an increase to $30 per month in the SSI personal needs allowance for individuals in institutions. This was the first increase in this allowance which had been set at a level of $25 per month when the program was enacted in 1972. To correct other problems which had been identified in the operations of the SSI program, the 1987 Act included provisions such as: an increase in the amount available as an emergency advance; and improvements in the rules relating to the transfer of assets, amounts set aside for burial needs, continuation of benefits during temporary periods in an institution, and several other elements of this program.

*Welfare programs for families*

The need for reform of the Nation's welfare programs for families constituted a major element in the Committee's legislative review activities in the 100th Congress. Ten hearings were held by the Committee and the Subcommittee on Social Security and Family policy on this subject. On the basis of its review, the Committee reported to the Senate comprehensive welfare reform legislation which ultimately became law as the Family Support Act of 1988 (Public Law 100-485).

The Family Support Act of 1988 restructures the welfare system for families with children to emphasize the objective of helping families gain self-sufficiency. A central element of the legislation is the establishment of the Job Opportunities and Basic Skills Training program (JOBS) under which welfare recipients will be provided with the necessary education, training, child care, and other services to enable them to undertake employment. The Act also strengthens the system of child support enforcement by requiring States to apply and review guidelines for setting support orders, by establishing minimum standards for paternity establishment, by providing for immediate wage withholding to enforce support in many circumstances, by requiring periodic review of the adequacy of support orders, and through a number of other modifications to the child support law. The Family Support Act included many other amendments to the family welfare programs such as provisions allowing transitional child care and medicaid services during the year after a family leaves welfare as a result of employment, a provision requiring all States to provide at least six months per year of cash assistance to families in need because of the unemployment of a parent, and provisions broadening certain of the amounts disregarded in determining eligibility for assistance.

*National Commission on Children*

As a part of the Omnibus Budget Reconciliation Act of 1987, the Finance Committee proposed legislation establishing a National Commission on Children. This Commission (which began meeting in early 1989) is charged with a comprehensive study of the needs of the nation's children and is to report back to the President and the Congress with recommendations for ways to deal with those needs in the areas of health, social and support services, education, income security, and tax policy.

*Other social insurance and social welfare activities*

The Finance Committee also addressed a broad range of other matters falling within its general jurisdiction over social insurance and social welfare activities. This included a restructuring of the allocation rules for the Federal Unemployment Tax, modifications to the Foster Care assistance program including an extension of the independent living program to help older children make the transition from foster care to independence, a temporary increase in the entitlement ceiling under the title XX social services program to provide additional resources for child care, and the authorization of numerous demonstration projects including a demonstration project to assist unemployment beneficiaries to become self-employed. Legislation proposed by the Committee also provided for restructuring the financing of the railroad unemployment program, strengthening the financing of the railroad retirement program, and establishing a Commission on Railroad Retirement Reform.

The Committee also issued two committee prints in March 1987 and April 1988 providing data and materials on "Welfare Programs for Families with Children" (Senate prints 100-20 and 100-101).

*Health programs*

The Medicare and Medicaid Patient and Program Protection Act of 1987 (P.L. 100-93), which became law in August, 1987, was the first health-related bill reported out by the Committee on Finance in the 100th Congress. This legislation strengthened protections against fraud and abuse in the health programs established under the Social Security Act, and put in place processes to ensure that beneficiaries of these programs are protected from unfit or incompetent providers and practitioners.

Significant changes were made in the Medicare and Medicaid programs as part of the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203). Reflecting agreements reached during the Bipartisan Budget Summit, Medicare spending was reduced by an estimated $9.8 billion over the period FY1988-90). (The legislation included provisions to harmonize widely divergent bases for estimating Medicare spending by the Office of Management and Budget and the Congressional Budget Office, which should greatly facilitate the scoring of Congressional budget action on Medicare in the future). The Reconciliation Act included major reforms in the quality standards for nursing homes participating in Medicare and Medicaid, and the first expansion in Medicare's outpatient mental health benefit since the program began.

The need for improved protection against the costs of catastrophic illness was a major focus of the Committee's legislative review activities in the 100th Congress. In May, 1987, the Committee reported out legislation making the most significant changes in the Medicare program since its inception, which ultimately was enacted into law as the Medicare Catastrophic Coverage Act of 1988 (P.L. 100-360). In addition to limiting the financial liability of Medicare beneficiaries with substantial medical bills, this legislation increased coverage for skilled nursing facility and home health services and established protections against impoverishment for the spouses of nursing home residents when the institutionalized spouse receives Medicaid assistance.

Throughout the 100th Congress, one of the highest priorities of the Committee on Finance was the extension of Medicaid eligibility to certain target populations, including pregnant women, children, disabled individuals and the elderly. Medicaid coverage was extended to pregnant women and infants (under age 1) with incomes below 185% of the Federal poverty line, regardless fo their eligibility for cash assistance. Medicaid coverage was also made available to all elderly and disabled individuals with incomes below the Federal poverty line.

The Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) included numerous minor provisions making changes to the Medicare and Medicaid programs.

LEGISLATIVE REVIEW OF THE BONDED DEBT OF THE UNITED STATES

The statutory limit on outstanding public debt was $2.3 trillion at the start of the 100th Congress. Legislation to extend or increase the public debt limit was required four times during the 100th Congress (Public Laws 100-40, 100-80, 100-84, and 100-119.) The last of these four acts, Public Law 100-119, increased the limit on the debt to $2.8 trillion. A Senate floor amendment to this legislation also provided for major changes in the Congressional budget procedures including a revision of both targets and procedures under the Balanced Budget and Emergency Deficit Control Act of 1985.

LEGISLATION REPORTED TO THE SENATE BY THE COMMITTEE ON FINANCE DURING THE 100TH CONGRESS

H.J. Res. 324: A joint resolution increasing the statutory limit on the public debt. Reported to the Senate on July 10, 1987 (without written report). Became Public Law No. 100-119.

H.R. 1207: Prescription Drug Marketing Act of 1987. Reported to the Senate on March 18, 1987 (Senate Report 100-303). Became Public Law No. 100-293.

H.R. 1720: Family Support Act of 1988. Reported to the Senate on June 7, 1988 (without written report). Became Public Law No. 100-485. (See also S. 1511.)

H.R. 5090: United States-Canada Free Trade Agreement Implementation Act of 1988. Reported to the Senate on September 15, 1988 (Senate Report 100-509). Became Public Law No. 100-449.

S. Con. Res. 21: A concurrent resolution expressing the sense of Congress in opposition to the proposal by the European Community for the establishment of a tax on vegetable and marine fats and oils and urging the President to take strong and immediate countermeasures should such a tax be implemented to the detriment of United States exports of oilseeds and products and inconsistently with the European Community's obligations under the General Agreement on Tariffs and Trade. Reported to the Senate on March 23, 1987 (without written report).

S. Con. Res. 27: A concurrent resolution stating the sense of the Senate that the U.S. Department of Commerce and Special Trade Representative should initiate investigations of Canadian agricultural subsidies. Reported to the Senate on March 23, 1987 (without written report).

S. Con. Res. 94: A concurrent resolution to express the sense of the Congress regarding relief for the United States Soybean Industry under section 301 of the Trade Act of 1974. Reported to the Senate on March 3, 1988 (without written report).

S. Res. 71: An original resolution authorizing expenditures by the Committee on Finance. Reported to the Senate on January 16, 1987 (without written report).

S. Res. 164: A resolution calling on the President to respond to the violations by Japan of the U.S.-Japan agreement on semiconductors. Reported to the Senate on March 18, 1987 (without written report).

S. Res. 311: An original resolution authorizing supplemental expenditures by the Committee on Finance. Reported to the Senate on March 3, 1987 (Senate Report 100-211).

S. Res. 361: An original resolution authorizing expenditures by the Committee on Finance. Reported to the Senate on January 28, 1988 (without written report.)

S. 490: Omnibus Trade Act of 1987. Reported to the Senate on June 12, 1987 (Senate Report 100-71). Provisions subsequently incorporated into S. 1420, H.R. 3, and H.R. 4848 (which became Public Law 100-418, the Omnibus Trade and Competitiveness Act of 1988).

S. 549: Textile and Apparel Trade Act of 1987. Reported to the Senate on July 31, 1987 (without written report and without recommendation).

S. 661: Medicare and Medicaid Patient and Program Protection Act of 1987. Reported to the Senate on July 14, 1987 (Senate Report 100-109).

S. 829: An original bill to authorize appropriations for the United States International Trade Commission, the United States Customs Service, and the Office of the United States Trade Representative for fiscal year 1988, and for other purposes. Reported to the Senate on March 25, 1987 (Senate Report 100-23).

S. 1127: Medicare Catastrophic Loss Prevention Act of 1987. Reported to the Senate on July 27, 1987 (Senate Report 100-126). Provisions subsequently incorporated into H.R. 2470 (which became Public Law 100-360, the Medicare Catastrophic Coverage Act of 1988).

S. 1511: Family Security Act of 1987. Reported to the Senate on May 27, 1988 (Senate Report 100-377). Provisions subsequently incorporated into H.R. 1720 (which became Public Law 100-485, the Family Support Act of 1988).

S. 1920: Omnibus Budget Reconciliation Act of 1987. Reported to the Senate (by the Committee on the Budget, without written report) on December 4, 1987 including legislation transmitted by the Committee on Finance pursuant to section 310 of the Congressional Budget Act of 1974, as amended. Provisions subsequently incorporated into H.R. 3545 (which became Public Law 100-203).

S. 2223: Omnibus Taxpayer Bill of Rights. Reported to the Senate on March 29, 1989 (Senate Report 100-309). Provisions subsequently incorporated into H.R. 4333 (which became Public Law 100-647, the Technical and Miscellaneous Revenue Act of 1988).

S. 2238: Technical Corrections Act of 1988. Reported to the Senate on August 3, 1988 (Senate Report 100-445). Provisions subsequently incorporated into H.R. 4333 (which became Public law 100-647, the Technical and Miscellaneous Revenue Act of 1988).

S. 2595: An original bill to authorize appropriations for fiscal year 1989 for the Office of the United States Trade Representative, the United States International Trade Commission, and the United States Customs Service. Reported to the Senate on June 29, 1988 (Senate Report 100-407).

LIST OF HEARINGS HELD BY THE COMMITTEE ON FINANCE

*Full committee*

Mastering the World Economy—Parts 1, 2, 3, and 4 (January 13, 15, 20, 22, and February 3, 5, and 19, 1987).

Catastrophic Health Insurance—Parts 1, 2, 3, and 4 (January 28, March 19, and March 26, 1987).

President's Proposed Revenue Increases—(February 4, 1987).

Management of the U.S. Customs Service—Field Hearing—Parts 1 and 2—Brownsville and Laredo, Texas (February 11, 25, and 26, 1987).

President's Fiscal Year 1988 Budget Proposals (February 18, 1987).

President's Health and Human Services Budget Proposals (February 23, 1987).

S. 490, S. 539, and H.R. 3—Improving Enforcement of Trade Agreements (March 17, 1987).

S. 490 and H.R. 3—Workers' Rights and Trade Adjustment Assistance Programs (March 18, 1987).

S. 285, S. 490, S. 470, S. 694, and section 171 of H.R. 3—Impact of Imports and Foreign Investment on National Security (March 25, 1987).

S. 490, S. 636, and H.R. 3—Comparing Major Trade Bills—Parts 1 and 2 (April 2, 7, and 8, 1987).

S. 869, S. 1001, and S. 1511—Welfare Reform—Parts 1, 2, and 3 (April 9, October 14 and 28, 1987 and February 4, 1988).

Medicare, Medicaid, and Maternal and Child Health Block Grant Budget Issues—Parts 1 and 2 (July 8, 9, and 10, 1987).

Revenue Raising Options Required Under the FY 1988 Budget Resolution—Parts 1 and 2 (July 15, 16, and 17, 1987).

S. 549—Textile and Apparel Trade Act of 1987 (July 30, 1987).

Reviewing Spending Proposals of the President's Budget (March 3, 1988).

Tax Incentives for Education (March 17, 1988).

United States-Canada Free Trade Agreement—1988—Parts 1, 2, and 3 (March 17, April 12, 13, 15, and 21, 1988).

Children's Health Care Issues (March 23, 1988).

S. 1245—Tax Exempt Bonds for High Speed Rail Projects (March 24, 1988).

Children's Primary and Chronic Health Care Issues (May 24 and 26, 1988).

Customs Service Budget Authorization for Fiscal Year 1989 (June 16, 1988).

S. 2238 and H.R. 4333—The Technical Correction Act of 1988 (July 13, 1988).

Federal Role in Child Care (September 22, 1988).

Nominations

Jean K. Elder, Ph.D., to be Assistant Secretary for Human Development Services of the Department of Health and Human Services (March 19, 1987).

M. Peter McPherson, to be Deputy Secretary of the Treasury (May 20, 1987).

John K. Meagher, to be Deputy Under Secretary of the Treasury (Legislative Affairs) (September 25, 1987).

Alan F. Holmer, to be a Deputy U.S. Trade Representative, with the rank of Ambassador (September 30, 1987).

O. Donaldson Chapoton, to be an Assistant Secretary of the Treasury (September 30, 1987).

Lawrence J. Whalen, to be a Judge of the United States Tax Court (November 3, 1987).

Robert P. Ruwe, to be a Judge of the United States Tax Court (November 3, 1987).

Sydney J. Olson, to be Assistant Secretary of the Department of Health and Human Services (February 4, 1988).

Mark Sullivan III, to be General Counsel of the U.S. Department of the Treasury (February 25, 1988).

Allen Moore, to be Under Secretary of Commerce for International Trade (May 25, 1988).

Jan W. Mares, to be Assistant Secretary of Commerce (May 25, 1988).

Jill E. Kent, to be Assistant Secretary of the Treasury for Management (May 25, 1988).

John O. Colvin, to be a Judge of the United States Tax Court (July 26, 1988).

Don E. Newquist, to be a Commissioner, U.S. International Trade Commission (August 4, 1988).

Ronald A. Cass, to be a Commissioner, U.S. International Trade Commission (August 4, 1988).

Salvatore R. Martoche, to be Assistant Secretary (Enforcement) of the Treasury (August 4, 1988).

Nicholas F. Brady, to be Secretary of the Treasury (September 13, 1988).

Malcolm M. B. Sterrett, to be General Counsel, Department of Health and Human Services (October 12, 1988).

Mary T. Goedde, to be Assistant Secretary for Legislation, Department of Health and Human Services (October 12, 1988).

Charles H. Dallara, to be Assistant Secretary of Policy Development, Department of the Treasury (October 12, 1988).

Edith E. Holiday, to be Assistant Secretary of Public Affairs and Public Liaison, Department of the Treasury (October 12, 1988).

LIST OF HEARINGS HELD BY SUBCOMMITTEES OF THE COMMITTEE ON FINANCE

*Subcommittee on International Trade*

Budgets for USTR and ITC for Fiscal Year 1988 (February 27, 1987).

Harmonized System (April 27, 1987).

S. 368—Prescription Drug Marketing Act of 1987 (June 15, 1987).

S. 2252—Economic Development in Central America (June 10, 1988).

USTR and ITC Budget Authorizations for Fiscal Year 1989 (June 22, 1988).

*Subcommittee on Social Security and Family Policy*

Welfare: Reform or Replacement? (Child Support Enforcement) (January 23 and February 2, 1987).

Welfare: Reform or Replacement? (Child Support Enforcement—II) (February 20, 1987).

Welfare: Reform or Replacement? (Work and Welfare) (February 23, 1987).

Welfare: Reform or Replacement? (Short-term vs. Long-term Dependency) (March 2, 1987).

Welfare Reform Hearings in New York City—Field Hearing-New York, New York—(April 27 and June 15, 1987).

Social Security Benefits for AIDS Victims (September 10, 1987).

Use of AFDC Funds for Homeless Families—Joint Field Hearing with Ways and Means Subcommittee on Public Assistance—Brooklyn, New York—(March 28, 1988).

Long-Term Status of the Social Security Trust Funds—Parts 1 and 2—May 13 and 20, 1988; Field Hearing—New York, New York—(June 30, 1988).

S. 2441 and S. 2461—Social Security and Income Security Proposals (July 14, 1988).

*Subcommittee on Taxation and Debt Management*

Review of the Revenue Increases Proposed in the President's Budget (March 23, 1987).

S. 58 and S. 716—Interaction Between U.S. Tax Policy and Domestic Research and Development (April 3, 1987).

Debt Limit—May, 1987 (May 8, 1987).

Master Limited Partnerships (July 21, 1987).

S. 1350—Technical Corrections Act of 1987 (July 22, 1987).

Effect of Tax Law on American Competitiveness (October 5 and 19, 1987).

S. 639 and S. 1099—Collection of State Sales and Use Taxes by Out-of-State Vendors (November 6, 1987).

S. 788, S. 983, and S. 1781—Miscellaneous Tax Issues (November 13, 1987).

International Competitiveness (November 16, 1987).

Tax Treatment of Single-Premium Life Insurance (March 25, 1988).

Expiring Tax Provisions (March 28, 1988).

S. 1239, S. 1821, S. 2078, S. 2409, S. 2484, S. 2611, H.R. 1961, and H.R. 2792—Miscellaneous Tax Bills—1988 (July 12, 1988).

S. 2409—Organ Transplant Trust Fund (September 20, 1988).

*Subcommittee on Energy and Agricultural Taxation*

S. 233, S. 255, and S. 302—Energy Taxation Issues (January 30, 1987).

S. 200, S. 233, and S. 846—Tax Incentives to Increase Energy Security (June 5, 1987).

S. 2003, S. 2062, S. 2067, S. 2075, S. 2118, S. 2128—Collection of Federal Fuel Taxes (March 16, 1988).

*Subcommittee on International Debt*

Impact of the Latin American Debt Crisis on the United States (March 9, 1987).

Third World Debt Problem (April 6, 1987).

*Subcommittee on Health*

Medicare and Medicaid (January 29, 1987).

Long-Term Health Care (February 24, 1987).

Peer Review Organizations Under the Medicare Program (March 27, 1987).

Medicare Hospital Payment Rates (April 7, 1987).

Quality of Long-Term Care (April 28, 1987).

Financing of Long-Term Care (June 12, 1987).

Coverage of Prescription Drugs Under Medicare (June 18, 1987).

Mental Health Services Under Medicare (June 18, 1987).

Child Health Programs and Proposals (October 2, 1987).

Nurse Shortages (October 30, 1987).

Medicare Payments for Home Health Services—Joint Field Hearing with the Special Committee on Aging in Portland, Maine (November 16, 1987).

Preventive Health Care for the Elderly—Field Hearing—Miami, Florida (January 6, 1988).

S. 1673—Medicaid Home and Community Quality Services Act of 1987 (March 22, 1988).

S. 2305—Long-Term Care Assistance Act of 1988 (May 27 and June 17, 1988).

Lack of Health Insurance Coverage in the United States—Parts 1 and 2—Field Hearing—Wilkes Barre, Pennsylvania) (June 30, 1988) (July 25, 1988).

Medicare Patient Outcome Assessment Research (July 11, 1988).

*Subcommittee on Private Retirement Plans and Oversight of the Internal Revenue Service*

Form W-4 (February 6, 1987).

S. 579 and S. 604—Taxpayers' Bill of Rights—Parts 1 and 2 (April 10 and 21, June 22, 1987).

Status of the Pension Benefit Guaranty Corporation (May 18, 1987).

S. 1426—Small Business Retirement and Benefit Extension Act (October 23, 1987).

Status of 1988 Tax Filing Season (February 16, 1988).

Review of Internal Revenue Code Penalties (March 14, 1988).

Internal Revenue Penalty Reform (September 28, 1988).●

## DOE'S CIVILIAN NUCLEAR WASTE DISPOSAL PROGRAM

● Mr. JOHNSTON. Mr. President, today I would like to bring to the attention of my colleagues my concern about the pace of our Nation's program for disposal of high-level nuclear waste. The need to move toward the goal of permanent disposal of nuclear waste in a geologic repository cannot be understated. The nuclear waste program is one of the most important civilian energy programs within the Department of Energy. Success of the nuclear waste program holds one of

the keys to the future of nuclear energy in this country.

The subject of nuclear waste is one of longstanding interest for me and for the Committee on Energy and Natural Resources. The Energy Committee and the Congress have labored long and hard over the last 10 years to come up with a comprehensive program for dealing with the issue of high-level nuclear waste disposal. Those efforts culminated in 1982 with passage of the Nuclear Waste Policy Act and in 1987 with passage of amendments to that act. The 1987 amendments, as most of my colleagues know, directed the Department of Energy to move forward posthaste with site characterization of the Yucca Mountain, NV, candidate repository site.

The mandate from Congress in 1982, and reiterated in 1987, was that the Federal Government would bear the responsibility for safe, permanent disposal of nuclear waste in a geologic repository. A schedule for accomplishing this task was set forth in the 1982 act, and that schedule was streamlined and refined in the 1987 amendments. If there was ever any question of Congress' commitment to the success of this program in 1982, that commitment was restated in 1987.

Unfortunately, we have allowed the schedule for the nuclear waste program to slip over the years. We have not seen the progress in the last 2 years that I and my colleagues had hoped we would in 1987. Part of the reason for that, I believe, is that there has been, until recently, a striking lack of commitment within the executive branch to energy programs in general. Fortunately, I believe we are starting to see that situation turn around.

I was pleased to see President Bush's selection of Adm. James Watkins to head the Department of Energy. The selection of Admiral Watkins, and his confirmation by the Senate, indicates that finally we as a government are going to treat energy with the importance it deserves. After 8 years of neglect by the previous administration, we are finally going to begin to put our energy house in order.

That process has already begun at the Department of Energy. What I have seen so far of Admiral Watkins' take-charge manner is a refreshing break from the laissez-faire attitude of the past. I expect that we will soon see new appointments of qualified, committed people under Admiral Watkins that will allow us to get on with the business that must be done by the Department of Energy. The Congress has long stressed the importance of energy issues in this country—I am glad to see that we now have a commitment to these issues from the administration.

Today I want to offer my strong support and encouragement to the Department of Energy's commitment to moving forward with our energy programs. Particularly, I want to urge the Department to move forward with its nuclear programs—and in the case of the nuclear waste program, to move forward to fulfill the mandate of the 1987 nuclear waste amendments. We just cannot afford to waste any more time spinning our wheels and studying problems instead of fixing them.

The high-level nuclear waste program is a prime example of one of those areas where a lack of strong management in the past has allowed schedules to slip and slip and slip. And that schedule slippage has had a high price. When we started this program in 1982, site characterization was estimated to cost $60 million. Now they tell us it will cost $2 billion. We have spent billions of dollars already on this program—at a rate of $400 million a year—and we are still just as many years away from a nuclear waste repository as we thought we were in 1982. Nuclear utility ratepayers have been paying for this program since 1982—it is about time that these ratepayers start to see some progress for their money.

Nuclear waste disposal is one of those highly visible, politically charged issues that some people believe is easier to avoid than to deal with. It is an issue that has seen delays after delays because of its visibility and its political potency. It is an issue that must be dealt with in the open and with the proper attention to safety. But it is not an issue that cannot be solved.

Nuclear waste can be disposed of safely and permanently. All of the scientists and technical experts tell us that it can be done. But they also tell us that we must get on with the program to demonstrate to the public that it can be done safely. There are years of scientific studies and engineering and validation to be done to get to that point. We must get on with those scientific studies. We must move forward with the underground experiments and site characterization at Yucca Mountain so that sufficient data will be available to submit a license application to the Nuclear Regulatory Commission on schedule. The current schedule anticipates completion of these activities in 1995. That is an aggressive schedule, because there is much to be done, but all indications are that it is achievable. But we simply cannot afford delay after delay after delay.

There will always be people who seek to delay this program. There will always be one more study that these people believe must be done in order to ensure safety. But it is always one study after another study after another study. Unfortunately, that comes with the territory with nuclear energy programs. There will always be opportunities to delay these programs, and people will exploit those opportunities to the fullest. We have learned that all too well in the commercial nuclear industry. Over the years, we have spent billions of dollars of electric ratepayer money in the commercial nuclear industry pursuing that one extra study and that extra margin of safety. We have tried to satisfy every one of the critics, every one of the people who thinks there should be a delay. But we have learned all too well that there are some critics that we will never satisfy—no matter how much time is spent nor how much money is spent.

So, my message today is that we need to get on with this program. We have the technical expertise to accomplish the goals of this program—we simply need to get the management in place to carry out the program. Success in the nuclear waste disposal program is key to the future of nuclear power in this country. The Federal Government made a commitment to the goal of safe, permanent disposal of nuclear waste in 1982—we must get on with fulfilling that commitment.●

## THE ROLE OF THE OCEANS IN GLOBAL WARMING

● Mr. KERRY. Mr. President, scientists differ in their perceptions as to the magnitude of the problem of the so-called greenhouse effect. It is uncertain when global warming from the greenhouse effect will actually occur, to what degree food production will be altered, how high our oceans will rise, or what sort of increase one can expect with regard to severe weather patterns. But despite these uncertainties regarding the extent of and the specific nature of its consequences, there is an overwhelming consensus throughout the scientific and environmental community that a greenhouse warming is taking place and the results will cause profound damage to our global habitat.

What is certain is the vital need to gain a greater understanding of environmental change from a global perspective. The potential consequences of inaction in this area are just too great to risk. In particular, very little is known about the role the oceans, which comprise the majority of the Earth's surface, will take in climatic change. Some estimates show that the oceans are responsible for taking up and storing as much as 45 percent of the carbon dioxide expelled into the atmosphere. Important research in this area is currently getting underway at Woods Hole Oceanographic Institute in Massachusetts. An article appeared in the Boston Globe on Monday, March 13, 1989, outlining this important research and I ask that this article be printed in the RECORD. In addition, I will be chairing hearings

before the Commerce Committee, Subcommittee on National Ocean Policy, in April addressing the role oceans play in the process of global warming.

The article follows:

[From the Boston Globe, Mar. 13, 1989]

OCEANS—THE UNKNOWN EQUATION IN CLIMATE

(By Richard Saltus)

WOODS HOLE.—As spring comes to the frigid North Atlantic this year, a small pack of research ships will be tracking north and south between the Azores and Iceland, seeking answers to some of the most critical questions in the drama of global warming.

Among them will be the Atlantis II, scheduled to depart the Woods Hole Oceanographic Institution today as scientists from several nations begin a longterm study of the oceans' vital role in the worrisome "greenhouse effect."

If the Global Ocean Flux Study (GOFS) and related efforts are successful, scientists within 10 years could be using a network of ocean-scanning satellites to predict climate change caused by the greenhouse process. At present, they say, the oceans constitute a biggest question mark in the future of the world's climate.

"I can paint you scenarios in which the oceans make the greenhouse effect worse and others in which they delay it," said Carl Wunsch, a physical oceanographer at the Massachusetts Institute of Technology.

Were it not for the oceans, the impact of the greenhouse effect—caused by the build-up of carbon dioxide ($CO_2$) in the atmosphere from burning fossil fuels—would be nearly twice as great. The big question is, how long will this continue?

"The most inscrutable question is how much of the carbon that's put into the atmosphere will be actually taken out by the ocean," said James G. Anderson, an atmospheric chemist at Harvard University.

Current predictions are like "trying to construct a budget that has too many unknowns—an accounting problem without full information on cash flow," Anderson said.

And in the absence of credible predictions, it becomes more difficult to enact policies to limit emission of $CO_2$ from fossil fuels, said Irving Mintzer of the World Resources Institute.

Carbon dioxide allows energy from the sun to reach the Earth's surface but traps the reflected heat. With $CO_2$ levels rising rapidly, scientists have been predicting constantly warming temperatures and potentially drastic effects on climate.

Global warming could melt the polar ice caps, raising sea levels and flooding coastlines. Altered rainfall patterns and ocean currents could disrupt weather patterns, bringing about heat waves, droughts and disastrous effects on agriculture.

Fortunately, almost half of the excess $CO_2$ pouring into the atmosphere is taken out by the oceans. Some of the gas goes into solution in seawater, like the gas dissolved in soda water, and some is sucked out of the atmosphere by marine algae, which serve as a kind of "biological pump." The algae decay and drop to ocean floor, taking out of circulation the carbon they contain for hundreds of years.

Taking up $CO_2$ is not the only way the oceans help stall greenhouse warming: They also soak up nearly half the heat it generates. The burning question remains, can the oceans continue to play this role as the world becomes warmer?

Humans are producing an excess of carbon dioxide "on such a massive scale and so fast that we may be making massive dents in Nature's checks and balances," said Peter Brewer, senior scientist at Woods Hole, as he helped with preparations last week for the departure of the 210-foot Atlantis II.

Scientists say a major roadblock to predicting global warming is the lack of understanding about the Earth's "carbon cycle." Carbon, one of the most abundant elements and one of the basic ingredients of life, is constantly being exchanged among the Earth, the atmosphere and the oceans.

It is carbon that plants need for photosynthesis, carbon that provides fuel for much of man's activities, and carbon—as carbon dioxide—that causes the greenhouse effect.

OCEAN'S ROLE VITAL

Carbon dioxide in the air is stored in plants when they consume it in photosynthesis. Some plants, in turn, are converted to fossil fuels like coal and oil, and others are eaten by animals. Respiration in animals and the burning of fossil fuels return carbon to the atmosphere.

The oceans' role in the cycle is critical, and, scientists say, the most poorly understood element.

Hence the Global Ocean Flux Study, whose pilot phase will send five ships and a National Aeronautics and Space Administration aircraft to the North Atlantic. GOFS is part of a massive, years-long international effort—the World Climate Research Program—aimed at making the planet's climate system more understandable and predictable. The pilot phase will involve researchers from the United States, the United Kingdom, Canada, France and Germany.

Mid-March is not a pleasant time to be in the North Atlantic. The GOFS researchers are braving the rough, chilly seas because they want to have instruments in place before the spring bloom of phytoplankton, the microscopic plant life that rides the currents of the world's oceans.

This is a key time in the carbon cycle. The phytoplankton bloom, sparked by the return of longer days and warmer temperatures in the nutrient-rich North Atlantic, is a key moment in the carbon cycle.

The proliferating plant life takes in dissolved carbon dioxide, speeding up the transfer of $CO_2$ from the atmosphere to the oceans. Then, as summer fades into fall, the microorganisms die. Some of the carbon is recycled into the upper ocean and returns to the atmosphere, while some becomes locked up in the tiny skeletons of the algae and sinks to the ocean bottom.

$CO_2$ also is carried to the ocean bottom by currents in some regions, and it returns to the surface in other regions. The overall rate of exchange of carbon between the air and water depends on a number of complicated and interrelated processes.

"What we want to know is, how do we get this carbon into the deep ocean, where it will remain for centuries or thousands of years," safely away from the atmosphere, said Hugh Ducklow of the University of Maryland, chief scientist for the project.

Anderson, the Harvard chemist, put it this way: "The ocean is capable of taking up vast quantities of $CO_2$, but the problem is that you have to deliver it into the deep ocean to extract it from the atmosphere."

The biological pump effect of the blooming and decaying algae is a "very slow process," he said, likening it to a valve or bottleneck that limits how fast carbon can be put into its ocean bottom grave.

Last week, the US scientists participating in GOFS were overseeing the loading of the Atlantis II, which belongs to the oceanographic institution. It is best known as the mother ship of the deep-sea submersible Alvin and was involved in exploring the sunken Titanic.

Workers were finishing installation of laboratory facilities for the 28 scientists who will be analyzing samples and measurements during the voyage, which will last until late June.

The GOFS scientists will be making a wide range of measurements of the extent of the spring bloom and the rate at which the organisms decay and sink.

Atlantis II is equipped with cone-shaped sediment traps that will be moored to the ocean bottom in an area south of Iceland and west of France. They will catch the falling plant debris and record its abundance at various depths.

Other devices that automatically collect small bottles of seawater at different depths will also be deployed.

And the NASA plane will shine laser light on the ocean surface, providing measurements of the plankton bloom that will be correlated with readings taken by the ships so that observations made by future ocean-scanning satellites can be accurately interpreted.

Scientists are also studying the complicated cycles of the oceans and atmosphere by re-creating conditions long in the past, when the world was significantly hotter or colder.

Like archeologists, these researchers need to accurately date samples of water, because some parts of the ocean are hundreds or thousands of years older than others.

Just this winter, the Woods Hole institution acquired an accelerator-mass spectrometer—only the second in the United States—that will allow scientists to accurately date small vials of sea water. Conventional techniques require 55-gallon-drums of water for analysis. The instrument is to be in operation by 1990, said Glenn A. Jones, who heads the project.

When all of the data from GOFS and related studies are put together and satellites carrying ocean-sensing instruments are launched, sometime in the 1990s, it should be possible to check on ocean processes precisely and on a global scale, said Ducklow, the GOFS chief scientist.

"It will give us, for the first time, a much better way to monitor the pulse of the planet," he said. "It will give us the tools to address these changes for the whole planet on a daily basis."●

## NATIONAL AFFORDABLE HOUSING ACT

● Mr. DODD. Mr. President, on Wednesday of this week, my colleagues, Senator CRANSTON and Senator D'AMATO, introduced the National Affordable Housing Act. I was pleased to be an original cosponsor of the legislation and was heartened to know that we were joined in our efforts by an impressive and bipartisan array of original cosponsors comprising nearly a third of the membership of this body.

Such bipartisan support reflects a concern spanning the political spectrum that too much distance has

grown between the rhetoric and the reality of the American dream of home ownership. Such bipartisan support confirms a shared belief that housing must regain its rightful place on the agenda of national priorities.

It's our hope that the National Affordable Housing Act will help bridge the gap between the rhetoric and the reality of our Nation's housing policies by beginning to link the resources of all levels of government and the private sector in the shared pursuit of providing safe and affordable housing for all Americans.

I must commend Senators CRANSTON and D'AMATO for their vision and perseverance. The National Affordable Housing Act is the culmination of a 2-year effort rallying our Nation's housing leaders and elected representatives around the common cause of creating better and more equitable solutions to the housing crisis in this country. They well understood the need to link by common purpose the membership of our Nation's housing coalition—from realtors to low-income housing advocates, from homebuilders to the homeless, from the developer to the homeowner, from those who fight for the rights of our Nation's children to those who fight to preserve the dignity of our Nation's elderly.

I've often said that a Federal Housing policy which heeds the often difficult lessons of the past and anticipates the emerging needs of the future rests, in my mind, on four basic principles which: First, recognize the central role of State and local governments in the establishment of an effective national housing policy; second, use limited Federal resources to leverage substantial private investment; third, target limited Federal resources based on need, and fourth, better coordinate tax and spending policies.

The National Affordable Housing Act rests squarely on those principles and should serve as the sound basis for a long-awaited and bipartisan solution to our Nation's housing crisis. I am deeply committed to that effort and hope that we can work together to help create an America that understands that to be kinder and gentler, it must work to shelter all of its people.●

## NEW OPPORTUNITIES FOR U.S. POLICY IN THE EASTERN MEDITERRANEAN

● Mr. PELL. Mr. President, I believe that developments in the eastern Mediterranean over the past year—from the emergence of the Davos process, to the election of President Vassiliou, to the revival of the intercommunal talks on Cyprus—offer new hope for the settlement of long festering disputes in the region. These longstanding problems have weakened NATO's southern flank and strained United States bilateral relations with Greece, Turkey, and Cyprus. The new developments in the region give the United States an opportunity, unparalleled in recent years, to help resolve these problems.

Today I am releasing a Foreign Relations Committee staff report entitled "New Opportunities for U.S. Policy in the Eastern Mediterranean" which assesses the prospects for resolving these difficult problems and examines some ideas and proposals for a more activist American policy in the region. Finding a way to seize the new opportunities will be a key challenge for the new Congress and the new administration.

I believe the United States should meet this challenge by giving more high-level attention to the issues in the region, particularly the Cyprus problem. The most recent set of United Nations brokered talks between the Greek and Turkish Cypriots, which began with the August 1988 meeting between President Vassiliou and Mr. Denktash, have brought renewed hope. U.N. Secretary General Perez de Cuellar has set June 1 of this year as the target date for a negotiated settlement. He has already met twice with the Greek and Turkish Cypriot leaders and is scheduled to meet with them again in early April to push the process forward.

I believe the focus of U.S. policy should continue to be support for the U.N. mediation effort. However, with fresh talks underway, I am convinced that such support should take a more active form. Yesterday, I, together with a bipartisan group of 14 other members of the Foreign Relations Committee, sent a letter to Secretary Baker urging him to give the Cyprus problem his "prompt personal attention" and to "make the resolution of the longstanding Cyprus impasse a major priority in the months ahead."

I believe that only a sustained effort on the part of the United States will convince all the parties concerned, on Cyprus and in the eastern Mediterranean, of our determination to help find a solution I hope to work closely with Secretary Baker in the days ahead to take advantage of the new opportunities. I ask that a copy of the letter to Secretary Baker appear in the RECORD.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
*Washington, DC, March 15, 1989.*

Hon. JAMES A. BAKER III,
*Secretary of State,*
*Washington, DC.*

DEAR MR. SECRETARY: The developments in the Eastern Mediterranean over the past year—from the emergence of the Davos process, to the election of President Vassiliou, to the revival of the intercommunal talks on Cyprus—offer new hope for the settlement of the Cyprus problem. In the context of these developments, U.N. Secretary General Perez de Cuellar has set June 1 of this year as the target date for achieving a negotiated settlement of the Cyprus problem.

We believe the United States can play a constructive role in support of the Secretary General's important effort and urge you to make the resolution of the long-standing Cyprus impasse a major priority in the months ahead. Only a sustained effort on the part of the United States will convince all the parties concerned, on Cyprus and in the Eastern Mediterranean, of our determination to help find a solution.

In our view, the focus of U.S. policy should continue to be support for the U.N. mediation effort. However, with fresh talks underway, we are convinced that such support should take a more active form. As Secretary General Perez de Cuellar prepares to meet with President Vassiliou and Mr. Denktash sometime in early April to move the negotiations forward, we hope you will work closely with the U.N. and all the parties concerned to resolve the differences between the sides. We believe it is appropriate at this time to impress vigorously upon all the parties in the region the importance which the United States attaches to good-faith cooperation with the U.N. effort to achieve a just and workable Cyprus settlement.

The U.S. today faces a renewed challenge to develop and implement policies that will contribute substantially to resolving the long-standing impasse on Cyprus. At the same time, events over the past year have created new opportunities to achieve a solution. We therefore urge you to give your prompt personal attention to the Cyprus problem, and look forward to working with you in this effort.

Sincerely,

Richard G. Lugar, Nancy Landon Kassebaum, Rudy Boschwitz, Paul S. Sarbanes, Mitch McConnell, John F. Kerry, Daniel Patrick Moynihan, Frank H. Murkowski, Claiborne Pell, Jesse Helms, Joseph R. Biden, Jr., Alan Cranston, Larry Pressler, Paul Simon, and Christopher J. Dodd.●

## RUSS BROWN

● Mr. JOHNSTON. Mr. President, recently Russ Brown left the staff of the Committee on Energy and Natural Resources for greener pastures in the Department of the Interior. Russ will be working for the Bureau of Reclamation as a special assistant for resources management.

Russ Brown joined the committee in August 1968 when it was called the Committee on Interior and Insular Affairs. He has been involved in an important way in over 80 public laws since that time.

The committee is now the Committee on Energy and Natural Resources. We have extensive jurisdiction over natural resource development and conservation on the public lands of the United States. But in the 1970's the committee acquired responsibilities for energy policy, and our attention is divided between energy issues and the great issues that arise from the committee's responsibilities for the wide use of the public lands.

Russ' experience and expertise also arises from these historic public lands responsibilities. His expertise is in water policy: water rights, western

water, and water resources management. Russ learned his trade by working with the great Senators who served on the Committee on Interior and Insular Affairs from the States of the American West. These men developed and implemented the water policies that turned the Western United States into one of the most productive regions in the world. I am speaking of Senators like Henry M. Jackson of Washington, Lee Metcalf of Montana, Clinton Anderson of New Mexico, Alan Bible of Nevada, and MARK HATFIELD of Oregon.

Legislation Russ worked on includes the Wild Horse and Burro Protection Act, the Eastern Wilderness Areas Act, the Federal Columbia River Transmission System Act, and the Colorado River Salinity Control Act from the early 1970's through the Reclamation Safety of Dams Act and the Pacific Northwest Electric Power Planning and Conservation Act in the late 1970's to the Colorado Ute Indian Water Rights Settlement Act, the San Luis Rey Indian Water Rights Settlement Act, and the Umitilla Basin Project Act in the last Congress.

Russ served members of the committee without regard to party membership. This has been the tradition of the committee, and one of the reasons that tradition continues has been the dedication of experienced members of the staff like Russ. Part of his legacy is the members and fellow staff who have "learned the ropes" from Russ.

Russ has a new job at the Interior Department, but he remains an asset to the committee. We look forward to his advice, always delivered with humor in direct, unambiguous terms. We are accustomed to this advice: On the politics of water, on the legislative process, on why and how things were done in the past and how things should be done in the future, on the merits of antique automobiles, and on the quality of machine shops in the metropolitan area.

Russ has served the committee with great dedication and love. The Department of the Interior is lucky to have his services. He will always find a hearty welcome here when his duties for the Department bring him to the Committee on Energy and Natural Resources.●

## BEIRUT UNIVERSITY COLLEGE

● Mr. BOSCHWITZ. Mr. President, the Middle East today is an area which too often draws our attention because of acts of violence—war between Iraq and Iran, freedom fighters in Afghanistan, and terrorist attacks upon Israel. Beyond the headlines, a confrontation at least as serious as the others is occurring. This is a battle for the minds of the next generation of Middle Eastern leaders.

Recent events surrounding the publication and distribution of Salman Rushdie's "Satanic Verses" is one skirmish in this intellectual battle. Basic concepts of intellectual freedom and the ability to articulate and act upon one's beliefs are being challenged by narrow-minded, intellectually intolerant Islamic fundamentalists.

The intolerance toward "Satanic Verses" is exhibited in small ways each week toward others who share our values of freedom and tolerance. Today in the Middle East the real front-line soldiers are the teachers, journalists, and students who risk their lives as well as their livelihood to promote human values in an increasingly intolerant atmosphere.

The loss of this battle will seriously undermine American interests. While we may have serious differences with many current leaders in the Middle East, they clearly understand us. Most share a common educational standard and moral foundations. Our differences may sometimes be profound, but we at least have the ability to communicate.

The openness of Middle Eastern societies since before the Second World War to evaluate, accept or reject others' ideas has greatly strengthened the fabric of their society. The rise of those who reject outside viewpoints and attack those who believe in openness intend to reverse the process of opening young minds to the world of ideas. Pressure is being brought on those who persist in espousing universally accepted human values of tolerance and freedom.

This confrontation is being fought in thousands of classrooms through the Middle East. Support for those institutions and hundreds of thousands of individuals who have been educated in western institutions and are the leaders in this battle for intellectual freedom is of particular importance to the United States. Should they lose, it is clear that political freedom will also lose. This would be a tragedy.

Historically, Lebanon has been the gateway for modern ideas to the region. The American University of Beirut, Beirut University College, St. Joseph University, and other schools were the conduits for modern ideas. It is not surprising, therefore, that in an area of growing intolerance, Beirut is a focal point in opposition to these ideas. These institutions—administration, faculty, and students—are at the forefront of the struggle. Salman Rushdie's experience of the last several months is the daily struggle for these courageous individuals, who support freedom and tolerance in a much more difficult environment.

The United States has a long and proud tradition of supporting these educational institutions. One of these institutions, Beirut University College [BUC], a New York-chartered liberal arts college, deserves special note. Originally founded as a women's college, BUC became coeducational in 1975. Despite the security situation in Lebanon, BUC is thriving because most Lebanese want it there. Its enrollment has grown from 1,000 students before the war to over 4,000 today. Western values and approaches to problem-solving are imparted to thousands of young people who have taken a leadership role throughout the region and who continue to uphold the basic American-style education received.

In recent years, however, the role of BUC has changed. Good national institutions have been established throughout the region. Fourteen years of conflict in Lebanon have severely tested the ability of an open educational institution to survive. As a result of these changes, questions have been raised as to whether continued American support for American educational institutions in Lebanon is worthwhile. I would answer that U.S. support may be even more important today. U.S. investment in BUC is a commitment to the hope that educated people will bring rational and objective thinking to a region in turmoil. BUC is a cornerstone in building a better future for Lebanon and the region. American long-term interests lie in supporting those Middle Easterners who share our values and with whom we can communicate.

Beirut University College's operating budget is $5 million annually. Since 1981, BUC has received some assistance both from AID and from the American Schools and Hospitals Abroad Program [ASHA]. I commend AID for this. Assistance provided by AID has been used for damage repairs and operating deficits. The four ASHA grants received since 1981 have been used for project improvements. While this assistance has been helpful to BUC, it is not enough. In order to meet its operating expenses, BUC has had to raise its tuition to $1,100 per student—twice the amount charged by other American institutions in Lebanon. The faculty have taken pay cuts of up to one-third of their salary. Moreover, the drop in the value of the Lebanese pound makes the cost of tuition prohibitively expensive for many potential students who desire a Western education and seriously hampers budget projections for the college.

For the current fiscal year, 1989, BUC has requested a grant of $1,125 million from ASHA for capital improvements. If fully funded—and my hope is that it will be—this grant will be used to purchase a new electricity generator, so that the college can provide its own electricity. Because of the situation in Beirut, the college is without electricity much of the time, and it is not uncommon for students to study

by candlelight in science and library facilities. BUC also will need funding from AID for budget support to meet its operating expenses. Such U.S. assistance will allow the university to concentrate its limited resources on programs.

Mr. President, as I previously stated, there is no more important battle in the Middle East today than the battle for human values. Educators, journalists, and modern political leaders are under siege from intolerant fundamentalists and extremists.

The determination of the individuals—students, faculty, and administrators—who comprise Beirut University College to struggle on in the face of these difficulties is impressive, and America should not abandon them. Therefore, our support is more important today than ever. Those who are on the front line in the battle between intellectual freedom and intolerance clearly deserve our support.●

## HONORING BRUCE MARTYN

● Mr. LEVIN. Mr. President, I would like to speak today about a Detroit legend: Bruce Martyn, the announcer for the Detroit Red Wings.

There should be more people like Bruce Martyn. When he was young, he discovered a passion for hockey. He pursued that passion, and it became his career. His reward is that he loves what he does.

That is also our reward. For Bruce Martyn brings his enthusiasm and love of hockey to millions of hockey viewers every game.

Martyn's first job as a hockey broadcaster was with WSOO-AM in Sault Ste. Marie. There he did play-by-play for the Soo Indians of the Northern Ontario Hockey Association. It was also where he met his wife, Donna. What attracted him to Donna? For one thing, she was a hockey fan.

Two years later, Martyn came to Detroit to work for WCAR-AM. He stayed on the air there for 10 years before moving to WKVD-TV, then a station devoted completely to sports. It did not take long for Martyn to be discovered by the Red Wings, who offered him a job as a broadcaster. He has been there ever since.

He is one of a handful of announcers who belong in a pantheon for making a sport come alive with a vibrant voice. His love of hockey is contagious.

During the past 25 years, Bruce Martyn has become best known for the phrase, "he shoots, he scores!" Well, Bruce Martyn has scored in the hearts of Red Wings fans everywhere. For that, and for his 25 years of service, I salute him.●

## THE UNIVERSAL VOTING RIGHTS ACT OF 1989

● Mr. SIMON. Mr. President, I am proud to rise today as a cosponsor of the Universal Voting Rights Act of 1989, and to compliment my very good friends and colleagues, Senator CRANSTON and Senator KENNEDY, on their excellent work in this area.

As chairman of the Constitution Subcommittee, I will begin hearings promptly on this important legislation. No right is more essential to a free people than the right to vote. Our Constitution begins with three words—"We the People"—that founded our Nation on the principle that the powers of Government derive from the consent of the governed.

Our Constitution has been amended four times to widen the franchise: The 15th amendment, ratified in 1870, affirmed the right to vote without regard to "race, color, or previous condition of servitude." The 19th amendment, ratified in 1920, gave women the right to vote. The 24th amendment, ratified in 1964, prohibited use of the poll tax in denying the right to vote in Federal elections. And the 26th amendment, ratified in 1971, extended the vote to those 18, 19, and 20 years old.

Although many historic barriers to voting have fallen, the United States has one of the lowest rates of voter turnout of major democracies. One important factor distinguishing the United States from other countries is the voter registration process. And there is considerable evidence that registration practices have an adverse, disproportional impact on minorities and the poor. According to the U.S. Census Bureau, however, once people register, they overwhelmingly go to the polls and vote.

This bill seeks to remove obstacles to the registration process and increase voter participation. To fulfill the promise of "We the People"—that is our goal. I look forward to chairing the hearings on the Universal Voting Rights Act of 1989.●

## GREEK INDEPENDENCE DAY

● Mr. SARBANES. Mr. President, on March 25, the Greek people and their descendants around the world will join in celebrating the 168th anniversary of Greek independence. On that day in 1821, the Greek nation began it arduous struggle to reestablish its independence after enduring nearly four centuries of Turkish Ottoman rule. For eight long and difficult years, determined Greek patriots fought against tremendous odds to secure the liberty of their homeland and reaffirm the individual freedoms which are the heart of the Greek tradition.

Although regarded skeptically by the monarchical governments of Europe, the uprising in Greece nonetheless captured the imagination and commanded the admiration of peoples on both sides of the Atlantic. This was particularly true in the young American republic. President James Monroe remarked in 1823 that "the whole civilized world took a deep interest in the heroic struggle of the Greeks which brought to mind both exalted sentiments and the best of feelings."

American sympathy for the Greek uprising was rooted in our Nation's own experience in overthrowing colonial domination and establishing a democratic republic. State legislatures and town meetings across the Nation passed resolutions in support of the Greek effort, and in the House of Representatives Congressman Daniel Webster eloquently put the Greek case to his colleagues in the 18th Congress.

He declared on the floor of the House in 1823:

> The Greeks, a people of intelligence, ingenuity, refinement, spirit, and enterprise, have been for centuries under the most atrocious, unparalleled Tartarian barbarism that ever oppressed the human race.
>
> They look to us as the great Republic of the Earth and they ask us by our common faith, whether we can forget that they are now struggling for what we can now so ably enjoy? I cannot say, sir, that they will succeed; that rests with heaven. But myself, sir, if we tomorrow hear that they have failed—that their last phalanx had sunk beneath the Turkish scimitar—that the frames of their last city had sunk in ashes and that naught remained but the wide melancholy waste where Greece once was, I would still reflect with the most heartfelt satisfaction, that I had asked you, in the name of seven million of freemen, that you would give them at least a cheering of one friendly voice.

The Greek patriots drew inspiration from the American Revolution, as the founders of the American Republic had earlier drawn from the ancient Greeks. The noted American historian Henry Steele Commager has discussed the extent to which the architects of the revolution and the authors of the Declaration of Independence, the Constitution, and the Bill of Rights were familiar with Plutarch and Thucydides, and with the ancient Greek ideas of civil liberty and citizenship. There is, he wrote, a "continuous rain of references" in the debates in the experience of the ancient world, and in the Federalist papers to ancient history. As Thomas Jefferson observed of himself and his colleagues, "to the ancient Greeks * * * we are all indebted for the light which led ourselves out of Gothic darkness."

The ties which join the two nations and the two peoples were thus forged through mutual inspiration in the early days of our republics; for more than 150 years they have been reinforced in countless ways. As nations and peoples in World War I, Americans and Greeks were steadfast allies. In the bleak early days of World War

II the Greek defeat of Mussolini's army gave the besieged free world its first victory over the Axis powers, forcing Hitler to dispatch his own armies to occupy Greece. Nowhere was the Nazi occupation more brutal than in Greece; and nowhere, in turn, was the resistance more determined or heroic than in Greece.

In the postwar period, the commitment of President Harry Truman and the American people helped the people of Greece to turn back a Communist insurgency and to rebuild their country, ravaged by years of armed conflict. Today Greece is a stable democracy, a member of the NATO alliance and of the European Community. The enduring ties of history are reinforced every day by the very personal ties which join the American and greek peoples, and by the role Americans of Greek background play in the cultural, scientific, economic, and, indeed, every aspect of our national life.

The Greek people are justly proud of the abiding commitment to freedom which marks their heritage, unwavering through the centuries and enduring in the face of great adversity. The continuing Turkish occupation of a significant portion of the republic of Cyprus therefore remains a source of great concern among Greek Americans. In the past year, there have been signs of a renewed commitment to the search for a just and enduring solution to this situation. It is in the best interests of all to promote the healing of this society torn by war and military aggression.

Mr. President, it is fitting to mark Greek Independence Day, because the Greek war of independence has significance for all of us. It is not only an inspiring chapter in the long history of Greece's steadfast devotion to the principles we also cherish; it is a milestone in the struggle for freedom in the modern world. In the words of the resolution which for the first time officially authorized March 25 as Greek Indepdence Day, "The ancient Greeks developed the concept of democracy, in which supreme power to govern was vested in the people. The Founding Fathers of the United States of American drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy." In celebrating Greek Independence Day, we celebrate the principles which inspire the free and democratic peoples of America and Greece.●

## SENATE JOINT RESOLUTION 88 READ THE FIRST TIME

Mr. MITCHELL. Mr. President, Senate Joint Resolution 88, a joint resolution concerning global environmental policy, is at the desk and I now ask that it be read for the first time.

The PRESIDING OFFICER. The clerk will read the joint resolution.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 88) to establish that it is the policy of the United States to reduce the generation of carbon dioxide, and for other purposes.

Mr. MITCHELL. Mr. President, I now ask for the joint resolution's second reading.

Mr. DOLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The joint resolution will be read on the next legislative day.

## INTELLECTUAL PROPERTY ANTITRUST PROTECTION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar item No. 26, S. 270, a bill to modify the application of the antitrust laws to encourage licensing and other use of certain intellectual property.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 270) to modify the application of the antitrust laws to encourage the licensing and other use of certain intellectual property, reported without amendment.

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

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

Mr. LEAHY. Mr. President, the creative spirit of America's innovators has made our Nation the world's leader in high technology. America's economc future rests on the shoulders of individual inventors and innovators working in small firms and large corporations. We need to encourage continued innovation in high technology and to help American inventors and businesses recoup their tremendous investment in research and development. One way to do that is to facilitate the dissemination of America's new technology and innovative products.

With these goals in mind, several of my colleagues joined Senator HATCH and me this year in introducing S. 270, a bill to promote the licensing and other uses of intellectual property. Senator HATCH and I, with our colleagues on the Judiciary Committee—Senators BIDEN, THURMOND, DECONCINI, HUMPHREY, KENNEDY, SIMON, and KOHL—have worked hard on this legislation. As reported unanimously by the Judiciary Committee, this legislation will eliminate unfair penalties imposed by an outdated judicial doctrine that punishes innovators engaged in procompetitive distribution and licensing practices: the presumption of market power in antitrust suits involving intellectual property rights.

S. 270 will provide greater flexibility in the dissemination of intellectual property and innovative products. It does so by clarifying the treatment of intellectual property rights under the antitrust laws by prohibiting courts from presuming the market power necessary for liability from the existence of an intellectual property right.

Mr. President, our intellectual property and antitrust laws should operate together to encourage innovation, by rewarding individual inventors and creators, and to promote competition by ensuring that those inventors and creators have access to open and competitive markets. Nonetheless, because of the doctrine of the presumption of market power, it is almost common for business people and scholars to say that our antitrust and intellectual property laws are in conflict.

This legislation will help America's businesses meet the challenges they face in domestic and international markets. It does so by harmonizing our intellectual property and antitrust laws.

Our intellectual property laws encourage investment in innovation. By recognizing intellectual innovations as property, these laws provide inventors and other innovators with exclusive rights to the use of their inventions and original works for a limited time. By encouraging the publication of these inventions our intellectual property laws also encourage the dissemination of new technology, and thus promote technological progress.

Now, let me explain how these basic intellectual property principles can get stymied in certain antitrust suits. Courts often presume the requisite market power for antitrust liability from the mere existence of a patent or copyright. This presumption evolved because courts mistakenly characterized intellectual property rights as economic monopolies and thus treated patents and copyrights unnecessarily harshly in antitrust cases.

As a result, American businesses may be forced to avoid agreements that would permit them, for example, to cut costs by developing efficient distribution schemes for functionally related products. In some cases, the threat of antitrust liability even deters American companies and, particularly, small businesses and individual inventors from developing new technology. For example, if an inventor's ability to license his or her product or the intellectual property rights to that product, is seriously threatened by the fear of treble damages being imposed in an antitrust suit, the inventor likely will decide at the outset not to invest the time and money to research and develop that idea. This is especially true in our high-technology industries whose products have short shelf lives.

29-059 O-90-26 (Pt. 4)

Last Congress the Judiciary Committee's Technology and Antitrust Subcommittees held a joint hearing on S. 438, title I of which is now S. 270. I remember Mr. Sanford Feman from the Hewlett-Packard Co.'s Medical Products Group used a heart monitoring system to illustrate the real problems American companies face because of the antitrust laws' treatment of copyrighted products. To control quality and prevent malfunctions caused by use of the heart monitor's components with other manufacturers' equipment, Hewlett-Packard sells the copyrighted software and the hardware together as one heart monitoring system.

Because of a 1984 antitrust decision mistakenly applying the presumption of market power, however, American manufacturers may need to separate the components of such sophisticated hi-tech equipment. They may be forced to treat complex, interrelated computer technology as if it were a mattress and a bed. The fear of antitrust liability may force businesses to sell one component without the other regardless of its effects on consumers. In Mr. Feman's example, those consumers are hospitals and their patients.

By discouraging common sense dissemination of complex hi-tech equipment, current antitrust law harms consumers as well as manufacturers. No doubt some manufacturers, fearing they will incur product liability because of a malfunction in another manufacturer's component, will stop manufacturing their products altogether.

That troubling 1984 court decision I referred to is *Digidyne Corp.* v. *Data General Corp.*, 734 F.2d 1336 (9th Cir. 1984), cert. denied, 473 U.S. 908 (1985). There, the Court of Appeals for the ninth circuit treated the defendant's refusal to license copyrighted computer software except to purchasers of its computer hardware as a per se unlawful tying arrangement. A tying arrangement is a form of package sale in which a seller conditions the sale or lease of one product upon the sale or lease of a second product. Under certain circumstances, the antitrust laws condemn tying arrangements as per se unlawful. The elements of per se illegal tying arrangements are described in *Jefferson Parish Hospital Dist. No. 2* v. *Hyde*, 466 U.S. 2 (1984). The problems this poses for America's high-technology industry are outlined in Justice O'Connor's concurring opinion.

Sufficient economic power in the tying product market to restrain competition in the tied product market appreciably is one of the elements of a per se unlawful tying arrangement. Relying on the presumption of market power, the ninth circuit in the Data General case found that the software system's copyright established the software's distinctiveness as a matter of law. It held that there was sufficient evidence from which the jury reasonably could have concluded that the software was sufficiently unique and desirable to an appreciable number of buyers to enable the defendant to force those consumers to buy the hardware.

But in evaluating the evidence, the court specifically rejected the defendant's evidence that functionally equivalent substitutes existed for the copyrighted software. It said that the existence of substitutes for the software was not relevant to whether sufficient economic power existed for an illegal tie-in.

Data General is only one of many cases in which the courts have presumed market power from the existence of a patent or copyright. Courts have been applying the presumption at least as far back as 1962 and continue to do so today. See, e.g., *United States* v. *Loew's, Inc.*, 371 U.S. 38 (1962); *Outlet Communications, Inc.* v. *King World Productions, Inc.*, 685 F. Supp. 1570 (M.D. Fla. 1988). And State courts also have relied on the presumption in applying State antitrust laws. See, e.g., *Jerry Day and Cory Day* v. *Le-Jo Enterprises, Inc.*, 521 So. 2d 175 (Fla. Dist. Ct. App 1988).

Legal and economic scholars have sharply criticized the presumption of market power. Hovenkamp says in his Economics and Federal Antitrust Law, "The economic case for 'presuming' sufficient market power to coerce consumer acceptance of an unwanted tied product simply because the tying product is patented [or] copyrighted * * * is very weak." Sec. 8.3 at 219 (1985). See also Note, *The Presumption of Economic Power for Patented and Copyrighted Products in Tying Arrangements*, 85 Colum. L. Rev. 1140, 1156 (1985).

S. 270's elimination of the presumption of market power is intended to reduce the likelihood that antitrust claims will be brought against intellectual property owners who should not be subject to antitrust liability. The bill clarifies that although patents and copyrights constitute legally enforceable property rights, they do not necessarily constitute economic monopolies. Similarly, the bill clarifies that although the "uniqueness" or "distinctiveness" of a particular product may be essential to the award of a patent or copyright, the patent or copyright does not necessarily result in econmic power when evaluated under standard antitrust principles.

As stated in the Judiciary Committee's report on this legislation (Rept. 101-8), the elimination of the presumption will simply require plaintiffs to assume their proper burden of proof in antitrust cases involving patents, copyrights, or semiconductor chip designs. It will require that courts evaluate practices involving intellectual property rights under the same antitrust principles that are applied to practices invovling other forms of property.

I would like to emphasize that S. 270's elimination of the presumption of market power will require courts to make a factual assessment of whether the holder of an intellectual property has market power within an economically significant market in the same way as they do in other tying cases and in antitrust cases in general. Thus, courts will have to assess whether there are available substitutes for the protected tying product or service, as did the court in *A.I. Root Co.* v. *Computer Dynamics, Inc.*, 806 F.2d 673 (6th Cir. 1986).

This legislation is also intended to preclude a plaintiff from establishing that a defendant has the requisite market share for antitrust liability by asserting that an intellectual property right constitutes its own market. Without proof of the absence of substitutes for the patented or copyrighted product, an intellectual property right does not itself constitute a market.

I understand some concern has been raised that by including in section 2, the terms "economic power," "product uniqueness or distinctiveness," and "monopoly power" along with "market power," we will somehow be setting in stone the definition of market power for antitrust cases outside the scope of this bill. Let me underscore right now that that is not our intent. Courts have used different terms when they refer to the presumption generally described as the presumption of "market power." Section 2 includes all of those terms to avoid an unduly narrow reading by some future court. We want to be sure that whatever they call it—"defining a market," "establishing market power," "economic power," "product uniqueness or distinctiveness," or monopoly—courts do not foreclose thorough market analysis because of an intellectual property right.

I should also point out that bill's elimination of the presumption does not apply to trademarks or trade secrets. The reason is simple. Under current law, courts tend not to view these rights as giving rise to a presumption. Thus, S. 270 is not intended to change current law in this respect. Nor is it intended to invite a finding that a trademark or trade secret creates a presumption of market power.

Mr. President, let me just say that S. 270 rejects the presumption of market power because the presumption inhibits the development and dissemination of new technology.

In passing this bill three times in the last session, the Senate clearly sent a message to the courts that they would be mistaken to continue to apply any presumption of market power involv-

ing intellectual property rights as automatically granting meaningful economic power over a particular market in antitrust cases.

The Judiciary Committee unanimously reported S. 270. It has been broadly supported by a bipartisan effort in the Senate and widely endorsed by technology companies and experts in intellectual property and antitrust law. Senators BIDEN, THURMOND, DECONCINI, HUMPHREY, SIMON, KENNEDY, and KOHL, have joined Senator HATCH and me in cosponsoring this bill. I thank them for working with us this Congress and last on this important legislation. I urge my colleagues to join us in supporting this measure.

In closing, I would like to thank the following Judiciary Committee staff members for their fine work in getting this legislation to the point of Senate passage this year: Abby Juzma and Kay Allen Morrell with Senator HATCH; Diana Huffman and Jeff Peck with Senator BIDEN; Patricia Vaughan and Terry Wooten with Senator THURMOND; Ed Baxter and Tara McMahon with Senator DECONCINI; George Smith with Senator HUMPHREY; Chris Dunn and Deborah Leavy with Senator SIMON; Thurgood Marshall, Jr., and Carolyn Osolinik with Senator KENNEDY; and Robert Seltzer and Jonathan Leibowitz with Senator KOHL. Finally, I would like to thank my own staff on this legislation: Katie Miller and my chief counsel, Ann Harkins.

Special thanks and tribute go to Congressman HAM FISH who first introduced the House companion measure to S. 270, and his chief counsel, Alan Coffey, who deserves a great deal of credit for his work on this legislation as well.

Mr. THURMOND. Mr. President, I am pleased that the Senate has decided to act so expeditiously in the 101st Congress on this important piece of legislation. The Intellectual Property Antitrust Protection Act of 1989 was overwhelmingly supported and passed by the Senate in the 100th Congress.

S. 270 clarifies the treatment of intellectual property rights under the antitrust laws. It provides that an intellectual property right, such as a patent, copyright or trademark, will not be presumed to define a market or to establish market power whenever the conduct of an owner, licensor, licensee, or other holder is alleged to have violated the antitrust laws in connection with the marketing or distribution of a product or service protected by such a right. In other words, Mr. President, a court will not be allowed to presume market power in an antitrust case merely from the existence of a patent, copyright, or other intellectual property right.

This bill, in clarifying the treatment of intellectual property in antitrust cases, strikes a healthy balance between the policies of antitrust enforcement and the policies underlying intellectual property rights. It does not prevent a finding of market power where appropriate, but merely prohibits its courts from presuming market power without proof that it exists.

Mr. President, I believe that enactment of S. 270 and removal of unwarranted antitrust concerns will greatly encourage the marketing of new and innovative products, and will ultimately enhance the worldwide competitiveness of the United States. I encourage all my colleagues to support this legislation of which I am a cosponsor.

Mr. HATCH. Mr. President, I am proud today to rise in support of the Intellectual Property Antitrust Protection Act. This Act strengthens the ability of American companies to compete in the international high-technology market and it will encourage innovation by permitting small inventors and entrepreneurs to recover their tremendous investment in research and development.

This Act was introduced in response to judicial decisions which created uncertainty in the high-technology community by invalidating licensing practices which had no anticompetitive effects. These decisions failed to consider all competitive effects of agreements involving intellectual property rights. Such decisions subject American companies to possible treble damage liability for normal competitive practices which have no adverse effects upon the consumer. Needless to say, that discourages technological innovation at the very time we critically need to encourage it. This Act will send a reliable signal to inventors and entrepreneurs that courts will no longer needlessly discourage technological innovation in this manner.

This Act provides that when the holder of an intellectual property right is alleged to violate antitrust laws, the intellectual property right itself shall not be presumed to define a market or establish market power. It will require the courts to examine these cases using an analysis of all competitive conditions. By removing this presumption, we will lessen the tension between the antitrust laws and intellectual property laws. This legislation would prevent courts from invalidating practices which do not have anticompetitive consequences—and which, in fact, are procompetitive because they encourage the development of intellectual property.

The bill requires that agreements to convey intellectual property rights be evaluated for antitrust purposes upon consideration of all relevant economic factors, including their procompetitive benefits, rather than upon unwarranted presumptions of market power. This is an eminently reasonable step. The threat of antitrust liability acts as a disincentive to the creation and distribution of new technology. Even after new technology has been created and distributed, the threat of antitrust liability diverts resources away from further innovation. The status quo is clearly harmful to innovation without being beneficial to consumers. The elimination of the presumption will require only that courts evaluate practices involving intellectual property rights under the same antitrust principles that are applied to practices involving other forms of property.

Mr. President, this legislation will improve U.S. competitiveness and benefit U.S. consumers by promoting technological innovation. The Intellectual Property Antitrust Protection Act of 1989 is a necessary element of our efforts to provide U.S. companies the environment they need to stay competitive in world markets, an endeavor of increasing importance as we approach the 21st century.

I commend my colleague from Vermont, Senator LEAHY, for his efforts to move this important piece of legislation forward at such an early date in this legislative session. We came close to enacting this measure at the end of the 100th Congress, and I believe that we will see it signed into law by the President in the near future. I would urge all of my colleagues to support this measure.

Mr. HUMPHREY. Mr. President, I strongly support passage of S. 270, the Intellectual Property Antitrust Protection Act of 1989. I was pleased to join Senator LEAHY and my other colleagues in cosponsoring this legislation both in the 100th Congress and again in this Congress. This is the kind of progressive antitrust legislation which not only fosters healthy competition but makes a strong contribution to American competitiveness in world markets.

It is significant to note that this bill was unanimously approved by the Senate Judiciary Committee, and enjoyed bipartisan cosponsorship from no less than nine members of the committee.

This legislation can play an important role in our efforts to encourage innovation in critical areas of business dependent upon intellectual property rights. It will provide an important clarification to our antitrust laws which will allow the courts to respond to economic realities and genuine principles of competition in applying those laws. This bill is especially important to American businesses which make substantial investments in research and development to produce innovative applications in such fields as computer software technology.

Although the reforms incorporated in this bill are limited in scope, they are of significant importance. The bill eliminates the presumption of market power which has been applied in cases

where an antitrust claim is alleged against the holder of an intellectual property right. This presumption of market power in cases involving patented or copyrighted products amounts to a judicial short cut for imposing antitrust liability. It has resulted in unreasonably harsh treatment of companies exercising such intellectual property rights in connection with their marketing, distribution, and licensing of their products or services.

This erroneous presumption of market power derives from the confusion of the exclusive legal rights granted by law to copyright and patent owners with the economic monopolies addressed by the antitrust laws. But the simple fact is that mere ownership of a patent or copyright does not convey market power. The presumption wholly fails to account for such factors as the relative demand for the protected product or the substitutability of competing products.

This legislation will do much to encourage innovation in the critical "high-technology" fields which are such a major part of our economy. It was the subject of thorough hearings during the 100th Congress and favorably reported out by the Senate Judiciary Committee. This bill has been carefully crafted and revised and represents a thoughtful legislative product. This was recognized by the Judiciary Committee's unanimous approval of this legislation when it was reported out by voice vote in this Congress. The strong, bipartisan support of this bill attests to its soundness.

This is the first antitrust legislation to be voted on by the Senate in the 101st Congress. It represents the kind of practical, foward-looking antitrust bills we should be addressing. I urge my colleagues to overwhelmingly approve the Intellectual Property Antitrust Protection Act.

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. 270

*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 "Intellectual Property Antitrust Protection Act of 1989".

PROHIBITION OF MARKET POWER PRESUMPTION

SEC. 2. In any action in which the conduct of an owner, licensor, licensee, or other holder of an intellectual property right is alleged to be in violation of the antitrust laws in connection with the marketing or distribution of a product or service protected by such a right, such right shall not be presumed to define a market or to establish market power, including economic power and product uniqueness or distinctiveness, or monopoly power.

SEC. 3. For purposes of this Act—

(1) the term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)); and

(2) the term "intellectual property right" means a right, title, or interest—

(A) in subject matter patented under title 35 of the United States Code, or

(B) in a work, including a mask work, protected under title 17 of the United States Code.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

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## STAFFORD STUDENT LOAN DEFAULT PREVENTION AND MANAGEMENT ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 29, S. 568, the Stafford student loan default bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 568) entitled the "Stafford Student Loan Default Prevention and Management Act of 1989".

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

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

The bill (S. 568) was considered, ordered to a third reading, read the third time, and passed; as follows:

S. 568

*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 "Stafford Student Loan Default Prevention and Management Act of 1989".

SEC. 2. TABLE OF CONTENTS.

TITLE I—DEFAULT MANAGEMENT

SEC. 101. DEFAULT MANAGEMENT PLANS REQUIRED.

(a) DEFAULT MANAGEMENT PLAN.—Part B of title IV of the Higher Education Act of 1965 (hereafter in this Act referred to as the "Act") is amended by inserting after section 430A the following new section:

"DEFAULT MANAGEMENT PLAN

"SEC. 430B. (a) GUARANTY AGENCY DEFAULT MANAGEMENT PLAN REQUIRED.—(1)(A) The Secretary shall determine the default rate in accordance with the provisions of subsection (e) for each guaranty agency. Each guaranty agency which the Secretary determines has a default rate in excess of 25 percent shall develop and carry out a default management plan in accordance with the provisions of this section.

"(B) Each guaranty agency which is in the highest 5 percent by volume of defaulted student loans measured by dollar value, as published by the Secretary in accordance with section 432A(a)(2)(B), shall be subject to a program review conducted by the Secretary. If the Secretary determines that the default management practices of the guaranty agency substantially contribute to the high dollar value default of student loans, the Secretary shall develop and implement a default management plan for such guaranty agency.

"(2)(A) The Secretary may, in any default management plan required by paragraph (1) of this subsection, require the guaranty agency to carry out any or all of the default management provisions set forth in subparagraph (B). The default management provisions selected for inclusion in the default management plan shall be based upon the results of an evaluation of operations conducted by the Secretary.

"(B) The default management provisions to which subparagraph (A) relate are—

"(i) mandatory preclaims assistance;

"(ii) mandatory supplemental preclaims assistance for default prevention;

"(iii) development and distribution of default management materials;

"(iv) additional training in the administration of the programs under part B of this title;

"(v) training of school personnel on default prevention;

"(vi) training of lender personnel on default prevention;

"(vii) waiver of program review regulations so that the guaranty agency can focus on eligible institutions and lenders with excessive default rates; and

"(viii) collection of additional information from borrowers.

"(C) The Secretary, with the agreement of the guaranty agency, may require other measures designed to increase the collection of Stafford student loans, particularly measures appropriate to the communities served by the guaranty agency subject to the default management plan.

"(b) ELIGIBLE LENDER AND ELIGIBLE INSTITUTION DEFAULT MANAGEMENT PLAN REQUIRED.—(1)(A) The Secretary shall determine the default rate, in accordance with subsection (e), for each eligible lender and for each eligible institution. Each eligible lender and each eligible institution which has a default rate in excess of 25 percent calculated in accordance with subsection (e) shall develop and implement a default management plan with the designated State guaranty agency for the State in which such lender or institution is located.

"(B) Each eligible institution which has a high default rate measured by dollar value, as determined by the Secretary, and which is in the highest 5 percent by dollar value of defaulted student loans, as published by the Secretary in accordance with section 432A(a)(2)(B), shall be subject to an evaluation of operations conducted by the designated State guaranty agency for the State in which such lender or institution is located. If such guaranty agency determines that the default management practices of the lender or institution substantially contribute to the high dollar value default of student loans, the guaranty agency shall develop and implement a default management plan for such lender or institution.

"(C) No eligible lender and no eligible institution is subject to subparagraph (A) unless the lender or institution has at least 25 loans that are in default in the fiscal year for which the determination is made.

"(D) The Secretary shall require the designated guaranty agency for each State to require each eligible lender and each eligible institution located within the State described in subparagraph (A) to develop and implement a default management plan.

"(E) Each designated guaranty agency for a State may transfer the responsibilities for carrying out this section to another guaranty agency whenever the other guaranty agency guarantees a significant portion of loans for the eligible lender or eligible institution which is the subject of the default management plan. Whenever there is significant multi-State activity by any lender, the Secretary shall determine each party which will carry out the responsibilities of this section, except that, in the case of the Student Loan Marketing Association, the Secretary shall carry out the responsibilities of the guaranty agency under this section.

"(2)(A) The Secretary shall require the designated guaranty agency for a State to require each eligible lender subject to a default management plan to carry out any or all of the default management provisions set forth in subparagraph (B). The default management provisions selected for inclusion in the default management plan shall be based upon the results of an evaluation of operations conducted by the guaranty agency.

"(B) The default management provisions to which subparagraph (A) applies are—

"(i) additional training in the administration of the programs under part B of this title;

"(ii) development of personal financial planning materials to be used in counseling borrowers on planning for repayment of Stafford Loans;

"(iii) establishment of a loan repayment lenders hot line under which borrowers may receive information relating to the repayment status of the student loan, deferments, forbearances, and other rights and responsibilities under the Stafford Loan program;

"(iv) development of information readily understood by the average student relating to forbearance, deferments, and consolidation opportunities;

"(v) provision of additional services, including collection and skip-tracing activities, relating to loans held by the lender in any case in which the borrower cannot be found;

"(vi) provisions for the eligible lender to collect additional information from borrowers, but which may not be required to be a part of the loan application;

"(vii) additional program reviews or audits relating to the performance of responsibilities under the Stafford student loan program;

"(viii) provisions requiring loans to be multiply disbursed regardless of program length; and

"(ix) provisions for technical assistance to be furnished by the State guaranty agency or its designee.

"(C) The designated guaranty agency, with the agreement of the lender, may require other measures designed to increase the collection of student loans, particularly measures which are appropriate to the eligible lender subject to the default management plan.

"(3)(A) The Secretary shall require each designated guaranty agency for a State to require each eligible institution to which a default management plan applies to carry out any or all of the default management provisions set forth in subparagraph (B). The default management provisions selected for inclusion in the default management plan shall be based upon the results of an evaluation of operations conducted by the guaranty agency.

"(B) The default management provisions to which subparagraph (A) applies are—

"(i) additional training in the administration of the programs under part B of this title;

"(ii) provisions requiring that an eligible institution take necessary action, including reporting information on new addresses of student borrowers, for students who are delinquent or in default within 45 days of the notification of delinquency or default;

"(iii) provisions for technical assistance in the operation of Stafford student loan programs to be provided by the guaranty agency or its designee;

"(iv) provisions for entrance interviews for student borrowers to be conducted by the eligible institution;

"(v) provisions for enhanced information sharing with the guaranty agency;

"(vi) provisions for an independent audit of the operation of the student financial aid programs under part B of this title of the eligible institution;

"(vii) provisions requiring that the eligible institutional verification required by section 484(f) of this Act on student loan eligibility data be increased up to 100 percent of such verification;

"(viii) provisions requiring that the eligible institution collect additional information from borrowers;

"(ix) periodic reporting on the status of students receiving aid under part B of this title at the eligible institution;

"(x) provisions for an eligible institution to furnish the guaranty agency with information on student admissions procedures, withdrawals, and placement rates; and

"(xi) provisions to prevent loan defaults by altering student aid packaging policies at the institution.

"(C) The designated guaranty agency, with the agreement of the institution, may require other measures designed to increase the collection of student loans, particularly measures which are appropriate for the eligible institution subject to the default management plan.

"(c) PROCEDURAL REQUIREMENTS.—(1) Each default management plan required by this section shall be developed not later than 120 days after the Secretary or the guaranty agency, as the case may be, determines that such a plan is required pursuant to subsection (a) or subsection (b), as the case may be. Each such default plan shall be for a period of 3 years.

"(2) Each default management plan which is developed during the first fiscal year after

the date of enactment of the Stafford Student Loan Default Prevention and Management Act of 1988 shall be based upon an initial determination of the default rate in accordance with subsection (e)(5)(B).

"(3) Whenever a guaranty agency, an eligible lender, or an eligible institution notifies the Secretary that—

"(A) the action of the Secretary, or of a guaranty agency, in requiring a default management plan under this section is arbitrary, or

"(B) in carrying out the enforcement provisions of this section and the determination of eligibility under sections 435(j), 435(d), and 435(a) of this Act with respect to a default management plan, the action of the Secretary or a guaranty agency is arbitrary,

the Secretary shall afford the guaranty agency, the eligible lender, or the eligible institution, as the case may be, notice and opportunity for a hearing.

"(d) ENFORCEMENT PROCEDURES.—(1) If any eligible institution or eligible lender fails to substantially comply with the default management plan to which such institution or lender is subject—

"(A) the Secretary shall initiate a limitation, suspension, or termination proceeding under section 487(c)(1)(D) with respect to an eligible institution's eligibility to participate in the program under part B of this title, or

"(B) the Secretary, through the appropriate guaranty agency, shall initiate a limitation, suspension, or termination proceeding under section 428(b)(1)(U) with respect to an eligible lender's eligibility to participate in the program under part B of this title.

"(2) If any eligible institution or eligible lender fails to reduce the default rate below 25 percent within 3 years after entering into a default management plan under this section—

"(A) the Secretary, upon the recommendation of the appropriate guaranty agency, shall initiate a limitation, suspension, or termination proceeding under section 487(c)(1)(D) with respect to an eligible institution's eligibility to participate in the program under part B of this title, or

"(B) the Secretary, upon the recommendation of the appropriate guaranty agency, through the appropriate guaranty agency, shall initiate a limitation, suspension, or termination proceeding under section 428(b)(1)(U) with respect to an eligible lender's eligibility to participate in the program under part B of this title.

"(3) If any eligible institution or eligible lender fails to drop the default rate below 25 percent within 3 years after entering into a default management plan under this section, and is not subject to subparagraph (A) or (B) of paragraph (2), such an eligible institution or eligible lender shall enter into a new default management plan in accordance with the provisions of this section.

"(4) Each guaranty agency, in considering the recommendation authorized under paragraph (2)(A), shall take into account—

"(A) the progress made by the institution in reducing the number or dollar value of defaulted loans in each of the 3 years covered by the default management plan;

"(B) the employment status of the borrower at the time the defaults occurred;

"(C) the socio-economic status of the students served by the institution as indicated by the Pell Grant eligibility index of those student borrowers in default;

"(D) the presence of significant numbers of ability-to-benefit students among the borrowers in default and a demonstrated institutional record of successfully educating or training such students; and

"(E) the economic health and general state of employment in the region.

"(e) CALCULATION OF DEFAULT RATE.—(1) For the purpose of this section, the Secretary shall prescribe the method of calculating the default rate in accordance with paragraphs (2) through (7).

"(2) The default rate shall be expressed as a percentage for the subject fiscal year, determined by dividing—

"(A) the total original principal amount of loans which entered repayment in the fiscal year for which the determination is made and on which reinsurance claims are filed in the fiscal year for which the determination is made plus the 2 succeeding fiscal years; by

"(B) the total principal outstanding on loans in repayment which entered repayment in the fiscal year for which the determination is made.

"(3) The default rate for a subject fiscal year calculated under paragraph (2) shall be further modified by averaging the default rate calculated for the fiscal year, the default rate calculated for the fiscal year preceding the fiscal year for which the determination is made, and the default rate for the second preceding fiscal year for which the determination is made.

"(4) The Secretary shall calculate the default rate for guaranty agencies, for eligible lenders, and for eligible institutions.

"(5)(A) The Secretary shall calculate the default rate for fiscal year 1986, and for each succeeding fiscal year.

"(B) For the first year after the date of enactment of this section, the Secretary shall calculate the default rate in accordance with paragraphs (2) and (3) with such modifications as the Secretary determines may be necessary. In carrying out the provisions of this subparagraph, the Secretary may average 2 fiscal years for the default rate for such first year calculation.

"(6) In calculating the default rate in accordance with this subsection, the Secretary shall—

"(A) delete from the calculation described in paragraph (2)(A) the amount of loans in default that return to repayment status; and

"(B) with respect to the default rate for an eligible institution, include only loans attributable to the institution which the student attended when the loan was made.

"(7) The Secretary shall, whenever data is unavailable, make necessary estimates consistent with the provisions of this subsection to carry out the provisions of this subsection.

"(f) DEFINITION.—For the purpose of this section, the term 'eligible lender' includes the holder of the loan.".

(b) CONFORMING AMENDMENTS.—(1) Section 435(j) of the Act is amended—

(A) by inserting "(1) IN GENERAL.—" before "The"; and

(B) by adding at the end thereof the following new paragraph:

"(2) DISQUALIFICATION FOR FAILURE TO DEVELOP DEFAULT MANAGEMENT PLAN.—The term 'guaranty agency' does not include any such agency which fails or refuses to develop a default management plan in accordance with section 430B.".

(2) Section 435(d) of the Act is amended by inserting after paragraph (5) the following new paragraph:

"(6) DISQUALIFICATION FOR FAILURE TO DEVELOP DEFAULT MANAGEMENT PLAN.—The term 'eligible lender' does not include any such lender which fails or refuses to develop a default management plan in accordance with section 430B.".

(3) Section 435(a) of the Act is amended by adding at the end thereof the following new paragraph:

"(3) DISQUALIFICATION FOR FAILURE TO DEVELOP DEFAULT MANAGEMENT PLAN.—The term 'eligible institution' does not include any such institution which fails or refuses to develop a default management plan in accordance with section 430B.".

## TITLE II—IMPROVED STAFFORD STUDENT LOAN COLLECTION PROVISIONS

### SEC. 201. PROVISION OF FINANCIAL AID TRANSCRIPTS.

Section 428(a)(2) of the Act is amended by adding after subparagraph (F) the following new subparagraph:

"(G) In order to facilitate the efficient carrying out of subparagraphs (A) and (B) of this section, each eligible institution shall transmit, upon request of another eligible institution, the financial aid transcripts necessary for making the statement evidencing a determination of need for a loan under such subparagraphs, within 30 days of receiving such request.".

### SEC. 202. REPAYMENT NOTICE TO BORROWER.

(a) FISL PROGRAM.—Section 427(a)(2)(B)(ii) of the Act is amended by inserting before the semicolon a comma and the following: "and the Secretary may require the lender (or the holder of the loan) to notify the borrower not later than 180 days after the lender is notified that the borrower has left the eligible institution of the month in which the repayment period begins".

(b) STAFFORD PROGRAM.—Section 428(b)(2)(E) of the Act is amended—

(1) by inserting "(i)" after the subparagraph designation;

(2) by striking out the period at the end thereof and inserting a semicolon and "and"; and

(3) by adding at the end thereof the following new clause:

"(ii) provides that the lender (or the holder of the loan) shall notify the borrower not later than 180 days after the lender is notified that the borrower has left the eligible institution of the month in which the repayment period begins;".

### SEC. 203. NOTICE BY LENDER OF SALE OF LOAN.

Section 428(b)(2) of the Act is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a semicolon and "and"; and

(3) by inserting after subparagraph (E) the following:

"(F) provide that the lender will be required to notify the guaranty agency of any sale or other transfer of the loan to another holder and the address and phone number through which to contact such other holder concerning repayment of the loan not later than 60 days after such sale or other transfer, and to notify the borrower, or upon request, any eligible institution, of any such sale or transfer, together with such address and phone number, if the sale or transfer requires the borrower to pay the loan at a new address, not later than 60 days after such sale or transfer.".

### SEC. 204. GUARANTY AGENCY PROHIBITION ON THE SALE OF CERTAIN STAFFORD STUDENT LOAN LISTS.

Section 428(b)(3) of the Act is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon and "or"; and

(3) by adding at the end thereof the following:

"(D) sell lists of student borrowers who have loans made, insured, or guaranteed under this part.".

SEC. 205. GUARANTY AGENCY USE OF STATE LICENSING BOARD INFORMATION.

Section 428(b) of the Act is amended by adding at the end thereof the following new paragraph:

"(7) STATE GUARANTY AGENCY INFORMATION REQUEST OF STATE LICENSING BOARDS.—Each guaranty agency is authorized to enter into agreements with each appropriate State licensing board under which the State licensing board, upon request, will furnish the guaranty agency with the address of a student borrower in any case in which the location of the student borrower is unknown or unavailable to the guaranty agency.".

SEC. 206. SPECIAL LIMITATION ON THE DEFERMENT OF PAYMENT OF PRINCIPAL AND INTEREST ON PLUS LOANS.

Section 428B(c)(1) of the Act is amended—

(1) by striking out "(A)"; and

(2) by striking out "; and (B) during any period during which the borrower has a dependent student for whom a loan obligation was incurred under the section and who meets the conditions required for a deferral under clause (i) of either such section".

SEC. 207. CREDIT CHECKS AND COSIGNERS FOR PLUS LOANS.

(a) IN GENERAL.—Section 428B of the Act is amended by adding at the end thereof the following new subsection:

"(e) CREDITWORTHINESS REQUIRED.—An eligible lender shall obtain a credit report on any applicant for a loan under this section from at least one national credit bureau organization. The eligible lender may charge the applicant an amount not to exceed the lesser of $25 or the actual cost of obtaining the credit report. An applicant who, the eligible lender determines has a negative credit history shall be denied a loan unless the applicant obtains a creditworthy cosigner in order to obtain the loan, except that for purpose of this subsection, an insufficient or nonexistent credit history may not be considered to be a negative credit history.".

(b) CONFORMING AMENDMENT.—Section 428B(a) of the Act is amended by striking out "subsections (c) and (d)" and inserting in lieu thereof "subsections (c), (d), and (e)".

SEC. 208. ADMINISTRATIVE FEE FOR SLS LOANS AND FOR PLUS LOANS.

(a) ADMINISTRATIVE FEE FOR SLS LOANS.—Section 428A of the Act is amended by adding at the end thereof the following new subsection:

"(e) ADMINISTRATIVE FEE REQUIRED.—(1) An eligible lender is authorized to charge the borrower an administrative fee in an amount not to exceed 5 percent of the principal amount of the loan to be paid by the eligible lender to the Secretary in accordance with the provisions of this subsection.

"(2) The Secretary shall enter into agreements with eligible lenders under which the administrative fee which the eligible lender is authorized to charge pursuant to paragraph (1) of this subsection is paid to the Secretary.

"(3) No loan made under this section may be guaranteed under this part unless the eligible lender enters into an agreement with the Secretary under paragraph (2).".

(b) ADMINISTRATIVE FEE FOR PLUS LOANS.—Section 428B of the Act (as amended by section 206 of this Act) is further amended by adding at the end thereof the following new subsection:

"(f) ADMINISTRATIVE FEE REQUIRED.—(1) An eligible lender is authorized to charge the borrower an administrative fee in an amount not to exceed 5 percent of the principal amount of the loan to be paid by the eligible lender to the Secretary in accordance with the provisions of this subsection.

"(2) The Secretary shall enter into agreements with eligible lenders under which the administrative fee which the eligible lender is authorized to charge pursuant to paragraph (1) of this subsection is paid to the Secretary.

"(3) No loan made under this section may be guaranteed under this part unless the eligible lender enters into an agreement with the Secretary under paragraph (2).".

SEC. 209. LOAN CONSOLIDATION LIMITATION.

Section 428C(a)(4) of the Act is amended—

(1) by striking out "For" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), for";

(2) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(3) by adding at the end thereof the following new subparagraph:

"(B) The term 'eligible student loan' does not include any loan which is obtained for a course of study of 12 months or less, unless the amount to be consolidated is greater than $7,500.".

SEC. 210. ADDITIONAL REQUIREMENTS WITH RESPECT TO DISBURSEMENT AND ENDORSEMENT OF STAFFORD STUDENT LOANS.

(a) GENERAL RULE.—Part B of title IV of the Act is amended by inserting after section 428F the following new section:

"REQUIREMENTS FOR DISBURSEMENT AND ENDORSEMENT OF STUDENT LOANS

"SEC. 428G. (a) MULTIPLE DISBURSEMENT REQUIRED.—

"(1) TWO DISBURSEMENTS REQUIRED.—The proceeds of any loan made, insured, or guaranteed under this part that is made for any period of enrollment that ends 180 days (or 6 months) or more after the first day of the period of enrollment, and that is for an amount of $1,000 or more, shall be disbursed in 2 or more installments, none of which exceeds one-half of the loan.

"(2) MINIMUM INTERVAL REQUIRED.—The interval between the first and second such installments shall be not less than one-half of such period of enrollment, except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment.

"(b) INITIAL DISBURSEMENT AND ENDORSEMENT REQUIREMENTS.—

"(1) FIRST YEAR STUDENTS.—The first installment of the proceeds of any loan made, insured, or guaranteed under this part that is made to a student borrower who is entering the first year of a program of postsecondary education, and who has not previously obtained a loan under this part, shall not (regardless of the amount of such loan or the duration of the period of enrollment) be endorsed by the eligible institution until 30 days after the borrower begins a course of study but may be delivered to the eligible institution prior to the end of the 30-day period.

"(2) OTHER STUDENTS.—The proceeds of any loan made, insured, or guaranteed under this part that is made to any student other than a student described in paragraph (1) shall not be disbursed more than 30 days prior to the beginning of the period of the enrollment for which the loan is made.

"(c) METHOD OF MULTIPLE DISBURSEMENT.—Disbursements under subsections (a) and (b)—

"(1) shall be made in accordance with a schedule provided by the institution (under section 428(a)(2)(A)(i)(III)) that complies with the requirements of this section; and

"(2) may be made directly by the lender or, in the case of a loan under section 428, may be disbursed pursuant to the escrow provisions of subsection (i) of such section.

"(d) WITHHOLDING OF SECOND DISBURSEMENT.—A lender or escrow agent that is informed by the borrower or the institution that the borrower has ceased to be enrolled on at least a half-time basis before the disbursement of the second or any succeeding installment shall withhold such disbursement.

"(e) AGGREGATION OF MULTIPLE LOANS.—All loans made, insured, or guaranteed under this part other than loans made under section 428A issued for the same period of enrollment shall be considered as a single loan for the purposes of subsection (a) of this section. All loans made pursuant to section 428A of the Act issued for the same period of enrollment shall be considered as a single loan for the purposes of subsection (a) of this section.

"(f) EXCLUSION OF PLUS, CONSOLIDATION, COMBINED PAYMENT PLAN, AND FOREIGN STUDY LOANS.—The provisions of this section shall not apply in the case of a loan made under section 428B, 428C, or 485A or made to a student to cover the cost of attendance at an eligible institution outside the United States.".

(b) CONFORMING AMENDMENTS.—

(1) TRANSMITTAL OF INSTITUTION SCHEDULES TO LENDERS.—Section 428(a)(2)(A)(i) of the Act is amended—

(A) by striking "and" at the end of clause (I); and

(B) by inserting after clause (II) the following:

"(III) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G; and".

(2) FEDERALLY INSURED LOANS.—Section 427(a)(4) of the Act is amended to read as follows:

"(4) the funds borrowed by a student are disbursed in accordance with section 428G.".

(3) STAFFORD LOANS.—Section 428(b)(1)(O) of the Act is amended to read as follows:

"(O) provide that the proceeds of the loans will be disbursed in accordance with the requirements of section 428G;".

SEC. 211. EXTENDED COLLECTION DEMONSTRATION PROGRAM.

Part B of title IV of the Act (as amended by section 210 of this Act) is further amended by inserting after section 428G the following new section:

"EXTENDED COLLECTION AND DEMONSTRATION PROGRAM

"SEC. 428H. (a) AGREEMENTS FOR DEMONSTRATION PROGRAM.—(1) The Secretary shall, in accordance with the provisions of this section, enter into agreements with guaranty agencies for the establishment of not to exceed 3 demonstration programs for extended efforts on delinquent student loans originally guaranteed by the guaranty agency designed to reduce defaults under this part.

"(2) For the purpose of paragraph (1), the term 'guaranty agency' means a guaranty

agency described in section 435(j) and section 435(d)(1)(D).

"(b) SELECTION OF PARTICIPANTS.—(1) Each guaranty agency desiring to participate in the program authorized by this section shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

"(2) The Secretary shall select participants to establish extended collection programs under this section on the basis of—

"(A) the applicant's experience and success in working with borrowers and eligible lenders to prevent defaults, including the use of forbearance;

"(B) the applicant's experience and success in the use of preclaims assistance, and, if applicable, supplemental preclaims assistance to reduce defaults;

"(C) evidence that the applicant will use the program authorized by this section for borrowers who attended traditional 4-year institutions, community colleges, and vocational technical schools, which substantially reflect the overall portfolio of the lenders;

"(D) the novel and innovative approaches that the applicant proposes to use in the extended collection demonstration program; and

"(E) the commitment of the applicant to the program, as documented in the application.

"(3) Each such application shall include—

"(A) the modified eligible lender agreement the guaranty agency has adopted for use by eligible lenders participating in the program;

"(B) a description of the novel and innovative approaches that the applicant will use in the extended collection demonstration program; and

"(C) such additional information as the Secretary may reasonably require to evaluate applications.

"(4) In selecting participants under this section, the Secretary shall give priority to applications submitted by guaranty agencies having extensive experience in the administration and collection of student loans, either directly or through use of contract loan servicers.

"(c) PROGRAM AGREEMENT.—Each agreement entered into under this section shall include—

"(1) the provision of individualized or flexible repayment plans, including plans designed to meet the needs of borrowers participating in the program who face financial difficulty in repaying their loan;

"(2) the performance of due diligence efforts consisting of not less than one telephone attempt and one letter to the borrowers every 2 weeks; and

"(3) the provision requiring the eligible lenders to furnish to the guaranty agency records of collection efforts and techniques, as specified by the guaranty agency or the Secretary, or both.

"(d) ELIGIBILITY OF LOANS FOR INCLUSION IN THE PROGRAM.—Loans made under this part shall be eligible for extended collection pursuant to this section, if—

"(1) the location of the borrower is known;

"(2) the borrower has made no payments or missed at least 2 consecutive payments;

"(3) the loan is at least 120 but less than 180 days delinquent and all due diligence required to the point of sale has been performed;

"(4) the loan entered repayment in fiscal year 1987 or later;

"(5) the participating guarantor has provided preclaims assistance pursuant to a request by the eligible lender at 60 to 90 days of delinquency; and

"(6) the eligible lender providing extended collection efforts is not in possession of information that the loan may be uncollectible.

"(e) LENDER ELIGIBILITY TO PARTICIPATE.—An eligible lender may participate in the program authorized by this section pursuant to an agreement entered into under subsection (a), if—

"(1) the eligible lender has an agreement with the guaranty agency with which the application is being filed for the guaranty of consolidation loans under section 428C;

"(2) the eligible lender is not subject to a limitation, suspension, or termination agreement or default management plan under this part; and

"(3) the eligible lender meets such other criteria as the guaranty agency and the Secretary may reasonably require.

"(f) EXTENDED COLLECTION PERIOD.—Notwithstanding any other provision of law, loans held pursuant to this part and included in the program authorized by this section may be held by the eligible lender for—

"(1) 540 days after the loan becomes delinquent with respect to any installment;

"(2) not more than 30 days after the eligible lender participating under this section determines, in accordance with guidelines promulgated by the guaranty agency, that no further collection effort on the loan is likely to result in repayment by the borrower; or

"(3) a period that is within 30 days after notification from the guaranty agency, but no earlier than the 270th day of delinquency,

whichever comes first.

"(g) REPORTS TO THE SECRETARY AND TO THE CONGRESS.—(1) Each participant with an agreement with the Secretary to offer an extended collection program shall submit a report once a year to the Secretary describing—

"(A) the effectiveness of the program, including statistics on the number of accounts brought into repayment between the 180th day and the submission of the claim;

"(B) a statistical summary of the basis for cures of delinquent loans brought current through the program, including specific summaries of the numbers of loans brought into repayment through forbearances, payments, and loan consolidation;

"(C) information on strategies used by eligible lenders in the program to effectuate the initiation of repayment; and

"(D) evidence of efforts to use the program authorized by this section for borrowers who attended traditional 4-year institutions, community colleges, and vocational technical schools, which substantially reflect the overall portfolio of the lenders.

"(2) The Secretary shall, not later than September 30, 1991, prepare and submit an interim report and not later than September 30, 1993, prepare and submit a final report on the demonstration project authorized by this section. The reports required by this section shall evaluate the results of the demonstration conducted under this section, assess the cost and benefits of this demonstration, and include such recommendations as the Secretary may prescribe, including expansion of the demonstration program.

"(h) REGULATIONS.—The Secretary shall, within 120 days of the enactment of this section, prescribe regulations providing for the administration of this section.

"(i) APPLICABILITY OF OTHER TERMS, CONDITIONS, AND BENEFITS.—A loan subject to the provisions of this section shall be subject to the same terms and conditions and qualify for the same benefits and privileges as other loans made under this part, except as otherwise specifically provided for in this section.

"(j) TERMINATION.—The demonstration program shall terminate on September 30, 1993.".

SEC. 212. CREDIT BUREAUS.

(a) NOTICE OF DELINQUENCY.—Section 430A(a) of the Act is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following:

"(3) with respect to any payment on a loan that has been delinquent for 90 days, information concerning the date the delinquency began and the repayment status of the loan; and".

(b) NOTICE TO BORROWER.—Section 430A(c) of the Act is amended—

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

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

(3) by adding at the end the following:

"(5) with respect to notices of delinquency under subsection (a)(3), the borrower is informed that credit bureau organizations will be notified of any payment that is delinquent for 90 days or more.".

(c) LIMITATION ON REPORTING.—Section 463(c)(3)(B) of the Act is amended by striking ", if that account has not been previously reported by any other holder of the notes".

SEC. 213. ELIGIBLE LENDER NOTICE ON DELINQUENT LOANS REQUIRED.

Section 435(d) of the Act (as amended by section 101(b)(2)) is further amended by adding at the end thereof the following new paragraph:

"(7) INFORMATION ON DELINQUENT LOANS.—To be an eligible lender under this part, each eligible lender shall notify the appropriate guaranty agency of the delinquency of a borrower within 120 days of the date on which the loan made, insured, or guaranteed under this part is delinquent and the guaranty agency shall upon request provide such information to an eligible institution.".

SEC. 214. ADDITIONAL BORROWER INFORMATION REQUIRED.

Section 484(b) of the Act is amended by adding at the end thereof the following new paragraph:

"(5) In order to be eligible to receive any loan under this title, a student shall provide to the lender at the time of applying for the loan the driver's license number of the student borrower, if applicable, and the name and address of the next of kin of the student borrower.".

SEC. 215. ABILITY TO BENEFIT.

Section 484(d) of the Act is amended by adding at the end thereof the following new sentence: "No student who qualifies under paragraph (3)(A) or (3)(B) shall be eligible to receive a grant, loan, or work assistance under this Act, if that student is enrolled or accepted for enrollment in a course of study of less than 1 year in preparation for an occupation for which the student must be certified by an agency, other than the eligible institution or institution of higher education in order to begin practice or service, and a high school diploma or its recognized equivalent is a requirement for that certification.".

SEC. 216. EXIT INTERVIEW INFORMATION.

Section 485(b) of the Act is amended by inserting before the last sentence thereof the following new sentence: "Each eligible institution shall require that the borrower, at the completion of the course of study for which the borrower enrolled at the institution or at the time of departure from such institution, submit to the institution, the address of the borrower, the address of the next of kin of the borrower, and the driver's license number, if applicable, of the borrower during the interview required by this subsection.".

SEC. 217. DISCLOSURE OF STATE LICENSING REQUIREMENTS.

Section 487(a)(8) of the Act is amended—

(1) by inserting "(A)" before "the most recent"; and

(2) by inserting before the period at the end thereof a comma and the following: "and (B) relevant State licensing requirements for any job for which the course of instruction is designed for such prospective students".

SEC. 218. WITHHOLDING OF TRANSCRIPTS FROM DEFAULTING BORROWERS.

Section 487(a) of the Act is amended by adding at the end thereof the following:

"(11) The institution will withhold the academic transcripts of any student borrower who is in default on any loan made under this title unless the institution determines that withholding such transcripts will prevent the borrower from obtaining employment and repaying the loan.".

SEC. 219. RESTRICTIONS ON INSTITUTIONAL PROMOTIONAL ACTIVITIES.

Section 487(a) of the Act (as amended by section 214) is further amended by adding at the end thereof the following new paragraph:

"(12) The institution does not—

"(A) use any independent contractor or any person other than salaried employees of the institution to conduct any canvassing, surveying, promoting, or similar activities;

"(B) use any contractor or any person other than salaried employees of the institution to make final determinations that an individual meets the institution's admissions requirements or the criteria of eligibility for financial aid; or

"(C) pay any commission, bonus, or other incentive payment to any person making such final determination.

This paragraph (i) shall not prohibit a volunteer, independent contractor, or person other than a salaried employee from being reimbursed for actual expenses related to activities described in subparagraph (A), and (ii) shall not apply to an independent contractor who works exclusively with foreign students who are not eligible to apply for title IV assistance because of each such student's nationality.".

SEC. 220. ACADEMIC YEAR DEFINITION.

Section 487(a) of the Act (as amended by sections 214 and 215) is further amended by adding at the end thereof the following new paragraph:

"(13) The institution will use the same definition of 'academic year' for all programs authorized by this title.".

SEC. 221. LIMITATION, SUSPENSION, AND TERMINATION ON ACCOUNT OF CONTRACTORS.

Section 487(c)(1) of the Act is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end thereof the following:

"(E) the limitation, suspension, or termination of the eligibility of an otherwise eligible institution, or the imposition of a civil penalty under paragraph (2)(B), whenever the Secretary determines, after reasonable notice and opportunity for a hearing on the record, that an individual or organization having a contract with such institution to administer any aspect of the institution's student assistance program under this title, has violated or failed to carry out any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation and that the eligible institution failed to terminate the contract, except that no period of suspension under this subparagraph shall exceed 60 days unless the institution and the Secretary agree to an extension, or unless limitation or termination proceedings are initiated by the Secretary within that period of time.".

SEC. 222. STUDY OF DISCHARGE OF STAFFORD STUDENT LOANS IN BANKRUPTCY.

(a) STAFFORD STUDENT LOAN DISCHARGE STUDY.—The Comptroller General shall conduct a study relating to the discharge of student loan indebtedness in proceedings in bankruptcy. Such study shall include—

(1) an evaluation of the treatment of student loan debtors under chapter 13 of title 11, United States Code, including—

(A) the frequency of attempts to discharge or the discharging of such loans compared to such attempts to discharge or the discharging of other consumer loans by such students; and

(B) the number and amount of such loans discharged;

(2) an evaluation of the effect of students who attempt to or do discharge such loans relative to the costs of the Stafford Student Loan Program and the institutional costs of the Perkins Loan Program; and

(3) an evaluation of the behavior of student loan debtors who discharge such loans as compared to other debtors who discharge debts in bankruptcy by evaluating such factors as—

(A) the average age of the debtors in each group;

(B) the amounts and types of debts sought to be discharged by each group; and

(C) the percentage of discharge of other types of consumer debts by each group.

(b) STAFFORD STUDENT LOAN DISCHARGE REPORT.—The Comptroller General shall prepare a report of the study required by this section and shall submit the study to the Congress within 3 years after the date of enactment of this Act.

## TITLE III—FEDERAL RESPONSIBILITIES

SEC. 301. ADMINISTRATIVE PROVISIONS RELATING TO REDUCTION OF DEFAULT.

Part B of title IV of the Act is further amended by inserting after section 432 the following new section:

"ADMINISTRATIVE PROVISIONS RELATING TO THE REDUCTION OF DEFAULT

"SEC. 432A. (a) GENERAL AUTHORITY.—(1) The Secretary shall develop and publish an annual default report to the Congress beginning on December 31, 1988, which shall include the annual default rate for the Stafford student loan program under this part.

"(2)(A) The report required by this section shall include a summary of the default rates determined under section 101(e). The report shall also include the net dollar value in default for each guaranty agency, each eligible lender, and each eligible institution.

"(B) The Secretary shall prepare a list of guaranty agencies and a list of eligible institutions in the order of the dollar value of Stafford student loans in default for each such agency and institution. The Secretary shall identify the highest 5 percent of guaranty agencies and eligible institutions on the lists required by this subparagraph.

"(b) PROGRAM REVIEW OF ELIGIBLE INSTITUTIONS AND ELIGIBLE LENDERS.—The Secretary shall develop a plan for the conduct of program reviews of all eligible institutions, all guaranty agencies, and all eligible lenders. The plan shall be published in the Federal Register for public comment. The Secretary shall report to the Congress annually on the results of the reviews required by this subsection.

"(c) PRIORITY FOR PROGRAM REVIEW.—In carrying out the provisions of subsection (b), the Secretary shall give priority to the conduct of program reviews of guaranty agencies and eligible institutions which have the highest rates of default on such loans, and which have the highest dollar value of loans made, insured, or guaranteed under part B which are in default.

"(d) REVIEW AND DISSEMINATION OF MODEL AND CONSTRUCTIVE DEFAULT PREVENTION PROCEDURES.—The Secretary shall collect, analyze, and disseminate information on novel and model default prevention procedures.".

SEC. 302. REGULATIONS FOR INSTITUTIONAL DISCLOSURE OF BORROWER RECORDS.

The Secretary shall promulgate regulations specifying the legal restrictions and the requirements of eligible institutions relating to loan counseling and reporting requirements including but not limited to disclosure of borrower records to third parties, the Fair Debt Collection Practices Act, and any other applicable Federal law.

SEC. 303. EFFECT OF LOSS OF ACCREDITATION.

(a) STATUS AS ELIGIBLE INSTITUTION FOR STAFFORD STUDENT LOAN PROGRAM.—Section 435 of the Act (20 U.S.C. 1085) is amended—

(1) in subsection (a)(1), by striking out "The term" and inserting "Subject to subsection (m), the term"; and

(2) by adding at the end thereof the following:

"(m) IMPACT OF LOSS OF ACCREDITATION.—An institution may not be certified or recertified as an eligible institution under subsection (a) of this section if such institution—

"(1) had its institutional accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months; or

"(2) has withdrawn from institutional accreditation voluntarily under a show cause order, suspension order, or other similar order during the preceding 24 months;

unless—

"(A) such accreditation has been restored by the same accrediting agency which had accredited it prior to the withdrawal, revocation, or termination; or

"(B) the institution has demonstrated its academic integrity to the satisfaction of the Secretary in accordance with section 1201(a)(5)(A) or (B) of this Act.".

(b) STATUS AS ELIGIBLE INSTITUTION FOR OTHER TITLE IV PROGRAMS.—Section 481 of the Act (20 U.S.C. 1088) is amended—

(1) in subsection (a)(1), by striking out "For the purpose" and inserting "Subject to subsection (e), for the purpose"; and

(2) by adding at the end thereof the following:

"(e) IMPACT OF LOSS OF ACCREDITATION.—An institution may not be certified or recertified as an eligible institution under subsection (a) of this section if such institution—

"(1) had its institutional accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months; or

"(2) has withdrawn from institutional accreditation voluntarily under a show cause order, suspension order, or other similar order during the preceding 24 months;

unless—

"(A) such accreditation has been restored by the same accrediting agency which had accredited it prior to the withdrawal, revocation, or termination; or

"(B) the institution has demonstrated its academic integrity to the satisfaction of the Secretary in accordance with section 1201(a)(5) (A) or (B) of this Act.".

SEC. 304. SPECIAL ACCREDITATION RULES.

Section 487(c) of the Act is amended—

(1) by redesignating paragraph (3) as paragraph (5); and

(2) by adding after paragraph (2) the following new paragraphs:

"(3) The Secretary is authorized to carry out the provisions of paragraph (1)(D), relating to limitation, suspension, or termination of an eligible institution whenever the institution withdraws from a nationally recognized accrediting agency or association during a show cause or suspension proceeding brought against that institution.

"(4)(A) Whenever a nationally recognized accrediting agency or association reports pursuant to subparagraph (B) that an eligible institution was denied institutional accreditation, the Secretary is authorized to carry out the provisions of paragraph (1)(D) relating to limitation, suspension, or termination of an eligible institution.

"(B) The Secretary is authorized to enter into such arrangements with accrediting agencies and associations as may be necessary to assure notice of the denial of institutional accreditation in order to carry out subparagraph (A).".

SEC. 305. ELIGIBLE INSTITUTION ACCREDITATION RULE.

Section 481(a) of the Act is amended by inserting after paragraph (2) the following new paragraph:

"(3) Whenever the Secretary determines accreditation for the purpose of paragraph (1), the Secretary shall not approve the accreditation of any eligible institution of higher education under this section if the eligible institution of higher education is in the process of receiving new institutional accreditation by a national or regional accreditation agency unless the eligible institution submits to the Secretary all materials relating to the prior accreditation, including the reasons, if applicable, for changing the accrediting agency or association.".

SEC. 306. TOLL-FREE CONSUMER HOTLINE.

Section 485 of the Act is amended by adding at the end thereof the following new paragraph:

"(e) TOLL-FREE CONSUMER HOTLINE.—(1) In addition to the toll-free telephone information provided for in section 483, the Secretary shall contract for, or establish, and publicize a toll-free telephone number for use by the public, in order to permit students who allege fraud or unfair practices by eligible institutions to inform the Department of such fraud or unfair practices.

"(2) The Secretary shall, directly or by way of contract or other arrangement, make the toll-free telephone number, and the availability of the consumer hotline established by this subsection, generally available to students receiving financial assistance under this title.".

SEC. 307. NATIONAL STUDENT LOAN DATA SYSTEM.

(a) DATA SYSTEM REQUIRED.—(1) Section 485B(a) of the Act is amended by striking out "is authorized to" and inserting in lieu thereof "shall".

(2) Section 485B(a) of the Act is amended by adding at the end thereof the following new sentence: "The Secretary shall assure that the computerized student loan data system required by this subsection is operational not later than October 1, 1989.".

(b) IMPROVED INFORMATION.—Section 485B of the Act is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by adding after subsection (b) the following new subsection:

"(c) IMPROVED INFORMATION.—(1) Each guaranty agency shall furnish the Department of Education with information on the amount of each loan made, insured, or guaranteed under this part for which the agency provides a guarantee and other relevant data with respect to such loan. The information furnished under this paragraph shall be used in the National Student Loan Data System established under this section.

"(2) Each guaranty agency shall expand and standardize the confirmation reports required to be submitted on the date of enactment of the Stafford Student Loan Default Prevention and Management Act of 1988 in order to assure that such information is provided at least quarterly on student loan delinquencies, defaults, and the change in the status of a borrower whose loan is delinquent or in default.

"(3) Each guaranty agency shall provide the Secretary with complete and accurate data on a quarterly basis in order to facilitate the usefulness of the National Student Loan Data System under this section.".

SEC. 308. TUITION REFUNDS.

(a) REFUND RULE.—Section 487(c)(2)(B)(i) of the Act is amended by adding at the end thereof the following new sentence: "In addition, the Secretary may require such eligible institutions to make refunds in accordance with division (iii).".

(b) REFUND PROCEDURES.—Section 487(c)(2)(B) of the Act is amended by adding the following new division after division (ii):

"(iii) When the Secretary determines there has been a violation, failure, or misrepresentation pursuant to division (i), the Secretary may require the institution to refund the student's tuition and fees. The Secretary shall establish procedures for refunding the tuition and fees. Such procedures shall—

"(I) first require the payment by the institution to the United States Government of any portion of the tuition and fees paid with Federal funds received under this title (other than funds under subpart 3 of part A and part B of this title); and

"(II) then require payment by the institution to the lender of that portion of the tuition and fees attributable to a loan made, issued, or guaranteed under part B of this title.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 60 days after the date of enactment of this Act.

## TITLE IV—AMENDMENTS TO THE NEEDS ANALYSIS PROVISIONS

SEC. 401. DEFINITION OF INDEPENDENT STUDENT.

Section 480(d) of the Act is amended to read as follows:

"(d) INDEPENDENT STUDENT.—The term 'independent', when used with respect to a student, means any individual who—

"(1) is 24 years of age or older by December 31 of the first calendar year of the award year;

"(2) is an orphan or is or has been a ward of the court;

"(3) is a veteran of the Armed Forces of the United States;

"(4) is a graduate or professional student and will not be claimed by his or her parents (or guardian) for income tax purposes for the award year;

"(5) is married or has legal dependents;

"(6) is an undergraduate student who was not claimed by his or her parents (or guardian) for income tax purposes for the 2 calendar years preceding the first calendar year of the award year, and who either was awarded assistance under this title as an independent student in the prior year, or demonstrates to the student financial aid administrator total self-sufficiency during the 2 calendar years preceding the first calendar year of the award year by demonstrating annual total resources (including all sources other than parents and student aid) of $4,000; or

"(7) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.".

SEC. 402. MODIFICATION TO COMPUTATION OF CONTRIBUTIONS.

(a) PELL GRANT NEEDS ANALYSIS.—(1) Section 411B(b)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meets the requirements of section 484(a)(1)".

(2) Section 411C(a)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meet the requirements of section 484(a)(1)".

(3) Section 411D(a)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meet the requirements of section 484(a)(1)".

(b) GENERAL NEEDS ANALYSIS.—(1) Section 475(b)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meets the requirements of section 484(a)(1)".

(2) Section 477(a)(3) of the Act is amended by striking out "a program of postsecondary education" and inserting in lieu thereof "a program of postsecondary education which meet the requirements of section 484(a)(1)".

SEC. 403. STUDENT CONTRIBUTION MODIFICATION.

Section 475(g)(1)(C) of the Act is amended by striking out "70 percent" and inserting in lieu thereof "not less than 50 percent".

SEC. 404. PREVENTION OF DOUBLE COUNTING OF INCOME IN ASSET COMPUTATIONS.

(a) PELL GRANT PROGRAM.—Section 411F(2) of the Higher Education Act of 1965 is amended by adding at the end thereof the following: "No cash on hand or other property (or interest therein) of a dependent student shall be treated as an asset of the student (or spouse) for purposes of section 411B(1) except to the extent that such cash or property exceeds the amount the student is required to contribute from discretionary income under section 411B(f).".

(b) OTHER STUDENT ASSISTANCE PROGRAMS.—Section 480(g) of such Act is amended by adding at the end thereof the

following: "No cash on hand or other property (or interest therein) of a dependent shall be treated as an asset of the student (or spouse) for purposes of section 475(h) except to the extent that such cash or property exceeds the amount the student is required to contribute from available income under section 475(g).".

SEC. 405. NEEDS ANALYSIS FINANCIAL AID ADMINISTRATOR ADJUSTMENTS.

(a) IN GENERAL.—(1) Section 479A(a) of the Act is amended to read as follows:

"SEC. 479A. (a) IN GENERAL.—Nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) to allow for treatment of individual students with special circumstances. In addition, nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator to use supplementary information about the financial status or personal circumstance of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts B, C, and E of this title.".

(2) The provision of the second proviso under the heading "Student Financial Assistance" in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1989, is repealed.

(b) SPECIAL RULE.—Section 479A of the Act is amended—

(1) by redesignating subsection (c) as subsection (d), and

(2) by inserting immediately after subsection (b) the following new subsection:

"(c) SPECIAL ADJUSTMENTS.—

"(1) ADJUSTMENTS FOR INDEPENDENT STUDENTS WITH DEPENDENTS.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if the administrator determines that the cost of attendance in section 472 should include costs of food and shelter for dependent care when the total income for independent students with dependents is less than the Standard Maintenance Allowance under section 477(b)(4).

"(2) ADJUSTMENT FOR DISLOCATED WORKER.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if, in the case of dislocated workers—

"(A) the administrator uses the income for the year in which the determination is made (the award year) rather than the income reported in the preceding tax year; and

"(B) the administrator excludes the net value of investments and real estate, including the primary residence in the calculation of the family contribution for the Pell Grant Program and the expected family contribution under part F.

"(3) ADJUSTMENT FOR DISPLACED HOMEMAKER.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if, for displaced homemakers, the administrator excludes the net value of investments and real estate, including the primary residence, from the calculation of the Pell Grant family contribution and from the expected family contribution under part F.".

(c) CONFORMING AMENDMENTS.—(1) Section 479A(d) of the Act (as amended by subsection (a)) is amended by striking out "subsection (b) is an example" and inserting in lieu thereof "subsections (b) and (c) are examples".

(2)(A) Section 411B(g)(1) of the Act is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(B) Section 411B(l) of the Act is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(C) Section 411C(f)(1) of the Act is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(D) Section 411D(f)(3) of the Act is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(E)(i) Section 411F(1)(G) of the Act is repealed.

(ii) Section 411F(9)(E) of the Act is repealed.

(F) Section 475(d)(2)(B) of the Act is amended by striking out "except that in the case of a student who is a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act)".

(G) Section 475(h) of the Act is amended by striking out ", except that in the case of a student who is a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(H) Section 476(c)(2)(B) of the Act is amended by striking out "except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act)".

(I) Section 477(c)(2)(B) of the Act is amended by striking out "except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act)".

SEC. 406. TREATMENT OF VETERANS BENEFITS.

(a) PELL GRANT NEEDS ANALYSIS.—(1) Section 411B(d)(1)(C) of the Act is amended by striking out "one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits," and inserting in lieu thereof "the student's total veterans educational benefits".

(2) Section 411C(c)(1)(C) of the Act is amended by striking out "one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits," and inserting in lieu thereof "the student's total veterans educational benefits".

(3)(A) Section 411D(c)(1)(D) of the Act (as amended by section 403 of this Act) is further amended by striking out "one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits," and inserting in lieu thereof "the student's total veterans educational benefits".

(B) Section 411D(d)(1)(C) of the Act (as amended by section 403 of this Act) is further amended by striking out "one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits," and inserting in lieu thereof "the student's total veterans educational benefits".

(b) GENERAL NEEDS ANALYSIS.—(1) Section 475(a) of the Act is amended—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and the word "and"; and

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

"(4) any veterans educational benefits paid because of enrollment in a postsecondary institution, including (but not limited to) benefits received under chapters 106 and 107 of title 10, and chapters 30, 31, 32, 34, and 35 of title 38, United States Code.".

(2) Section 476(b)(1)(D) of the Act is amended by striking out "plus the amount of veterans' benefits paid during the award period under chapters 32, 34, and 35 of title 28, United States Code" and inserting in lieu thereof "and any veterans educational benefits paid because of enrollment in a postsecondary institution, including (but not limited to) benefits received under chapters 106 and 107 of title 10, and chapters 30, 31, 32, 34, and 35 of title 38, United States Code".

(3) Section 477(a) of the Act is amended—

(A) by inserting "and" at the end of subparagraph (A) of paragraph (1);

(B) by striking out "and" at the end of subparagraph (B) of paragraph (1);

(C) by striking out subparagraph (C) of paragraph (1);

(D) by striking out "and" at the end of paragraph (2);

(E) by adding at the end of paragraph (3) the word "and"; and

(F) by adding at the end thereof the following new paragraph:

"(4) adding any veterans educational benefits paid because of enrollment in a postsecondary institution, including (but not limited to) benefits received under chapters 106 and 107 of title 10, and chapters 30, 31, 32, 34, and 35 of title 38, United States Code;".

(c) CONFORMING AMENDMENT.—Section 428(a)(2)(C)(i) of the Act is amended by striking out "and any amount paid to the student under chapters 32, 34, and 35 of title 38, United States Code" and inserting in lieu thereof "any veterans educational benefits paid because of enrollment in a postsecondary institution, including (but not limited to) benefits received under chapters 106 and 107 of title 10, and chapters 30, 31, 32, 34, and 35 of title 38, United States Code".

SEC. 407. TREATMENT OF NONLIQUID ASSETS.

(a) PELL GRANT NEEDS ANALYSIS.—Section 411F(2) of the Act is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end thereof the following:

"(B) For academic year 1990–1991 and succeeding academic years, the term 'assets' shall not include, in the case of a family with an adjusted gross income which is equal to or less than $30,000, the net value of—

"(i) the family's principal place of residence;

"(ii) a family farm (as that term is defined in regulations prescribed by the Secretary of Agriculture pursuant to the Consolidated Farm and Rural Development Act) on which the family resides; or

"(iii) a small business (as that term is defined in regulations prescribed by the Administrator of the Small Business Administration pursuant to Small Business Act) substantially owned and managed by a member or members of the family.

The Secretary shall, by regulation, provide criteria for determining whether a small business is substantially owned and managed by a member or members of the family.".

(b) GENERAL NEED ANALYSIS.—Section 480(g) of the Act is amended—

(1) by inserting "(1)" after "ASSETS.—"; and

(2) by adding at the end thereof the following:

"(2) For academic year 1990–1991 and succeeding academic years, the term 'assets' shall not include, in the case of a family with an adjusted gross income which is equal to or less than $30,000, the net value of—

"(A) the family's principal place of residence;

"(B) a family farm (as that term is defined in regulations prescribed by the Secretary of Agriculture pursuant to the Consolidated Farm and Rural Development Act) on which the family resides; or

"(C) a small business (as that term is defined in regulations prescribed by the Administrator of the Small Business Administration pursuant to Small Business Act) substantially owned and managed by a member or members of the family.

The Secretary shall, by regulation, provide criteria for determining whether a small business is substantially owned and managed by a member or members of the family.".

(c) SECRETARY TO RECOMMEND ADJUSTMENTS.—Within 60 days after the date of enactment of this Act, the Secretary of Education shall submit to the Congress such recommendations for changes to parts A and F of title IV of the Higher Education Act of 1965 as may be necessary to achieve an equitable assessment of income and assets after exclusion of the assets described in the amendments made by subsections (a) and (b) of this section. Such changes may include changes in the assets protection allowances, asset conversion rates, and other factors used in the determination of expected family contribution.

## TITLE V—OTHER HIGHER EDUCATION AMENDMENTS

### SEC. 501. PELL GRANT PROGRAM AMENDMENT.

Section 411(c)(1)(A) of the Act (20 U.S.C. 1070a(c)(1)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) the number of academic years (or portion of an academic year) that the undergraduate degree or certificate program normally requires, plus one academic year; or

"(ii) 6 academic years in the case of a undergraduate degree or certificate program normally requiring more than 4 academic years;".

### SEC. 502. SUBSIDIZED EMPLOYMENT MODIFICATION UNDER WORK-STUDY.

Section 443(b)(4) of the Act is amended to read as follows:

"(4) provide that for a student employed in a work-study program under this part, at the time income derived from any need-based employment (including non-work-study or both) is in excess of the determination of the amount of such student's need by more than $200, continued employment shall not be subsidized with funds appropriated under this part;".

### SEC. 503. STUDENT LOAN INTERNSHIP DEFERMENTS.

(a) FISL PROGRAM.—Section 427(a)(2)(C)(vii) of the Act is amended by striking out "or serving in an internship or residency program" and everything that follows through the end thereof and inserting in lieu thereof "or serving in a medical internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or health care facility, except that no borrower shall be eligible for a deferment under clause (i)(I) or (i)(II) while serving in a health profession internship or residency program;".

(b) STAFFORD LOAN PROGRAM.—Section 428(b)(1)(M)(vii) of the Act is amended by striking out "or serving in an internship or residency program" and everything that follows through the end thereof and inserting in lieu thereof "or serving in a medical internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or health care facility: *Provided*, That no borrower shall be eligible for a deferment under clause (i)(I) or (i)(II) while serving in a health profession internship or residency program;".

(c) DIRECT STUDENT LOAN PROGRAM.—Section 464(c)(2)(A)(vi) of the Act is amended by striking out "or serving in an internship or residency program" and everything that follows through the end thereof and inserting in lieu thereof "or serving in a medical internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or health care facility: *Provided*, That no borrower shall be eligible for a deferment under clause (i) while serving in a health profession internship or residency program;".

### SEC. 504. STUDENT LOAN MARKETING ASSOCIATION AMENDMENTS.

(a) ESTABLISHMENT.—Section 439(b) of the Act is amended to read as follows:

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the 'Association'). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia or the metropolitan area thereof and shall be deemed, for purposes of jurisdiction and venue in civil actions, to be a District of Columbia corporation. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.".

(b) DIRECTORS.—Section 439(c) of the Act is amended to read as follows:

"(c) BOARD OF DIRECTORS.—

"(1) COMPOSITION OF BOARD; CHAIRMAN.—The Association shall have a Board of Directors (hereinafter in this section referred to as the 'Board') which shall consist of 21 persons, 7 of whom shall be appointed by the President of the United States and shall be representative of the general public. The remaining 14 directors shall be elected by the common stockholders of the Association entitled to vote pursuant to subsection (e). Commencing with the annual shareholders meeting to be held in 1989—

"(A) 7 of the elected directors shall be affiliated with an eligible institution, and

"(B) 7 of the elected directors shall be affiliated with an eligible lender.

The President shall designate 1 of the directors to serve as Chairman.

"(2) TERMS OF APPOINTED AND ELECTED MEMBERS.—The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the expired portion of the term.

"(3) AFFILIATED MEMBERS.—For the purpose of this subsection, the references to a director 'affiliated with an eligible institution' or a director 'affiliated with an eligible lender' means an individual who is, or within 5 years of election to the Board has been, an employee, officer, director, or similar official of—

"(A) an eligible institution or an eligible lender;

"(B) an association whose members consist primarily of eligible institutions or eligible lenders; or

"(C) a State agency, authority, instrumentality, commission, or similar institution, the primary purpose of which relates to educational matters or banking matters.

"(4) MEETINGS AND FUNCTIONS OF THE BOARD.—The Board shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board, and such persons shall be the officers of the Association and shall discharge all such functions, powers, and duties.".

(c) STOCK.—Section 439(f) of the Act is amended to read as follows:

"(f) STOCK OF THE ASSOCIATION.—

"(1) VOTING COMMON STOCK.—The Association shall have voting common stock having such par value as may be fixed by its Board from time to time. Each share of voting common stock shall be entitled to one vote with rights of cumulative voting at all election of directors.

"(2) NUMBER OF SHARES; TRANSFERABILITY.—The maximum number of shares of voting common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board from time to time. Any voting common stock issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(3) DIVIDENDS.—To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on voting common stock by the Board. Such dividends as may be declared by the Board shall be paid to the holders of outstanding

shares of voting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"(4) SINGLE CLASS OF VOTING COMMON STOCK.—As of the effective date of the Student Loan Marketing Association Amendments of 1989, all of the previously authorized shares of voting common stock and nonvoting common stock of the Association shall be converted to shares of a single class of voting common stock on a share-for-share basis, without any further action on the part of the Association or any holder. Each outstanding certificate for voting or nonvoting common stock shall evidence ownership of the same number of shares of voting stock into which it is converted. All preexisting rights and obligations with respect to any class of common stock of the Association shall be deemed to be rights and obligations with respect to such converted shares.".

(d) SHORT TITLE.—This section may be cited as the "Student Loan Marketing Association Amendments of 1989".

SEC. 505. FORMS AND REGULATIONS.

(a) COMMON FINANCIAL REPORTING FORM.—(1) Section 483(a)(1) of the Act is amended by inserting after the first sentence the following new sentences: "The common form shall contain the minimum data elements the Secretary determines is necessary to determine the need and eligibility of the student for financial assistance. There shall be no charge to a student for completing and processing the common form. Other data may be collected and used by approved processors in other parts of the form developed by such processors.".

(2)(A) The first sentence of section 483(a)(2) of the Act is amended by striking ", to the extent practicable,".

(B) The second sentence of section 483(a)(2) of the Act is amended to read as follows: "The Secretary shall select such qualified processors pursuant to competitive bidding processes.".

(C) Section 483(a)(2) of the Act is further amended—

(i) by inserting "(A)" after the paragraph designation; and

(ii) by adding at the end thereof the following new subparagraph:

"(B) In establishing the minimum participation criteria for the competitive bidding process the Secretary shall establish participation requirements that are fair and equitable, and that foster competition in bidding in order to obtain maximum savings for students and for the Department. No processors shall be denied eligibility to compete for a contract because the processor is not a State student financial aid agency or does not service at least two State financial aid agencies.".

(3) Section 483(a)(3) of the Act is amended by striking out "predetermined rate" and inserting in lieu thereof "competitively determined rate".

(4) Section 483(a)(3) of the Act is further amended by adding at the end thereof the following new sentence: "No contractor may be reimbursed for the development costs of an alternative form.".

(b) NOTICE OF FEDERAL STUDENT AID.—Section 483(f) of the Act is amended to read as follows:

"(f) NOTICE OF FEDERAL STUDENT AID RECEIPT.—Each eligible institution shall provide to each recipient of assistance under this title (except assistance received under subparts 4, 5, and 7 of part A) a statement listing the estimated student assistance received by the recipient, and specifying the estimated amount and type of assistance awarded under this title and specifically indicating that such aid is federally supported assistance.".

SEC. 506. REALLOCATION OF RETURNED SEOG FUNDS TO INSTITUTIONS LOCATED IN NATURAL DISASTER AREAS.

Section 413D(e) of the Act is amended by adding at the end thereof the following: "In making such reallocations, the Secretary shall give special consideration to institutions located in areas which are designated to receive assistance because of the occurrence of a major natural disaster.".

SEC. 507. LENDER OF LAST RESORT.

Section 428(j) of the Act is amended by adding at the end thereof the following: "Each State guaranty agency shall ensure that there is a lender of last resort in its State. The lender of last resort shall process loan applications of students enrolled in an eligible institution within 30 days after such application has been filed. The lender of last resort shall make loans to any eligible applicant attending an eligible institution.".

SEC. 508. PERKINS LOAN PROGRAM AMENDMENT.

Section 462(c)(3) of the Act is amended—

(1) by redesignating clause (B) and (C) as clause (C) and (D); and

(2) by inserting after clause (A) the following new clause:

"(B) 75 percent of the cash on hand at the institution under the program authorized by this part for the second year preceding the beginning of the award period;".

SEC. 509. PEACE CORPS, VISTA, AND TAX-EXEMPT ORGANIZATION SERVICE ENCOURAGED.

(a) INFORMATION FOR STUDENTS.—Section 485(a)(1) of the Act is amended—

(1) by striking "and" at the end of subparagraph (J);

(2) by striking the period at the end of subparagraph (K) and inserting in lieu thereof a semicolon; and

(3) by inserting at the end thereof the following new subparagraphs:

"(L) the terms and conditions under which the student may defer repayment of the principal and interest for service under the Peace Corps Act or under the Domestic Volunteer Service Act or for comparable full-time service as a volunteer for a tax-exempt organization; and

"(M) the terms and conditions under which the student may obtain partial cancellation of the student loan for service under the Peace Corps Act and Domestic Volunteer Service Act.".

(b) EXIT COUNSELING FOR BORROWERS.—Section 485(b) of the Act is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding the following new paragraph after paragraph (2):

"(3) the terms and conditions under which the student may defer repayment of the principal and interest for service under the Peace Corps Act or under the Domestic Volunteer Service Act or for comparable full-time service as a volunteer for a tax-exempt organization.".

(c) DEPARTMENT INFORMATION ON DEFERMENTS AND CANCELLATIONS.—Section 485(d) of the Act is amended by inserting the following before the last full sentence: "The Secretary shall provide information on the specific terms and conditions under which students may defer repayment of loans for service under the Peace Corps Act and Domestic Volunteer Service Act or for comparable full-time service as a volunteer with a tax-exempt organization, shall indicate (in terms of the Federal minimum wage) the maximum level of compensation and allowances which a student borrower may receive from a tax-exempt organization to qualify for a deferment, and shall explicitly state that students may qualify for such deferments when they serve as a paid employee of a tax-exempt organization.".

SEC. 510. DATA ON DEFERMENTS AND CANCELLATIONS.

Section 485B(a) of the Act is amended—

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

(2) by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding the following new paragraph after paragraph (4):

"(5) the exact amount of loans in deferment for service under the Peace Corps Act, for service under the Domestic Volunteer Service Act, and for comparable full-time service as a volunteer for a tax-exempt organization.".

SEC. 511. SPECIAL GRANTS TO CONSORTIA FOR THE BENEFIT OF HISTORICALLY BLACK COLLEGES.

(a) PROGRAM AUTHORIZED.—Part B of title IX of the Act is amended by adding at the end thereof the following new section:

"SPECIAL GRANTS TO CONSORTIA FOR THE BENEFIT OF HISTORICALLY BLACK COLLEGES

"SEC. 924. (a) GRANTS AUTHORIZED.—The Secretary may make grants to consortia of institutions of higher education which include historically Black colleges to pay the Federal share of the costs of programs designed to enable such institutions to provide supplemental need based financial aid to students and faculty from historically Black colleges who are pursuing doctoral studies.

"(b) PROGRAM REQUIREMENTS.—(1) The provisions of this part, unless otherwise inconsistent with the provisions of this section, shall apply to grants made under this section.

"(2) The Federal share for each fiscal year shall be 66⅔ percent.".

(b) AUTHORIZATIONS OF APPROPRIATIONS.—Section 971(b) of the Act is amended—

(1) by inserting "(1)" before "There";

(2) by inserting "(other than section 924)" after "part B"; and

(3) by adding at the end thereof the following new paragraph:

"(2) There are authorized to be appropriated to carry out section 924 of part B such sums as may be necessary for the fiscal year 1990 and for the succeeding fiscal year.".

SEC. 512. AUDIT PROVISION.

Section 460 of the General Education Provisions Act is amended by striking out "programs authorized by the Higher Education Act of 1965 and".

## TITLE VI—EFFECTIVE DATES

SEC. 601. EFFECTIVE DATE RULE.

(a) GENERAL RULE.—Except as otherwise provided, the amendments made by this Act shall be effective with respect to any determination of need made under title IV of the Higher Education Act of 1965 for any period of enrollment beginning 60 days after the date of enactment of this Act.

(b) SPECIAL RULE.—(1) The amendments made by title I and sections 405, 504 and 505 shall take effect on the date of enactment of this Act.

(2) The amendments made by title IV (other than sections 405 and 406) and sections 501 and 502 shall take effect for award year 1990–1991 and thereafter.

(3) The amendments made by section 406 shall take effect for award year 1991–1992 and thereafter.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

## TEMPORARY EMERGENCY WILDFIRE SUPPRESSION ACT AMENDMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senateproceed to the immediate consideration of Calendar Order No. 30, H.R. 829, a bill to make permanent the authority provided under the Temporary Emergency Wildlife Suppression Act.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 829) to make permanent the authority provided under the Temporary Emergency Wildfire Suppression Act.

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

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

Mr. LEAHY. Mr. President, the bill introduced Wednesday by Senator MAX BAUCUS, which would permanently authorize cooperation with Canada and other countries in fighting wildfires, is an important piece of legislation. Those of us on the Senate Committee on Agriculture, Nutrition, and Forestry are delighted that Senator BAUCUS brought this issue to our attention. It is extremely important that the Congress give the Secretaries of Agriculture and Interior the authority to cooperate with other countries before the summer fire season of 1989.

In introducing this legislation, Senator BAUCUS is already demonstrating his value as a member of our committee. I look forward to working with him on other important forestry issues.

I also want to take a moment to praise Senator BAUCUS' leadership in insisting that the Senate move quickly on H.R. 829, rather than taking the longer process of moving through committee.

Mr. BAUCUS. Mr. President, I am delighted that the Senate has agreed to my request that we pass this House bill quickly, rather than referring it to the Agriculture Committee.

This bill, like legislation I introduced recently, would give the President permanent authority to enter into international agreements to obtain firefighting assistance from other countries. We saw how important this was last year, when Canadian assistance was essential to help fight the terrible wildfires in the West. Last year, we gave the President authority to enter into such agreements, but that authority has expired. This legislation makes it permanent.

Mr. President, many other steps are necessary. We must repair the damage from last year's fires. We must fairly compensate those who suffered because of the Government's mishandling of the fires. We must increase our efforts to inform tourists that Yellowstone and other attractions remain as breathtaking as ever. And we must make sure that the Departments of Agriculture and Interior have the tools they need in order to fight wildfires swiftly. This legislation will help, and I look forward to working with my colleagues on the other necessary steps.

Finally, I would like to thank the distinguished chairman of the Agriculture Committee, Senator LEAHY, for his assistance in bringing this measure before the Senate.

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. 829) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

## 1989 PRESIDENTIAL ELECTIONS IN PANAMA

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now turn to H.R. 1373, a bill to authorize the payment of expenses of an election observer mission for the 1989 Presidential elections in Panama.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1373) to authorize the Agency for International Development to pay the expenses of an election observer mission for the 1989 presidential election in Panama.

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

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

### TERROR IN PANAMA

Mr. D'AMATO. Mr. President, I rise today to urge the Senate to support H.R. 1373, a bill to authorize the Agency for International Development to pay the expenses of an official election observation mission for the 1989 national elections in Panama.

On May 7, Mr. President, the Panamanian people may have an opportunity to change the course of their recent history. Given the chance, the voters of Panama will vote out a dictatorship, which has ruined their country. Recent polls have shown that more than 80 percent of the electorate oppose the Noriega regime. The opposition is united, organized, and determined.

Unfortunately, Mr. President, there are already signs that Mr. Noriega and his henchmen intend to subvert the election process, in order to guarantee an outcome favorable to his continued dominance. Tens and tens of thousands of voters have already been purged from the rolls. Elementary civil liberties, such as freedom of press, freedom of speech, and freedom of assembly, are nonexistent in Panama today.

Mr. President, the oppression in Panama does not end with Panamanians. The Army Times this week contains a chilling front-page story, and I hold it here, Mr. President. It is incredible: "Terror In Panana." United States servicemen in Panama have been abducted. U.S. servicemen. "United States citizens have been abducted, beaten, kicked, and hand guns held against their heads," say current and former Government officials. "Despite an escalating pattern of harassment against U.S. military personnel and their families, high-ranking military officials have sought to downplay the extent of the incidents in order to avoid new confrontation with Panama's leader, General Manuel Noriega," including Adm. William Crowe, Chairman of the Joint Chiefs of Staff.

Mr. President, let me share with the Senate some accounts. This is chilling, as it relates to the terror in Panama, terror and activities directed toward U.S. citizens. Here is one sailor, recalling his brush with death at the hands of Noriega's transit police.

He says, "I thought I was going to die. Nobody misses from that close." That is how Navy Damage Controlman First Mike Nieves recalls his nightmarish encounter with the Panama Defense Forces' transit policy. Sent to Panama's international airport to pick up official visitors, Nieves was waylaid by police agents who beat and kicked him and forced him to plead for his life while threatening to execute him.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

[From the Army Times, Mar. 20, 1989]

TERROR IN PANAMA—VIOLENCE AGAINST AMERICANS ON RISE; U.S. RESPONSE HIT

(By Tom Donnelly)

WASHINGTON.—U.S. servicemen in Panama have been abducted, beaten, kicked, and handguns held against their heads, and been subjected to psychological torture, Army Times has learned from current and former government officials. A congressional investigation is expected of the incidents and why the U.S. Government response has been so muted.

Despite an escalating pattern of harrassment against U.S. military personnel and their families, high-ranking military officials have sought to downplay the extent of the incidents in order to avoid a new confrontation with Panama's leader, Gen. Manuel Noriega, these sources charge. In 1988, Noriega, under indictment in the United States on drug trafficking charges, withstood an attempt by the Reagan administration to force him from office.

One of the chief critics is Elliott Abrams, former assistant secretary of state for inter-American affairs under the Reagan administration. He charges Adm. William Crowe, chairman of the Joint Chiefs of Staff, with trying to "bury the incidents to achieve a business-as-usual relationship with Noriega."

Crowe's spokesman, Army Col. William Smullen, says "The chairman has chosen to deal with it in a more private way through [U.S. Southern Command]. That's his style. He's not one to take his case to the public or press. [Crowe's assistant, Vice Adm. Jonathan] Howe has been in all the Washington interagency meetings on the incidents."

According to Defense Department statistics, U.S. military personnel have been involved in hundreds of incidents with Panamanian troops over the past year.

The incidents involve the Panama Defense Forces, or PDF, the troops which function both as the Central American nation's police and its military forces.

The incidents range from treaty violations and intrusions on U.S. installations to detentions without charge and severe beatings. Detentions without charge are prevalent; 293 such incidents were logged from February 1988 through last month.

One of the most recent and violent incidents involved a Navy petty officer. According to a Dec. 13 letter of protest from Southern Command to the PDF, Petty Officer First Class Mike Nieves was accorded "life threatening treatment" by members of the PDF's Direcion National de Transporte Terrestre, or DNTT, the country's transit police.

According to the letter, written by Army Lt. Col. Robert S. Perry, Nieves had driven a Navy van to Panama's main airport on the afternoon of Nov. 13 to pick up official passengers. He was detained by a DNTT agent for parking the van in a no-parking zone. Nieves was told he would be taken by a DNTT vehicle and other agents to their headquarters in Ancon.

But instead of taking him to headquarters, the agents escorted Nieves down a remote dirt road. When the convoy came to a halt, the agents attempted to rob Nieves. He refused to part with his wedding ring and lashed out at one of the Panamanian officers.

According to the letter of protest and Nieves' own account, the agents yanked Nieves from his vehicle, beat and kicked him, and one put a pistol to his head, forced him to beg for his life. Just before the agent pulled the trigger, a second agent pushed the pistol to the side and it went off. Nieves passed out and the agents abandoned him.

A subsequent examination of Nieves showed "numerous and extensive bruises which appear to have been made by boots [or] shoes," say the letter of protest. The letter goes on to call the incident "despicable," and an "ominous reflection of either a campaign of intimidation directed against the U.S. Forces community or a loss of control over elements of the Public Security Forces."

Recently, Panamanian security forces stopped at gunpoint 21 Department of Defense school buses, carrying hundreds of children, some of elementary school age, according to congressional documents. "The security forces boarded the buses; DoD [Criminal Investigation Division] personnel were there, too. The whole event traumatized the children and has worried the community considerably," the report states.

The Nieves incident is one of 20 cases of U.S. personnel physically attacked by the PDF, according to a Defense Department memo summarizing harassment issues. These incidents include "individuals struck, kicked, punched and physically abused [with] overt physical forces," says the Feb. 28 memo. But the total "does not include cases involving the capricious use of loaded weapons by PDF members."

Overall, the Defense Department document charts almost 1,000 total harassment incidents in the past 13 months, and shows the rate of incidents is increasing. For example, last month there were 42 detentions without charge, 36 incidents denying freedom of movement and 17 violations of treaty documents or other arrangements between the two countries.

"There was a real effort to downplay it and not have that information circulated widely in Washington," says Abrams. He said that the U.S. refusal to speak more strongly on the issue has resulted in continued beatings by the PDF. Abrams says the U.S. response is shameful. "I would describe the U.S. reaction as pusillanimous."

Abrams was the Reagan administration's leading expert on Central America and author of its policies to challenge strongman Noriega, who, among other things runs the PDF. Abrams is charging that Crowe and his fellow chiefs opposed the policy of confronting Noriega because they did not wat to be forced in to the position of "doing anything. That was not in line with the policy Crowe was pushing," says Abrams.

Abrams says Crowe's policy aims were legitimate, but says he objects "to carrying that policy out over the bruised bodies of the men in Panama."

The U.S. response has become an issue in Washington. A congressional source characterized the letters of protest as "pro forma" and "a scary kind of joke among Americans in Panama." Many documents have been forwarded to the House Foreign Affairs Committee, and the House Armed Services Morale, Recreation and Welfare panel may also investigate the matter.

A letter to the committee by a Department of Defense Dependents Schools teacher charges that the problems are getting "worse for the Americans living here every day. Overall, I feel that whoever is in charge of the protection of American citizens and interests in the Republic of Panama has failed. Due to the lack of protection, beyond lip service and official protests . . . little or nothing is done. In fact we all, civilians and military, laugh off these protests that are issued since, of course, they do no good."

There are about 10,000 U.S. service members in Panama—soldiers, airmen, sailors and Marines—according to Southern Command, with approximately 10,300 dependents. In addition there are 1,600 U.S. civilian employees.

About 1,600 U.S. service members and 940 of their family members, 1,048 U.S. civilian employees and 2,060 of their dependents—or nearly 5,700 people—live off post, outside the protection of the U.S. military.

The best estimate on PDF manpower, according to Southern Command spokesman Bill Ormsbee, is between 14,000 and 16,000 troops in all branches.

Abrams contends that the PDF draw a lesson from the weak protests: "That penalties are nonexistent. And that's wrong."

Rep. Robert Dornan, R-Calif., says, "To have American soldiers living under the threat of brutal beatings is phenomenal." Dornan is a member of the House Armed Services Committee and formerly a member of the House Foreign Affairs Committee.

"The military is caught between a rock and a hard place," he said. "They cannot speak out because of the embarrassment to the Reagan administration and its failed attempts to dump a drug-running thug.

"This is a very sorry mess, with the potential to get much worse. When American soldiers are beaten with impunity, the killings are sure to follow. Noriega has purged the Panamanian military of soldiers who were trained in the United States or those who are in sympathy. The next time an American is beaten we should hit them with a ton of bricks. And sometimes a ton of bricks is spelled: 82d Airborne."

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[From the Army Times, Mar. 20, 1989]

U.S. SAILOR RELIVES BRUSH WITH DEATH AT HANDS OF NORIEGA'S "TRANSIT POLICE"

(By Tom Donnelly and James Longo)

"I thought I was going to die. Nobody misses from that close."

That is how Navy Damage Controlman First Mike Nieves recalls his nightmarish encounter with the Panama Defense Forces' transit police. Sent to Panama's international airport to pick up official visitors, Nieves was waylaid by police agents who beat and kicked him and forced him to plead for his life while threatened to execute him.

According to a Dec. 13 letter of protest from United States Southern Command to the Panana Defense Forces, or PDF, Nieves' life was threatened by members of the PDF's Direction National de Transporte Terrestre, or DNTT. This is the traffic control arm of the PDF, which functions both as uniformed military and police force.

According to the letter, written by Army Lt. Col. Robert S. Perry, Nieves had driven a Navy van to Panama's Omar Torrijos International Airport on the afternoon of Nov. 13 to pick up official passengers. He was detained by a DNTT agent for parking the van in a no-parking zone. Nieves was told he would be taken by a DNTT vehicle and other agents to their headquarters in Ancon.

"About two miles north of the airport, Nieves was escorted off the main highway and eventually led to a remote dirt road," says the letter. "Upon refusing to surrender his watch and ring, he was struck in the face by one of the DNTT agents while he was still sitting in the official vehicle.

In an interview with Army Times, Nieves, 32, confirmed the incident reported in Perry's letter, but said he actually refused

only to give up his wedding ring, but would have done so if necessary.

Nieves, an instructor at Rodman Naval Station, said he started fighting with one of the officers, who pulled a pistol and brought him to his knees.

"He was then pulled through the official vehicle window by his neck and struck again," says the letter. "In attempting to protect himself, he believes he may have struck one of the DNTT agents in the face in self-defense. The assaulting DNTT agent then drew his pistol, placed it to the sailor's head and forced him to his knees.

"Nieves was then physically and psychologically degraded. Specifically, he was forced to beg for his life. When the agent prepared to execute . . . the victim, another DNTT agent, at the last moment, intervened and pushed aside the first agent's pistol. Fortunately the shot missed Nieves' head, but left a ringing in his ears. [Nieves] fainted. When he came to, Nieves found that the DNTT agents had abandoned him at the scene of the crime."

Nieves, who has been stationed in Panama almost two years, said he closed his eyes and "then, I heard a scream. One of the other officers started yelling 'What are you doing?'" Though he didn't see the second officer push aside the first agent's pistol, Nieves said a shot went off, leaving a ringing in his ears.

A subsequent examination of Nieves revealed "numerous and extensive bruises which appear to have been made by boots [or] shoes," says the letter of protest.

Mr. D'AMATO. Mr. President, let me point out another area. This is in the Army Times of March 20, 1989.

Security forces of the Panamanian Defense Forces—let us understand that those are the thugs that Noriega used—stopped 21 school buses. Who were these school buses carrying? They were carrying the children of U.S. servicemen, elementary school-age children.

They boarded the buses, they terrorized the children and traumatized them. Yet, Mr. President, we have a situation where the military command has been placed under shackles and told to keep quiet, not to do anything, not to say anything, not to provoke General Noriega. He is not a general. He is a dictator. He is a thug. He is a murderer. And we are not even standing up to him. Mr. President, the least we should do is expose this tyrant for what he is.

Mr. President, that is why it is incumbent upon us to act with dispatch on this legislation. There are only 52 days left until the election. Senator DODD and Senator LUGAR have wisely encouraged Prof. Allen Weinstein, president, Center for Democracy, to coordinate the efforts.

I ask unanimous consent that the letter of support to Dr. Weinstein be printed in the RECORD.

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

COMMITTEE ON FOREIGN RELATIONS,
*Washington, DC, March 2, 1989.*

Prof. ALLEN WEINSTEIN,
*President, Center For Democracy, Washington, DC.*

DEAR PROFESSOR WEINSTEIN: The Senate Subcommittee on Western Hemisphere Affairs has followed with interest the Center for Democracy's programs involving the participation of Central American leaders over the past half decade. Most recently, we note your February 1989 Colloquy which brought together from every country in the region leaders across the political spectrum for meetings with parliamentarians from the Council of Europe, European Parliament, Andean Parliament, and U.S. Congress to discuss issues of democratization. We also note the Center's intrinsic bipartisanship and its internationally recognized experience in analyzing and observing elections ranging from the Philippines to El Salvador.

The purpose of this letter is to encourage the Center for Democracy to pursue its plans for an early pre-electoral study mission to Panama and to organize a delegation that ideally would include electoral experts from both the Democratic and Republican parties in the Congress.

We agree that the purposes of the study mission should include the following:

1. To demonstrate broad based U.S. concerns that Panama's commitment to elections in May, 1989 will be fair, free, and an accurate reflection of the wishes of the Panamanian electorate, and that preparation for those elections be fully supportive of such a process;

2. To study the current Panamanian electoral code and other pertinent laws and government regulations in that country in order to identify any changes needed in order to facilitate the holding of such fair and free elections;

3. To observe and analyze preparations now being made by the Panama authorities to produce conditions necessary for holding fair and free elections;

4. To discuss with relevant participants representing government and opposition figures of all perspectives and groups in Panama their views on the specific steps required to assure the holding of a fair and free election.

5. To report the delegation's findings on these matters to the Congress and the American people.

A written report from the delegation could serve as the basis for hearings on the Panama elections. It is possible that you and other participants in the mission would be invited to testify before the Subcommittee to discuss your findings in greater detail.

In order to help meet the costs of the study mission, we will be pleased to recommend that the Agency for International Development allocate to the Center on an expedited basis such funds as may be necessary for the project from the Agency's ongoing Fiscal year 1989 Human Rights and Democratic Initiatives Program, which has previously supported similar electoral observation projects in Chile and elsewhere.

As you know, we welcome efforts like the Center's proposed research mission. We trust that the Center's report will be helpful to the U.S. Congress and to policy makers in other democracies in arriving at an informed judgment on the type of support that may be useful in attempting to assure that the forthcoming elections in Panama are free, and an accurate reflection of the wishes of the Panamanian electorate.

Sincerely,

CHRISTOPHER J. DODD,
*Chairman, Subcommittee on Western Hemisphere Affairs.*

RICHARD G. LUGAR,
*Ranking Minority Member, Subcommittee on Western Hemisphere Affairs.*

Mr. D'AMATO. Mr. President, without there being financial resources to see to it that the observer teams are there, it is going to be impossible for them to reach Panama in time early enough to determine the conditions upon which these elections have been and will be taking place.

The United States has a special responsibility here. We are the ones who held up democracy as a model for the world. Now, right in our own neighborhood, the yearning for freedom promises to yield positive results, so long as forces of repression and the enemies of democracy are not allowed to thwart a free and fair opportunity for the people of Panama to decide their own future.

Two days ago, Secretary Baker and I had an exchange during a hearing of the Foreign Operations Subcommittee. Secretary Baker also supports the observer process, agreeing that—

We should point out any attempt that may be made to steal the election. This may be our last chance to redeem ourselves in this whole sorry chapter of United States-Panamanian relations. Panama deserves our support in this hour of critical national need.

Mr. President, I have no illusions about this election. I make the prediction here on this Senate floor Noriega is not going to change his method of operation. He is going to do one of two things. He is either going to cancel these elections because it becomes impossible for him to steal them or he will subvert them and he will attempt to steal these elections. That is why it is important that we have an international observation team made up of all of the countries of that region, all of our European allies. That is why it is important that we have free press assembled in the kind of mass and quantity that will see to it that they report the results and the activities that are taking place prior to and during these elections.

We cannot permit Noriega and his henchmen to continue to suppress the legitimacy of freedom, the opportunity for people to choose their own government, particularly as it relates to Panama where the United States has vital security interests.

Mr. President, before the end of this year the Government of Panama must submit to the President of the United

States its candidate to be the administrator of the Panama Canal.

This is the first step toward turning over the canal to Panama by the United States pursuant to the treaty that we have entered into, a treaty that was hotly debated, a treaty in which many Members of the Senate said be careful, be careful as it relates to turning over something which is so vital as it relates to our own strategic interest.

The Senate must confirm that nominee to be admistrator of the canal. If Noriega is going to continue to suppress people, freedom, liberty, if he in essence is going to continue his dictatorial policies, then he should know and be put on notice that it is highly unlikely that this Senate will ever confirm a nominee put forward by the gangster, by this dictator, and by this drug-running thug.

I think we have a unique opportunity to bring about and support those who seek democracy. I think we have an opportunity to demonstrate to our Latin American and South American neighbors that we are prepared to stand for democracy, that we are prepared to expose this dictator and tyrant for what he is.

Mr. President, I am sure that this legislation will pass speedily and I look forward to our seeing to it that it is implemented with all of the strength, vigor, and determination at our disposal.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I would like to share in the position that my colleague from New York has made concerning the situation in Panama.

The Senator from Alaska, as a member of the Foreign Relations Committee, as well as the Intelligence Committee, has been very, very concerned about the progress of indeed free elections occurring in Panama and the realism as expressed by my colleague from New York concerning the fact that hardly can the dictator in Panama allow a free election to occur because obviously, as the Senator knows, it would prove his downfall. So he is going to by pattern set clearly demonstrate his consistency to control those elections.

I would ask my friend from New York if he sees, outside of overseeing the elections, a legitimate way that the United States might ensure that the arrangements are not already made prior to the election occurring to thwart the exposure associated with rigged elections. I mean, it is one thing to go down there and observe, but I was a member of the group that was sent over to the Philippines representing the President at the invitation of the Government of the Philippines. We observed, very frankly, a crooked election.

Mr. D'AMATO. I would respond that if the international community as well as the United States, as well as the worldwide free press, covers the events leading up to the election, as well as the actual activities which we expect to take place, the beatings, the harassments, the destruction of bona fide ballots, the purging from lists of bona fide citizens, all of the things that have taken place prior, not only in Panama but in other countries, then I believe it will be the weight of worldwide opinion that eventually will galvanize the people of Panama and cut off Noriega from the kind of support that he has had.

I think it is important that we participate in this effort but I think it is equally if not more important that the worldwide community be part of this, that we loan ourselves to that process of democracy.

Without that the Panamanian people will feel cut off, isolated and abandoned.

With our participation, indeed we will have fallen back on a moral commitment that we have started and that we have echoed that calls for freedom not only in our hemisphere but throughout the world.

Mr. MURKOWSKI. Mr. President, I again commend my colleague from New York. I think there is a parallel with the Philippine election. Obviously, that was an election where there were efforts to try and circumvent the freedom of the people in the sense of the expression of their vote and the world was watching. There were observers from the United States there. It is no secret that on the initial count coming out of the Philippine Government, controlled by Marcos at the time, the declaration was that Marcos was a winner. But that is not how it turned out. It was due to the oversight I think of many from not only the United States but other countries who were there and clearly were going to take home the message that there had been a violation of a free election.

Mr. D'AMATO. And a repudiation of one.

Mr. MURKOWSKI. That is correct, and a deterioration of process.

So perhaps the stage is being set for the same set of circumstances, and I think, on the other hand, we have a very desperate individual in Noriega and his track record is something to reflect on as we address the realities associated with this election and the point that my colleague from New York has brought out, that it will be a terrible injustice if the elections were allowed to go ahead in a manner which clearly was in violation of the democratic principles and the democratic attitudes of the people of Panama.

Mr. D'AMATO. And which Mr. Noriega would then use to cloak his dictatorship with absent the kind of inspection and light of day that we hope the world community and the media can observe.

It would be I think a great blow for democracy if the Contadora nations in watching this process and if Noriega does what we fully expect him to do, either call off these elections or blatantly steal them, would be in a position to disclaim him and disclaim his call for leadership. I believe that that would set the stage hopefully for the kind of situation that we saw take place in the Philippines. And certainly we must not permit him that veil of legitimacy if indeed he seeks to steal it and obtain it by fraudulent methods. I think that is why it is so important what we do here today is done speedily, the observer sent down, so that we begin to loan ourselves to this important process of fighting for democracy.

Mr. MURKOWSKI. I thank my friend from New York.

Mr. D'AMATO. I thank the Senator from Alaska for his very pointed remarks.

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. 1373) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

## COMMITTEE LEGISLATIVE REPORTS

Mr. MITCHELL. Mr. President, section 26.8 of the Standing Rules requires that all standing committees, except the Committees on Appropriations and the Budget, submit reports on their legislative activities during the 100th Congress not later than March 31, 1989. Since the Senate will be in recess that date, I would propose the following unanimous-consent request to continue the date for filing those reports to April 4, 1989.

Mr. President, I ask unanimous consent that the date for filing legislative reports required to be filed by standing committees, except the Committees on Appropriations and the Budget, under the provisions of section 26.8 of the Standing Rules be continued to April 4, 1989.

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

## BALANCE IN STOCKS OF DAIRY PRODUCTS

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 553.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved,* That the bill from the Senate (S. 553) entitled "An Act to provide for more balance in the stocks of dairy products purchased by the Commodity Credit Corporation", do pass with the following amendment:

Page 2, line 18, strike out [butter.], and insert "butter: *Provided, however,* That the Secretary of Agriculture may allocate such decrease in the rate of price support between the purchase prices for non-fat dry milk and butter in such other manner as the Secretary determines will result in lowest level of expenditures by the Commodity Credit Corporation and shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of such determination.".

Mr. MITCHELL. I move that the Senate concur in the amendment of the House.

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

The motion was agreed to.

Mr. MITCHELL. I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

## AUTHORITY FOR COMMITTEES TO FILE REPORTS ON MARCH 29

Mr. MITCHELL. Mr. President, I ask unanimous consent that committees be permitted to file legislative and executive reports on Wednesday, March 29, from 12 noon to 3 p.m.

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

## RECORD TO REMAIN OPEN UNTIL 5 P.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the RECORD remain open until 5 p.m. today for statements and introduction of legislation.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## APPOINTMENT OF THE SENATE ARMS CONTROL OBSERVER GROUP

Mr. MITCHELL. Mr. President, I ask that the Chair name the following Senators to be Democratic members of the Senate Arms Control Observer Group: Senator PELL, cochairman; Senator NUNN, cochairman; Senator KENNEDY, Senator MOYNIHAN, and Senator GORE.

Mr. DOLE. Mr. President, in accordance with Senate Resolution 466 of August 11, 1988, I make the following reappointments and appointments to the Senate Arms Control Observer Group:

As administrative cochairman, Senator STEVENS; as cochairman, Senator LUGAR; as members, Senators WALLOP, WARNER, NICKLES, and RUDMAN; and the staff member for the Republican leader will continue to be David J. Smith.

The PRESIDING OFFICER. The Chair notes the appointments made by the Republican leader and appoints those members enumerated by the majority leader pursuant to Senate Resolution 466.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, and upon the recommendation of the minority leader, pursuant to Senate Resolution 273 and Senate Resolution 297, appoints the following Senators to the Central American Observer Group: the Senator from Arizona [Mr. MCCAIN] cochairman; the Senator from Idaho [Mr. SYMMS]; and the Senator from Florida [Mr. MACK].

## RECESS UNTIL TUESDAY, APRIL 4, 1989, AT 2:15 P.M.

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business and if no Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess, in accordance with the provisions of Senate Concurrent Resolution 23, until 2:15 p.m. on Tuesday, April 4, 1989.

There being no objection, the Senate, at 4:32 p.m., recessed until Tuesday, April 4, 1989, at 2:15 p.m.

## NOMINATIONS

Executive nominations received by the Senate March 17, 1989:

### DEPARTMENT OF DEFENSE

DONALD J. ATWOOD, OF MASSACHUSETTS, TO BE DEPUTY SECRETARY OF DEFENSE, VICE WILLIAM H. TAFT, IV, RESIGNED.

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

#### CHAPLAIN

*To be lieutenant colonel*

DARRELL L COOK, xxx-xx-xxxx

*To be major*

CARL M ANDREWS, xxx-xx-xxxx
GARY L CARLSON, xxx-xx-xxxx
FRANCESO PASSAMONTE, xxx-xx-xxxx
STEPHEN M SMALLEY, xxx-xx-xxxx

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICER BE APPOINTED IN A GRADE HIGHER THAN MAJOR.

#### CHAPLAIN

GARY L CARLSON, xxx-xx-xxxx

### IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

#### ARMY

*To be major*

GEORGE W. ABBOTT, xxx-xx-xxxx
SCOTT L.* ABBOTT, xxx-xx-xxxx
JESSE T. ACOSTA, xxx-xx-xxxx
TERRY R. ADAMS, xxx-xx-xxxx
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## DEPARTMENT OF DEFENSE

DONALD J. ATWOOD, OF MASSACHUSETTS, TO BE DEPUTY SECRETARY OF DEFENSE, VICE WILLIAM H. TAFT, IV, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

CHAPLAIN

*To be lieutenant colonel*

DARRELL L. COOK, xxx-xx-xxxx.

*To be major*

CARL M ANDREWS, xxx-xx-xxxx.
GARY L CARLSON, xxx-xx-xxxx.
FRANCESO PASSAMONTE, xxx-xx-xxxx.
STEPHEN M SMALLEY, xxx-xx-xxxx.

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICER BE APPOINTED IN A GRADE HIGHER THAN MAJOR.

CHAPLAIN

GARY L. CARLSON, xxx-xx-xxxx.

DEPARTMENT OF STATE

JAMES RODERICK LILLEY, OF MARYLAND TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PEOPLE'S REPUBLIC OF CHINA.

RICHARD THOMAS MCCORMACK, OF PENNSYLVANIA, TO BE UNDER SECRETARY OF STATE FOR ECONOMIC AND AGRICULTURAL AFFAIRS, VICE W. ALLEN WALLIS, RESIGNED.

IN THE FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

MICHAEL J. HAND, OF THE VIRGIN ISLANDS.

AGENCY FOR INTERNATIONAL DEVELOPMENT

JOSEPH R. FERRRI, OF VIRGINIA.
KENT B. HICKMAN, OF ILLINOIS.
JOHN WILSON WILES, OF FLORIDA.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

ALICE AMELIA DRESS, OF TENNSSEE.
PHILIP M. JONES, OF COLORADO.
SANDRA A. STEVENS, OF VIRGINIA.

DEPARTMENT OF COMMERCE

EDWARD E. RUSE, OF TEXAS.

AGENCY FOR INTERNATIONAL DEVELOPMENT

PAUL R. DEUSTER, OF VIRGINIA.
WALTER M. KINDRED, JR., OF VIRGINIA.
CHARLES RICHTER, OF FLORIDA.

U.S. INFORMATION AGENCY

MARGARET S. WESTMORELAND, OF THE DISTRICT OF COLUMBIA.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF AGRICULTURE

DAVID P. MCGUIRE, OF NEW YORK.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS, AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

PERRY MASON ADAIR, OF CALIFORNIA.
CYNTHIA HELEN AKUETTEH, OF MARYLAND.
SUSAN ELAINE ALEXANDER, OF WASHINGTON.
RALPH D. ANSKE, OF TEXAS.
DAVID WILIAM BALL, OF OHIO.
MARY F. BENTZ, OF PENNSYLVANIA.
SHEILA G. BERRY, OF CALIFORNIA.
DIANE LYDIA F. CASTIGLIONE, OF NEW YORK.
MARGARET M. COMISKY, OF NEW HAMPSHIRE.
DOUGLAS STEWART DOBSON, OF FLORIDA.
ALEXANDER ALFREDO FEATHERSTONE, OF NEW HAMPSHIRE.
WILLIAMS KEVIN GRANT, OF CONNECTICUT.
DOUGLAS A. GRAY, OF VIRGINIA.
CHRISTA U. GRIFFIN, OF MARYLAND.
MARTIN P. HOHE, OF FLORIDA.
WILLIAM DAVID JACKSON, OF PENNSYLVANIA.
KAREN LEE MALZAHN, OF MARYLAND.
JAMES C. MARTIN, OF NEW YORK.
DAVID WILSON MERRELL, OF WASHINGTON.
CORNELIA P. J. MILLER, OF ALABAMA.
JONATHAN D. MUELLER, OF PENNSYLVANIA.
VICTORIA NULAND, OF CONNECTICUT.
PETER ADAMS O'DONOHUE, OF CONNECTICUT.
MITCHELL EVAN OPTICAN, OF CALIFORNIA.
BETSY ROSS PETERS, OF WYOMING.
RICHARD KIRK SHERR, OF COLORADO.
JANE JUDITH TANNENBAUM, OF VIRGINIA.
LOWRY TAYLOR, OF NEW JERSEY.
ANN WELLS TOBY, OF KENTUCKY.
J. PATRICK TRUHN, OF THE DISTRICT OF COLUMBIA.
ROBERT ROGER WINSHIP, OF WASHINGTON.
PEGGY SUE ABELMANN ZABRISKIE, OF MARYLAND.

DEPARTMENT OF COMMERCE

MARIA J. ANDREWS, OF GEORGIA.

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENTS OF STATE, AGRICULTURE AND COMMERCE, AND THE UNITED STATES INFORMATION AGENCY TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

REKHA VISVANATHAN ARNESS, OF MINNESOTA.
CLAUDETTE M. AVRAKOSTOS, OF PENNSYLVANIA.
DANA SUZANNE BAKER, OF KENTUCKY.
DAVID JONATHAN BAME, OF VIRGINIA.
CHRISTOPHER J. BANE, OF VIRGINIA.
PETER HENRY BARLERIN, OF MARYLAND.
FREDERIC S. BARON, OF ILLINOIS.
DIANE REIMER BEAN, OF COLORADO.
CLAUDE JEFFREY BELLISTON, OF IDAHO.
ROBERT W. BOYNTON, OF CONNECTICUT.
BERTRAM D. BRAUN, OF NEW YORK.
PAUL ALLEN BROWN OF TEXAS.
RAYMONDE J. BROWN, OF MARYLAND.
STEPHANIE LAFOREST BROWN, OF MARYLAND.
MATTHEW J. BRYZA, OF ILLINOIS.
ROBERT WALTER CARLSON, OF NEW JERSEY.
CHRISTIAN M. CASTRO, OF MASSACHUSETTS.
MICHAEL G. CHARD, OF VIRGINIA.
W. BRENT CHRISTENSEN, OF OREGON.
GARY ALLAN CLEMENTS, OF MASSACHUSETTS.
WILLIAM H. COOK, OF TENNESSEE.
DWIGHT F. COSSITT, OF ILLINOIS.
SANDRA ANN CRUMPTON, OF ILLINOIS.
PAUL THOMAS DALEY, OF PENNSYLVANIA.
GRENVILLE E. DAY, OF VIRGINIA.
MICHAEL DELPRINCIPE, OF VIRGINIA.
MICHAEL M. DESLOOVER, OF MARYLAND.
JOHN P. DESROCHER, OF NEW YORK.
ANGELA RENEE DICKEY, OF FLORIDA.
DAVID DIGIOVANNA, OF NEW YORK.
JOHN WALTER DINKELMAN, OF UTAH.
ALICE E. DUFFY, OF MASSACHUSETTS.
RAMONA G. DUNN, OF NEW YORK.
BETH R. ECTOR, OF ALABAMA.
RICHARD H. ECTOR, OF OKLAHOMA.
JOHN B. EDINGER, JR., OF VIRGINIA.
SIGRID EMRICH, OF MINNESOTA.
DENISE A. ERBE, OF VIRGINIA.
ARLENE LORRAINE FERRILL, OF CALIFORNIA.
MICHAEL J. FITZPATRICK, OF VIRGINIA.
CYNTHIA L. FOLK, OF PENNSYLVANIA.
SOPHIE L. FOLLY, OF MARYLAND.
CHARLES AUGUSTUS FORREST III, OF MICHIGAN.
ROSEMARIE CRISOSTOMO FORSYTHE, OF THE DISTRICT OF COLUMBIA.
ROBERT PATRICK FRAZIER, OF TEXAS.
JENNIFER WINSLOW FURNESS, OF THE DISTRICT OF COLUMBIA.
THOMAS G. GALLO, OF NEW JERSEY.
JENNIFER ZIMDAHL GALT, OF THE DISTRICT OF COLUMBIA.
DAVID MARK GOWDEY, OF CALIFORNIA.
JUDITH GRACE, OF COLORADO.
JULIE LYNNE GRANT, OF CALIFORNIA.
JOHN ANDREW GREIG, OF CALIFORNIA.
B. GLENN GRIFFIN, OF TEXAS.
STEVEN B. GROH, OF TEXAS.
JOHN FRYAR GUERRA, OF TEXAS.
LYNN D. GUTENSOHN, OF NORTH DAKOTA.
MICHAEL A. HAMMER, OF MARYLAND.
DAVID W. HARRINGTON, OF VIRGINIA.
GORDON K. HELLWIG, OF ILLINOIS.
GEORGE HAMILL HOGEMAN, OF VIRGINIA.
MICHAEL A. HOWARD, OF VIRGINIA.
JAMES B. HUGHES, OF VIRGINIA.
L. VICTOR HURTADO, OF COLORADO.
DANIEL A. HUTCHENS, OF COLORADO.
MAKILA JAMES, OF NEW YORK.
ROBERT A. JANNOTTA, OF ILLINOIS.
ROBERT A. KASPER, OF OHIO.
JOHN C. KEELY, JR., OF VIRGINIA.
KELLY KEIDERLING, OF CALIFORNIA.
SUSAN KLING, OF MICHIGAN.
DAVID J. KOSTELANCIK, OF ILLINOIS.
BENITO M. KRAWCZYK, OF VIRGINIA.
REX H. LATHAM, OF VIRGINIA.
JENNIFER M. LAWRENCE, OF OREGON.
HARRY C. LENHART, OF MARYLAND.
OLIVIA LILLICH, OF NEW YORK.
LENHREW E. LOVETTE, OF VIRGINIA.
KRISTIN E. LYDERS, OF MINNESOTA.
JOHN R. MAGUIRE, II, OF MARYLAND.
BARTON W. MARCOIS, OF CALIFORNIA.
MICHAEL W. MASTERS, OF VIRGINIA.
WM. THAD MCARTHUR, JR., OF WASHINGTON.
FAITH W. MCCOY, OF FLORIDA.
THOMAS B. MCCUDDEN, OF ILLINOIS.
NANCY E. MCELDOWNEY, OF FLORIDA.
JOHN R. MELLOR, OF MARYLAND.
ROBERT L. MERRILL, OF MARYLAND.
ROBIN DIANE MEYER, OF THE DISTRICT OF COLUMBIA.
CHRISTOPHER MIDURA, OF TENNESSEE.
THOMAS DANIEL MITTNACHT, OF WISCONSIN.
JEFFREY A. MOON, OF FLORIDA.
DAVID TAFT MORRIS, OF THE DISTRICT OF COLUMBIA.
SEAN MURPHY, OF MASSACHUSETTS.
ELEANOR J. NAGY, OF OHIO.
DANIEL ENOS NEHER, OF THE DISTRICT OF COLUMBIA.
RICARDA NELSON, OF CALIFORNIA.
TERESA C. NELSON, OF VIRGINIA.
HARRY ANDERSON NUNNEMACHER, OF WISCONSIN.
H. THOMAS OVERBY, JR., OF GEORGIA.
SUSAN LEE PAZINA, OF WASHINGTON.
ARLIN K. PEDRICK, OF OKLAHOMA.
KATHY E. PEPPER, OF SOUTH CAROLINA.
DONALD G. PLANTS, OF VIRGINIA.
FRANK C. PRESTI, OF GEORGIA.
MONIQUE VALERIE QUESADA, OF FLORIDA.
WILLIAM LEE RADA, OF OREGON.
ANDREW K. RAKESTRAW, OF CALIFORNIA.
PENELOPE ADAMS ROGERS, OF HAWAII.
SARA A. ROSENBERRY, OF VIRGINIA.
JEANNE M. RUDEK, OF CALIFORNIA.
KEITH J. RUSSELL, OF WASHINGTON.
ALFRED SCHANDLBAUER, OF VIRGINIA.
CHRISTOPHER F. SCHARF, OF NEW YORK.
ELIN C. SCHILLING, OF MARYLAND.
DAVID P. SEARBY, OF MARYLAND.
STEVEN K. SEIGEL, OF VIRGINIA.
VALERIE E. SESLER, OF PENNSYLVANIA.
GEORGE NEIL SIBLEY, OF CONNECTICUT.
CARL R. SIEBENTRITT, OF VIRGINIA.
WILLIAM ARTHUR SLAVEN, OF NEW JERSEY.
KATHLEEN ANNE SMITH, OF MARYLAND.
BRYAN SODERHOLM-DIPATTE, OF VIRGINIA.
KATHRYN ANN SOLON, OF NEW MEXICO.
FRANK WILLIAM STANLEY, OF OHIO.
JAMES A. STEWART, OF OREGON.
FRANCIS S. STOPA, OF NEW YORK.
ALVIN H. STREETER, JR., OF NEW JERSEY.
A. JAMES STRUDWICK, OF WISCONSIN.
MARK A. SULLIVAN, OF MASSACHUSETTS.
RICHARD D. SULLIVAN, OF MASSACHUSETTS.
THOMAS J. SULLIVAN, OF ILLINOIS.
MARY ETTA TARNOWKA, OF CALIFORNIA.
WILLIAM L. TAYLOR, OF CONNECTICUT.
SUZANNE ELLEN THIBAULT, OF VIRGINIA.
DAPHNE MICHELLE TITUS, OF CALIFORNIA.
PETER MARK VAN BUREN, OF MASSACHUSETTS.
KENNEDY L. VEAL, OF MISSOURI.
EUGENE D. VINOGRADOFF, OF VIRGINIA.
VIVIAN S. WALKER, OF CALIFORNIA.
GLEN J. WELLS, OF VIRGINIA.
STACY ELIZABETH WHITE, OF TEXAS.
ROBERT A. WOOD, OF NEW YORK.
JON B. WOOLERY, OF CALIFORNIA.
PAUL D. WOOLSTON, OF MICHIGAN.
FRANK J. YACENDA, OF FLORIDA.
HOYT BRIAN YEE, OF CALIFORNIA.
DAVID S. YONKER VALES, OF VIRGINIA.

CONSULAR OFFICERS OF THE UNITED STATES OF AMERICA:

STAN A. COHEN, OF VIRGINIA.
DANIEL D. DEVITO, OF WASHINGTON.
ALLAN P. MUSTARD, OF WASHINGTON.

SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

MARIA ARONSON, OF THE DISTRICT OF COLUMBIA.
JOHN W. CORRIS, JR., OF VIRGINIA.
ALICE A. DAVENPORT, OF MARYLAND.
JEFFREY JOSEPH HARDEE, OF VIRGINIA.
ROGER ALLEN MEECE, OF WASHINGTON.
PATRICK O. SANTILLO, OF MARYLAND.

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED, EFFECTIVE DECEMBER 22, 1985.

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

GEOFFREY OGDEN, OF CALIFORNIA.

## CONFIRMATIONS

Executive nominations confirmed by the Senate March 17, 1989:

DEPARTMENT OF DEFENSE

RICHARD B. CHENEY, OF WYOMING, TO BE SECRETARY OF DEFENSE.

DEPARTMENT OF STATE

LAWRENCE S. EAGLEBURGER, OF FLORIDA, TO BE DEPUTY SECRETARY OF STATE.

DEPARTMENT OF THE TREASURY

EDITH E. HOLIDAY, OF GEORGIA, TO BE GENERAL COUNSEL FOR THE DEPARTMENT OF THE TREASURY.

DAVID W. MULLINS, JR., OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

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.

DEPARTMENT OF VETERANS' AFFAIRS

ANTHONY JOSEPH PRINCIPI, OF CALIFORNIA, TO BE DEPUTY SECRETARY OF VETERANS AFFAIRS.